

1

Thursday, 5th February 2009

2 (10.30 am)

3 SIR ROBIN AULD: Good morning, ladies and gentlemen. We are

4 waiting because we have some documents yet to be copied

5 but they will be here in a minute or two. As soon as

6 they are here we shall make a start. (Pause)

7 MR FITZGERALD: Sir, I understand that there is just one

8 preliminary matter if I could raise it?

9 SIR ROBIN AULD: Yes.

10 MR FITZGERALD: I understand that the Honourable

11 Lillian Boyce is declining to provide the names that she

12 said that she would provide us with. We are not

13 inviting a order. We will obviously make a comment on

14 her unreliability in the light of that. That is to say

15 she said she was going to provide names; we understand

16 that she is not going to provide names.

17 SIR ROBIN AULD: Just remind me, names for what?

18 MR FITZGERALD: She said she had reliable sources.

19 SIR ROBIN AULD: Yes.

20 MR FITZGERALD: She said she would provide the name. I now

21 gather she is now declining to provide the names. In

22 those circumstances, sir, we are not asking for

23 an order, but obviously we will make submissions in due

24 course.

25 SIR ROBIN AULD: Yes.

1 MR SMITH: May I be heard? The reason why she has indicated
2 that she is -- she is willing to provide the names to
3 the Commission if the Commission needs it and she is
4 willing to provide the names to whatever investigating
5 authority requires it, but she is just a bit concerned
6 that there may be repercussions if she provides
7 the names to the Premier.

8 SIR ROBIN AULD: I suppose, given the context is one of
9 threats, she is worried for them as well as herself.

10 MR SMITH: Yes.

11 SIR ROBIN AULD: If she is prepared to make available
12 the names in confidence to the Commission and to
13 whatever investigating authority there might be
14 subsequently, that is a start at any rate. But
15 Mr Fitzgerald, given the nature of the allegation
16 against his lay client, will no doubt feel bound to make
17 some comment about that going to its reliability.

18 MR SMITH: That I understand.

19 SIR ROBIN AULD: That is probably the best we can do.

20 MR FITZGERALD: The only thing I will ask is that we be
21 informed whether in fact she has provided any names at
22 all to the Commission before I make my submissions.

23 SIR ROBIN AULD: Yes, we had better make a note for
24 ourselves to do that. The sooner we get the names,
25 probably the better or more likely we are to remember.

1 I wonder could Mrs Boyce perhaps be asked to provide
2 them today?
3 MR SMITH: Yes.
4 SIR ROBIN AULD: To the Secretariat.
5 MR SMITH: Yes.
6 SIR ROBIN AULD: Thank you.
7 MR MILNE: Sir, I understand there are some additional
8 documents. I have been shown a supplementary statement
9 by my learned friend Mr Misick, which has a bearing upon
10 what I will be asking Mr Wilson.
11 SIR ROBIN AULD: These are supplementary documents produced
12 by Mr Melbourne Wilson, are they?
13 MR MILNE: Yes, sir. On behalf of Mr Wilson yesterday, we
14 received a bundle which we have had plenty of time to go
15 through. Indeed, Mr Wilson has made a statement and
16 I trust that you have a copy of that? This was received
17 yesterday and it has --
18 SIR ROBIN AULD: Starts with:
19 "I am invited to..."
20 MR MILNE: That is correct, sir.
21 SIR ROBIN AULD: Yes, I have that.
22 MR MILNE: There are some documents towards the end.
23 SIR ROBIN AULD: I have those too. But not many.
24 MR MILNE: Yes. Evidently, and we are still waiting for
25 copies to come across, with the bundle that you have

1 there will be a supplement to it.

2 SIR ROBIN AULD: Would you say that again, please, Mr Milne?

3 MR MILNE: Yes. The bundle you have runs to 90 pages. We

4 are told that there are a small number of additional

5 documents that are to come with it.

6 SIR ROBIN AULD: These are the bundles provided yesterday?

7 MR MILNE: They are, sir, yes.

8 SIR ROBIN AULD: You say there are some more provided this

9 morning.

10 MR MILNE: Apparently it arrived last night but I am afraid

11 I have not --

12 SIR ROBIN AULD: Well, to me this morning: could we make

13 a start on what we have got?

14 MR MILNE: Probably, sir, yes. I wonder if I could just

15 seek confirmation from my learned friends. With

16 Mr Melbourne Wilson's statement, there are a series of

17 documents behind which are share certificates and

18 matters of that sort. They are numbered 60A, B, C and

19 so on through to 60F. Are they supposed to be inserted

20 after page 60 in Mr Melbourne Wilson's bundle?

21 MS MISSICK: Yes.

22 MR MILNE: It is just so that I can be clear where they

23 should be inserted.

24 MS MISSICK: They should be inserted behind tab 1, at page

25 60 and they will run 60A to 60F.

1 MR MILNE: In that case I will put them with that to make

2 sure that I don't get documents out of order.

3 MS MISSICK: If we can assist at tab 3, the documents that

4 we handed to the secretary yesterday afternoon at

5 page 91 should be inserted there, behind page 90.

6 MR MILNE: Sir, the only problem was that I didn't have

7 copies of those, I am afraid. I apologise. I can

8 certainly make a start.

9 SIR ROBIN AULD: Shall we make a start and if we judder to

10 a halt we can --

11 MR MILNE: Apparently I do now. (Handed)

12 It may be, sir, in the mid-morning break I will have

13 to go through those.

14 MR MELBOURNE WILSON (sworn)

15 Direct-examination by MR MILNE

16 MR MILNE: May it please you, sir. Morning, Mr Wilson.

17 A. Morning, sir.

18 Q. We ran through the documents a minute ago and I trust

19 you have the same in front of you which we have which

20 will be your statement, your bundle headed up "Melbourne

21 Wilson 1", which has some documents inserted after

22 page 60 and some inserted at the end. In due course we

23 will come to a slim bundle of documents which I am

24 holding up, I do not know if you have a copy before you,

25 which are a few additional Commission documents which we

1 have been provided with. They have a metal clip in the
2 top corner. We will come back to those very shortly.

3 You were, until very recently, acting as
4 the attorney on behalf of the Honourable Jeffrey Hall,
5 is that right?

6 A. Yes.

7 Q. During the course of 2008, when the Commission was
8 established, the Commission wrote to the Honourable
9 Jeffrey Hall. He passed documentation to you and from
10 that point forward you corresponded on his behalf with
11 the Commission?

12 A. Yes.

13 Q. And provided a series of documents. We will at some
14 point come to those because we have them still with us.
15 As a result of evidence that has been given, you no
16 longer act for Mr Wilson but you in turn are represented
17 by Mr Ariel Misick QC of counsel who appears today on
18 your behalf, and you have provided a statement setting
19 out a series of matters. I make clear from the outset,
20 the issue which is central to your evidence is but one
21 of a number of issues that the Honourable Jeffrey Hall
22 has dealt with.

23 But it ties into a number of different aspects. We
24 are dealing principally, as you will appreciate, with
25 the land at Northwest Point and the sale of that land

1 through the medium of Urban Development Limited to
2 a Canadian developer, a gentleman by the name of
3 Mr David Wex?

4 A. Yes, sir.

5 Q. You are familiar with that, I am sure?

6 A. Yes.

7 Q. I need to take a few minutes with you, if we could, to
8 run through the history as you have described it in your
9 statement?

10 A. Okay.

11 Q. You have said in your statement at paragraph 4 that in
12 the early part of 2005 you had been working at an firm
13 of attorneys called McLeans, and whilst there you were
14 approached by a gentleman called Timothy Smith who was,
15 as you describe him, a real estate agent working for
16 TCR Sothebys, which in fact was located very close to
17 your building. Hence the contact. He told you he had
18 a client who was interested in some land located in
19 the Northwest Point area and asked if you knew who
20 the land belonged to.

21 You are sure that that was the very first
22 involvement that you had?

23 A. Involvement I have in who?

24 Q. You had with this deal, with Mr Wex, with the whole
25 process of sale?

1 A. Yes.

2 Q. That was the very first contact?

3 A. First time.

4 Q. Your evidence in your statement over the page says that,

5 as a result of your conversation with Tim Smith, you

6 made enquiries at the land surveys department about

7 the land?

8 A. Yes.

9 Q. You discovered that the parcel of land that he was

10 asking about had been allocated to the Honourable

11 Jeffrey Hall.

12 This is in early 2005 still. Yes?

13 A. I made enquiries and did discover that the Honourable

14 Jeffrey Hall is one of the persons who had a piece of

15 land at Northwest Point.

16 Q. Which, on the face of it, is quite a coincidence because

17 when you are asked about a plot of land with no

18 particular significance to you up to that point, it

19 turns out to be somebody who is a long-term client of

20 you, correct?

21 A. A long-term client of Temple Mortgage. I did work for

22 Temple Mortgage.

23 Q. You did work for Temple Mortgage?

24 A. I did work for Temple Mortgage but I passed to the

25 McLeans. So he was not a long time client of mine.

1 I did work on the behalf of which he was a client.

2 Q. Up to that point, here we are talking early 2005, had

3 you ever worked for him directly?

4 A. No, sir.

5 Q. As of that point how long had you known him?

6 A. I know him from youth. I know everybody from Turks

7 Island.

8 Q. You are a man who --

9 A. I am from Salt Cay, yes, sir. I know everybody.

10 SIR ROBIN AULD: Mr Wilson, it is very difficult to make

11 yourself heard everywhere in this room, I think if you

12 can keep your hand away from your mouth it will help

13 things. I do it myself, I know, but we need all

14 the sound we can get.

15 A. Fair enough sir.

16 MR MILNE: You say that you made inquiries of the

17 Land Registry, the land surveys department to be

18 precise, and they were able to tell you that the precise

19 plot that Mr Smith was interested in was allocated to

20 Jeffrey Hall. Is that your recollection?

21 A. Yes.

22 Q. You see, Jeffrey Hall had made an application for

23 a conditional purchase lease. We are aware of that, but

24 if you turn now -- do you have Jeffrey Hall's bundle in

25 front of you?

1 A. No, sir.

2 (10.45 am)

3 Q. Can you be given a copy. I do not know if we have

4 Jeffrey Hall's bundle 1. We will need to refer to this.

5 A. You want me to turn to which page, sir?

6 Q. Page 12.

7 SIR ROBIN AULD: Within which bundle?

8 MR MILNE: Bundle 1.

9 Can I make it clear, sir when I refer to

10 Mr Jeffrey Hall's bundle, Mr Hall's number 2 bundle is

11 almost identical to Mr Wilson's. It will be bundle 1 we

12 will be most concerned with. Page 12 of Jeffrey Hall 1

13 is a letter dated 8th May 2004. This is a letter from

14 the Chief Minister's office and it was sent and signed

15 by Alice Williams who at the time was

16 the Commissioner of Lands.

17 SIR ROBIN AULD: Could you give me the date again.

18 MR MILNE: It is 8th May 2004.

19 SIR ROBIN AULD: Chief Minister to?

20 MR MILNE: She is the Commissioner of Lands and this at the

21 time fell within the Chief Minister's office,

22 the department of natural resources.

23 My understanding, and it may be that Mr Wilson can

24 assist, is that the ministry of natural resource assist

25 really now an independent ministry within --

1 A. I have no clue about how the government ministry things

2 work, sir, absolutely none.

3 Q. I won't ask any further on that then. Certainly at this

4 time the letter came from the Chief Minister's office,

5 and the heading to that letter is "An Application for

6 a Commercial Conditional Purchase Lease On Block".

7 The letter is cut off slightly there. It is just

8 a hash sign. It continues:

9 "60000 Northwest Point Providenciales."

10 It appears it is only referring to block number

11 60000.

12 The text of the letter says:

13 "I refer to the application for a commercial

14 conditional purchase lease in block 60000,

15 Northwest Point, Providenciales. The Executive Council

16 at its meeting held 12th May 2004 discussed your

17 application and following discussion, Council

18 recommended approval for the grant of a commercial

19 conditional purchase lease on survey lot 1."

20 SIR ROBIN AULD: Who is this letter to?

21 MR MILNE: This is going to the Honourable Jeffrey Hall.

22 SIR ROBIN AULD: Thank you.

23 MR MILNE: This letter we put to him in evidence and he

24 agreed that this was the offer that had been made in

25 2004 for what is termed a CCPL. The letter does not

1 specify subdivision 151 or indeed any other subdivision.

2 It simply says that he is being made an offer within
3 the larger block 60000.

4 In the event we know from the Honourable
5 Jeffrey Hall he didn't take up this offer and it lapsed
6 because it had a limited shelf life.

7 This is the only documentation that appears to be on
8 file in relation to this offer of a CCPL. Can you
9 explain to us how you would have known that within
10 60000, which is a large area, you would have known that
11 he had subdivision 151?

12 A. As I said, I made enquiries and I was told that
13 the Honourable Jeffrey was one of the persons who had
14 himself some land down there. What I did was take up
15 the phone and made a call and that is what I was told.
16 Whether it was 6,000 or 7,000, I have no clue.

17 Q. But you must have known precisely what it was --

18 A. No, I did not know.

19 Q. Forgive me, you must have known precisely what it was
20 that Mr Smith was enquiring about?

21 A. Because he told me.

22 Q. Yes.

23 A. He told me -- he told me the area that he was interested
24 in and as a result of what he told me, I made enquiries.

25 And that is usual. If somebody asks for a piece of

1 land, whether it is Salt Cay or anywhere, what you do is
2 you make a call to one of the land departments and find
3 out or try to ascertain from them who have an interest
4 or who that land belongs to. What they do -- they
5 either know or they don't know and that is for any land
6 throughout the Turks & Caicos Islands.

7 Q. Because many CCPLs appear to be offered and either taken
8 up or not taken up. We have no figures for how many
9 other people are involved but you identified one person
10 on the strength of that letter that just happened to be
11 Mr Jeffrey Hall?

12 A. On the strength of what letter? I don't know nothing
13 about this letter, sir. This letter was for
14 Jeffrey Hall. I identified that person because when
15 I made the enquiry at the land survey department I was
16 told -- I know nothing about a letter. If I had
17 the letter then there was no need for me to make
18 the enquiry because the letter would indicate to me who
19 the land belongs to.

20 Q. You see at this stage in early 2005, Jeffrey Hall had
21 not taken up his CCPL and in due course he agrees it
22 lapsed. He told the Commission that.

23 He made a fresh application for a freehold parcel.
24 Would you agree that at the time you were, as you say,
25 making enquiries, he didn't have that freehold parcel?

1 A. This is the third time, sir. I made enquiries. That is
2 why I was told that one of the persons down there that
3 had interest in that land was the Honourable
4 Jeffrey Hall. Whether he had a CPL, freehold, I did not
5 know nothing at that stage about that land.

6 Q. It is an important distinction, isn't it, whether he had
7 the freehold or not because somebody who is interested
8 in purchasing it is not going to want to buy a CCPL.
9 They would like to buy freehold.

10 A. What is your point?

11 Q. So you must have been concerned as to whether or not he
12 had merely a lapsed CCPL or the option of a freehold
13 purchase?

14 A. Sir, I wasn't concerned about anything. All my interest
15 was to find out, as indicated, who -- anybody who had
16 that land down there that Mr Smith was -- had a client
17 that he said was interested in. Now, as far as
18 government documents and who have it, I have no clue.

19 Q. Who was it you called in the land surveys department?

20 A. Jeez, it is 2005. I know everybody there. I don't
21 know, I just pick up the phone and call them and ask
22 them to check to see who that land down there belongs
23 to. I can't tell you, it's no good to sit down and
24 speculate, because I know everybody inside there and it
25 is 2005.

1 But that is normal to call, that is the place you do
2 call when you want to find out whether somebody have
3 an interest, whether a person have a CPL or whether
4 the person have a freehold, that is the place you call.

5 Q. How did you find out that the other three contingent
6 plots, that is plots that abutted on to it, belong to
7 the people that they did? Were they further telephone
8 calls?

9 A. Yes, I made enquiries.

10 Q. Did you find out whether those persons had CCPLs or
11 freehold options?

12 A. I was told, based on my enquiries and not only -- and
13 not because on the list these come(?), I was told of
14 a number of people who had an interest in that land down
15 in Northwest Point. There were quite a few names I was
16 given. Sorry.

17 Q. You wanted to finish?

18 A. No.

19 Q. You say you make these enquiries, and it just so happens
20 that four plots in a row happened to belong to
21 a Minister of State, two people who are brothers to
22 ministers of the state, and one person who is the former
23 husband of a Minister of State. That was already in
24 place before you ever made your enquiry and you just
25 happened upon it when you made these telephone calls?

1 A. Yes, because other Turks Islands in place too, straight
2 down the whole beach.

3 Q. The evidence we have been given on behalf of Mr Hall is
4 that the approach was made by Mr Smith and that only
5 then, when the approach was made, did he, Jeffrey Hall,
6 apply for the freehold?

7 A. Which makes sense, doesn't it?

8 Q. Right. Therefore does it also make sense that the other
9 three also only applied for it after the approach from
10 Mr Smith?

11 A. Okay, sir. No. Okay.

12 Q. So, we have seen nothing about any -- we have seen no
13 documentation suggesting they had earlier interests, but
14 clearly following Mr Smith's approach, four people
15 together in essence put forward applications for four
16 contingent parcels in block 60000; would you agree that
17 that is the only sensible explanation?

18 A. I didn't put an application for (inaudible) land, sir.

19 Q. So you didn't make the application on their behalf?

20 A. No.

21 Q. They made their own applications and you became, it
22 would seem, the coordinator, you acted on behalf of them
23 as a group?

24 A. Yes.

25 Q. You had not done any business with Mr Wex before?

1 A. I never know him.

2 Q. You didn't know him?

3 A. No, sir.

4 Q. He didn't know you?

5 A. No, sir.

6 Q. And he didn't know them --

7 A. No, sir, I don't think so.

8 Q. What you have done essentially is act to some degree as

9 part of the introductory chain. You have been one of

10 the links between --

11 A. I don't know what you mean by "introductory chain".

12 Q. You are one of the links between Mr Wex at one end and

13 the four gentlemen at the other who are going to make

14 the application for the land?

15 A. I will not separate them. What I will say, the link

16 between Mr Wex and the four gentlemen, it was collective

17 onto me, myself and Mr Tim Smith, because I never know

18 Mr Wex.

19 SIR ROBIN AULD: Mr Wilson, I have got to nag you again.

20 You speak quite quickly sometimes.

21 A. I do.

22 SIR ROBIN AULD: And sometimes not always as distinctly as

23 is helpful. Could you try and speak a little more

24 slowly?

25 A. That is natural. I had the same problem in law school,

1 sir, when I was in England.

2 SIR ROBIN AULD: Keep your mind on the court reporters who
3 have to take down all the things you say.

4 A. I will, sir.

5 MR MILNE: Whatever their earlier interests, these men only
6 acquired the option of a freehold at some point in
7 the early half of 2005 with a view to selling it on to
8 Mr Wex; is that a fair assessment?

9 A. No, that is not a fair assessment, sir. If you --

10 Q. What did they obtain it with a view to doing?

11 A. They obtained that property with a view of being a part
12 of the development that was supposed to go on that
13 property.

14 Q. They wanted --

15 A. Plus -- let me finish, please. Plus they want to
16 benefit financially also. So it wasn't that -- my
17 understanding then and even now sitting here was their
18 view was to be a part of that development and benefit
19 from it financially.

20 Q. Well, it is a financial transaction. It is a commercial
21 transaction, which clearly most people would enter into
22 with a view to making financial gain. That is what
23 business is about. You say that they also wished to be
24 part of the development?

25 A. Yes, they have expressed that they want to retain

1 an equitable position inside the development.

2 Q. Did each of them express that view?

3 A. Yes.

4 Q. When was it that Jeffrey Hall told you: I want to remain

5 part of this.

6 A. No, Jeffrey never told me he want to remain part of it.

7 I am sure you saw my statement and I outline to you, as

8 to the best of my recollection, the chain of events of

9 how things happened.

10 Q. So Jeffrey did not want to remain part of the

11 development but --

12 A. I did not say that. You said, when did Jeffrey told me

13 and I am saying Jeffrey did not told me that. What

14 actually happened, after the three gentlemen,

15 Honourable Hall is part of the group, indicated what

16 they wanted and they want to remain as part of the

17 development, sometime during that I communicated to

18 Honourable Jeffrey and said that this is what the other

19 guys want to do, they want to remain part of the

20 development, I can get the same thing for you. That is

21 my exact words. He never said to me that he want to

22 remain a part of the development. In fact he didn't

23 know what the other guys wanted until I communicated to

24 him.

25 SIR ROBIN AULD: When you say given this turn of events that

1 you could get the same thing for him, what did you mean?

2 A. Well, the other guys had already told me what they
3 wanted -- the other gentlemen had already told me
4 what they wanted, and all I did, I told the Honourable
5 Jeffrey that I spoke to these other folks, this is what
6 they wanted and I will get the same thing for him. It
7 only makes sense in my view.

8 Q. Did the five of you ever meet together?

9 A. No, sir, five -- me and four Belongers? No, sir.

10 (11.00 am)

11 Q. To the best of your knowledge did the four of them ever

12 meet when you were not there? Did they ever tell you

13 they had met together?

14 A. Well, of course they met. They are Turks Islanders,

15 I assume they meet together but they never told me that

16 they meet together specifically to discuss this, no.

17 Q. Did you meet with them in twos or threes or did you just

18 meet with each of them individually?

19 A. I met -- most of my meetings was with Honourable

20 Jeffrey, Sammy and Earlson, now and then he would come.

21 Q. Is that Samuel Been?

22 A. Yes.

23 Q. I beg your pardon, the other was?

24 A. Earlson.

25 Q. Earlson Robinson?

1 A. Yes.

2 Q. Did you meet with Quinton Hall at any stage?

3 A. No, I just communicated with telephone on one or two
4 occasion -- three occasions to confirm with him his
5 knowledge of what was going on and exactly how things
6 transpired.

7 Q. You say in the course of your statement that Mr Wex
8 asked you to act for him as well?

9 A. Yes, he did.

10 Q. To represent effectively both sides of the deal?

11 A. Yes.

12 Q. Is that not unusual?

13 A. No.

14 Q. You think that is a normal approach?

15 A. It happens here a lot, sir.

16 Q. Mr Wex had his own lawyer who was Hugh O'Neil, didn't
17 he?

18 A. At this stage?

19 Q. Yes.

20 A. At which stage?

21 Q. At this stage, at the early stage --

22 A. No, that is not correct. If he did, I knew nothing
23 about it. I know for a long period of time, myself and
24 Mr Smith was--- (inaudible) trying to collect any group
25 as collective body.

1 Q. Within your bundle you have provided us with a document

2 which is I think described as an offer of sale.

3 A. Which bundle?

4 Q. Your bundle. The new bundle. It doesn't have an index

5 but it is at page 57.

6 A. Yes, sir.

7 Q. Is this one of four documents?

8 A. Yes it is.

9 Q. Where are the other three?

10 A. You would have to check with the lawyers for Mr Wex.

11 Q. No, this, as I understand it, is a document that Mr Wex

12 sent to the Honourable Jeffrey Hall and we are given to

13 understand, maybe this is wrong, that this document

14 formed part of the file for Urban Development Limited,

15 is that not right?

16 A. Yes, this document would have formed part of that file.

17 Q. You had a file or have a file?

18 A. I did have a file.

19 Q. These documents are copied from your file?

20 A. These documents here?

21 Q. Yes.

22 A. These documents came from across the road to Mr O'Neil's

23 office. I don't have no documents. I don't have

24 Urban Development. Everything was transferred to

25 Mr O'Neil. Recently, I think three or four days, I went

1 across the road and get a copy of all the documents to
2 provide to the Commission. I don't have these
3 documents.

4 Q. So these came from Mr O'Neil's file, who co-operated
5 with you and provided further copies?

6 A. Well, he didn't co-operate with me.

7 Q. I am not going to worry about the niceties of this. You
8 got the file from him, and we see within that file
9 the document that is headed up "Offer to Purchase", and
10 this is an offer to purchase to the Honourable Jeffrey
11 C Hall, yes?

12 A. Yes.

13 Q. It relates to Mr Wex in trust for a company to be
14 incorporated, making an offer to purchase
15 the combination and subdivision of parcels 60000/76, 78,
16 80, 96, part lot 13. Do you see that?

17 A. Yes, I saw it. It is in the document.

18 Q. The purchase price and payment for the property would be
19 \$2,144,000 to be paid with 50,000 as an initial deposit
20 and \$200,000 as an additional deposit to be paid soon
21 after, the balance to be paid on closing?

22 A. Yes.

23 Q. Are you telling us that this relates to exactly the same
24 purchase and sale?

25 A. Yes, the documents should relate to it. I don't know --

1 yes, I will say yes.

2 Q. Who was it provided the parcel numbers that we see at

3 the top?

4 A. Most likely I would have provided them numbers to David.

5 Q. Where did you get them from?

6 A. From the -- either the Land Registry, one of the

7 government departments that deals with land.

8 Q. This document is dated if we turn through to page 60,

9 7th June 2005, yes?

10 A. Yes.

11 Q. If we take red core volume 6, which is to your left-hand

12 side, and we turn at the very beginning of that bundle,

13 the first section deals with Cabinet minutes and if you

14 turn there is a page -- if you turn to page 2 and then

15 page 3. One immediately following page 3 --

16 A. 3A.

17 Q. It should be 3AA. Do you have a 3AA?

18 A. Yes.

19 Q. That indicates that this was the 17th meeting of the

20 Executive Council which took place on 7th July 2005.

21 Indeed, the Honourable Jeffrey Hall was present. Over

22 the page at page 3A on that date, 7th July 2005, Cabinet

23 approves an application for freehold title.

24 The minister of natural resources introduced the paper:

25 "The Council advised that it recommended

1 the approval and reaffirmed the freehold offer granted
2 to Mr Jeffrey Hall, Mr Quinton Hall, Mr Earls Robinson
3 over parcel 60000/151, 152 and 150 respectively and also
4 to grant freehold title to Mr Samuel Been over parcel
5 60000/153 for the purpose of pursuing their
6 tourist-related development."

7 So the grant of freehold land, the confirmation that
8 freehold land was forthcoming in fact was not even
9 approved by Cabinet for another month after this offer
10 to purchase had been signed. Is that right?

11 A. You just called out the document, you ask me about
12 an agreement that have some numbers and then you took me
13 to a bundle got some different numbers and you are
14 asking me. So I don't know how the numbers from
15 government work. I know for sure that the sale
16 agreement, I gave David those numbers.

17 Q. You see, there are two aspects to this: first of all, we
18 are intrigued to know where you would have got
19 the numbers in this offer to purchase -- they clearly
20 were crucial, the position of the land is essential to
21 a sale -- where you would have got those numbers from to
22 put them into the offer to purchase?

23 A. There is only one place I could have got those numbers
24 from, the land survey department, yes.

25 Q. As things stood, at the time this offer to purchase was

1 being signed up, it would appear that these four
2 gentlemen, least of all, they are all in exactly
3 the same position, the Honourable Jeffrey Hall hadn't
4 even got confirmation of his freehold parcel and when he
5 did get it, it is a different number altogether?

6 A. What does it have to do with me, sir? It has absolutely
7 nothing to do with me, where he get it, who gave it to
8 him, how they gave it to him. You don't see my name on
9 none of that, ie there is a procedure you follow. You
10 go and you enquire about land. You get numbers. If
11 the land is being mutated and registered in the
12 Land Registry, it will have the official number. If
13 the land has been offered to you and has not been
14 subdivided or mutated, they give it a provisional
15 number, that is my understanding.

16 Now, I am not an expert, and I am sure you could
17 call one of the people who work in that department to
18 give you a better explanation, but that is my
19 understanding and that will make the difference
20 between -- although you are trying to make an issue out
21 of it -- the numbers that I gave to David, at one stage.
22 The other stage the parcel(?) of the land was just there
23 and the numbers upon the land had been surveyed and
24 properly numbered, but that had absolutely nothing to do
25 with me. And most of the government property that

1 either came through that had not been subdivided, always
2 have some numbers or some PT and a slash and then when
3 the property subdivided and properly registered, they
4 give it the proper registered number, but that don't
5 have nothing to do with me whether they gave Jeffrey two
6 and give him three, my name is not on that. Absolutely
7 nothing to do with me.

8 Q. With respect, Mr Wilson, you are absolutely central to
9 the deal that is going on here because you are
10 the lawyer acting, we understand, on both sides at this
11 stage. You are the coordinator, you are representing
12 every party, you are the one who is providing
13 the information to Mr Wex. So whilst we hear what you
14 say, surely you are the obvious person to ask about
15 this. You are in the middle of it. But you can't help
16 us beyond the fact you got these from the Land Registry?

17 A. You asked me where I get the numbers from. I told you.

18 Q. Where did the numbers for the money come from?

19 A. The numbers for the money came from the Belongers,
20 myself and Tim Smith.

21 Q. Because the numbers here, and this only relates to
22 Jeffrey Hall, eventual sale was four lots, each of them
23 almost exactly five acres?

24 A. Sir, could I just stop you a minute because I think we
25 are going down a path that is not true and disingenuous.

1 Let me stop you. This was the first contract that was
2 signed up by David. I could guarantee and assure you --
3 whether they want to give it to you, I don't have it --
4 that you have the same contract that was signed by these
5 gentlemen with the correct numbers. I know it is
6 somewhere. I don't have it because I transfer
7 everything that I had (inaudible). So you could -- I
8 don't know where you are going but I just want to
9 correct you. They have to be the same contract without
10 numbers being corrected. I don't have it and I know it
11 exists.

12 Q. Presumably this offer to purchase came about as a result
13 of negotiation, yes?

14 A. Sorry, yes, I thought you were making a statement.

15 Q. So the numbers that go in here for one parcel are over
16 \$2 million; we know in the end only \$7 million or
17 thereabouts was paid, is that correct?

18 A. Yes, sir.

19 Q. You volunteered the figure of \$7 million when you were
20 in the Tribunal hearing the other day?

21 A. I volunteered the correct figure, yes.

22 Q. Why is the figure here for one quarter of that,
23 2 million, four times that figure would make it
24 8.5 million?

25 A. No. I told them if it is 10 or 20 million and you can

1 get a ledger, I know you have it, I could not get it
2 from my old law firm, but I saw you have it, and you can
3 see without that property by the four it was never no
4 10 million.

5 Q. So why does it say 2.144 million here? We just don't
6 understand where this figure comes from. Is this
7 the same deal?

8 A. Yes. You asked me a question, I wonder if I could try
9 to give you an little bit of assistance.

10 MS MISSICK: Sir, sorry, if we may assist the Commission,
11 the other contracts in relation to this sale are already
12 in the Commission's bundles. They are exhibited in
13 bundle 5 at the various tab numbers.

14 SIR ROBIN AULD: Red 5?

15 MS MISSICK: Red 5, sir, starting with tab 21. 21 is
16 the contract in relation to Quinton Hall. Tab 22 is the
17 contract in relation to Earls Robinson. Tab 23 is
18 Honourable Jeffrey Hall. Tab 24 is Samuel Been, so they
19 are within the Commission's possession and have been
20 exhibited prior to this witness and Honourable Hall's
21 evidence.

22 SIR ROBIN AULD: Just looking at one of them, they are not
23 all the same contract price.

24 MS MISSICK: They do vary.

25 SIR ROBIN AULD: If we do the sums and add them all up, they

1 come to the 7 million odd and not the higher figures.

2 (11.15 am)

3 MS MISSICK: The witness will be able to explain the price

4 variation, but I didn't want it to be the case where

5 there was only one contract that my learned friend had

6 access to. All four contracts are exhibited.

7 SIR ROBIN AULD: Does it all add, when added up, come to the

8 7 million rather than the 8 million?

9 MS MISSICK: Yes, I think so, sir.

10 MR MILNE: These are documents in fact provided by

11 the opposition to the Foreign Affairs Committee.

12 A. Provided by who?

13 MR MILNE: They were provided under the heading of Her

14 Majesty's loyal opposition when submissions were made to

15 the Foreign Affairs Committee last year. You were not

16 aware of these documents?

17 A. What documents are you speaking about, sir?

18 Q. The documents that have just been referred to by your

19 counsel?

20 A. Yes, I was aware of the contracts, I was aware of the

21 contract.

22 Q. Were you aware that they had been handed to somebody who

23 had forwarded them to the Foreign Affairs Committee in

24 London?

25 A. The answer is no, I know who handed it to you, but no.

1 And it is not bundle handed you, it is the documents,
2 the legitimate document, so...

3 Q. Let's go back to what we were discussing a moment ago.
4 Can you explain why one quarter of the land was being --
5 there was an offer to purchase it at 2.14 million?

6 A. I think I made it absolutely clear in my statement.
7 The contracts that you are talking about was not
8 prepared by me, as you would appreciate.

9 Q. Sir, these are not contracts. Let's be clear --

10 A. Sales agreement.

11 Q. They are offers to purchase?

12 A. Whatever you call them, they were not prepared by me.
13 The figures inserted in that were not placed there by
14 me. The person who did that was Mr David Wex. So if
15 any questions as related that there, he will be the one
16 to speak to it.

17 SIR ROBIN AULD: Mr Wex, you say, prepared the offers to
18 him?

19 A. Everything, yes.

20 SIR ROBIN AULD: Listen to me. You are saying that Mr Wex
21 prepared the offers to be made by these four to him?

22 A. No, he prepared the sales agreement that he referred me
23 to the offer. Agreement was prepared by his attorneys
24 in Canada.

25 SIR ROBIN AULD: We are looking at these at the moment.

1 MR MILNE: If Mr Wex was offering the Honourable
2 Jeffrey Hall \$2.14 million for his parcel of land, and
3 in the end the Honourable Jeffrey Hall got 1 million for
4 his parcel of land, what went wrong?

5 A. Absolutely nothing, because -- you asked me, do you want
6 me to answer?

7 Q. I am asking you to explain.

8 A. Nothing went wrong.

9 Q. So why did the figures change so dramatically?

10 A. There is no change in the figures. David insisted that
11 he do this this way specifically to make sure that the
12 amount of money in total amount to 7 million and that it
13 make part of the contract for whatever purpose he had in
14 mind.

15 SIR ROBIN AULD: Insisted to whom?

16 A. He told me that. I asked him the same question that
17 I am being asked now, and I told him that if that is
18 what he wanted, fine with me.

19 SIR ROBIN AULD: So the person to whom the offer was being
20 made was telling you how they should be allocated
21 between the four proposed purchasers.

22 A. How the money should be allocated in the documents, not
23 how the money would be distributed at the end of the
24 day. That is a big difference.

25 SIR ROBIN AULD: I am sorry to hear that, but you will tell

1 us about that and why.

2 MR MILNE: Did you ever ask why he would want to pay more to
3 one of the four than he would to the other three?

4 A. You asked me again, he never wanted to pay, not now he
5 wanted, all along was getting the same exact amount.

6 MR SMITH: Sorry, sir, if I may stop Mr Wilson there,
7 the Samuel Been contract and the Honourable Jeffrey Hall
8 contract has the same purchase price in it. It is not
9 the case where Honourable Hall was receiving more than
10 the others in the contract. In relation to Quinton Hall
11 and Samuel Been there is the same price quoted in that
12 contract.

13 SIR ROBIN AULD: Of a lower order?

14 MS MISSICK: Of a lower order, sir. Collectively they
15 represent one big amount.

16 SIR ROBIN AULD: Yes. I think we are halfway along this
17 story but I think Mr Milne is anxious to know how it
18 was, if Mr David Wex it was who insisted on
19 the insertion of these figures in these documents, how
20 or why that came about, whatever sums were paid over in
21 the end. Is that right, Mr Milne?

22 MR MILNE: Yes.

23 SIR ROBIN AULD: Now, would you like to take that step by
24 step again?

25 MR MILNE: I understood, and this is obviously important and

1 we make clear your evidence was that this document was
2 achieved by virtue or as a result of negotiation. Are
3 we to understand that is not correct and these figures
4 were unilaterally inserted by Mr Wex without discussion
5 or any sort of prior agreement, is that right?

6 A. That is the question you asked me, sir?

7 Q. That is the question.

8 A. No, I didn't say that.

9 Q. Well, what happened? Did you negotiate it or did he
10 just put it in?

11 A. No, I told you earlier, we spoke about the price.

12 SIR ROBIN AULD: Who did what?

13 A. No, I said earlier in my evidence we spoke about
14 the price, and the price -- you asked me about who, how
15 the price came about, I told you it was me and Tim put
16 the price together based on the information from
17 the local group.

18 SIR ROBIN AULD: I can't understand a word, I am afraid.

19 You have to say that again slowly.

20 A. Me, Mr Smith --

21 SIR ROBIN AULD: Was there a negotiation of any sort for
22 whatever was paid in the end as to what should be put in
23 these offer documents? Was that the product of
24 negotiation or were you just told what to do?

25 A. We told the man it was a product of negotiation.

1 SIR ROBIN AULD: Who was negotiating with whom?

2 A. Well, I had communicated to Mr Wex what the Belongers

3 want and what the total amount --

4 SIR ROBIN AULD: So the negotiation was between you and

5 Mr Wex?

6 A. And Mr Smith.

7 SIR ROBIN AULD: And Mr Smith.

8 A. Yes.

9 MR MILNE: Right.

10 A. As to the total amount.

11 Q. Okay. So you say they want this global figure, and he

12 says: I will give two of them 2.144 million and

13 the other two 1.357 million, 1.355 million and those are

14 the offers? Despite the fact that these four documents

15 name the same plot numbers and these four gentlemen are

16 in equal shares. Does that --

17 A. Sir let me repeat for the last time. There has to be --

18 I don't have it -- offer -- same document with

19 the correct numbers in it. I don't have that. If

20 I have it I would have produced it to you.

21 SIR ROBIN AULD: Why don't you have it? You were acting for

22 them.

23 A. I am no longer with the firm, sir, and everything I hand

24 over to the other firm -- I don't have nothing for that

25 firm.

1 SIR ROBIN AULD: The firm, McLeans.
2 A. I used to be with McLeans at that time.
3 SIR ROBIN AULD: You can't get the papers from McLeans?
4 A. I can't get nothing from them. Even the statement that
5 I produced this morning, I asked them for it five days
6 ago and they refused to give it to me and all of
7 a sudden it showed up this morning.
8 MR MILNE: So this is not the final document, is that
9 correct? There must be a better version of it
10 somewhere?
11 A. Yes, I don't know where it is but there has to be.
12 Q. Let's turn to page 60 of this one since it is the only
13 one we have got at the moment. If this was not right,
14 why is it that it is signed by the Honourable Jeffrey
15 C Hall and witnessed evidently by yourself? If this was
16 wrong, why was it signed? Why not send it back and say:
17 we have got to get the figures right.
18 A. That is -- it looks like I got it wrong there, I am
19 sorry.
20 This document was the first document that I got from
21 Wex, obviously with numbers that doesn't correspond with
22 the numbers that exist now. I am saying to you, when
23 this came, yes, I gave it out and the guys signed it,
24 but I am saying there has to be a corrected document
25 like this somewhere. There is nothing wrong --

1 the document came, yes, everybody signed and
2 I witnessed, of course.

3 SIR ROBIN AULD: In respect of each of them?
4 A. I don't know if I witnessed each of them but I know
5 I witnessed --

6 SIR ROBIN AULD: I have been looking at one of the others
7 and I haven't -- we can do that, probably see your
8 signature.

9 MR MILNE: The same signature appears on each of them, sir.
10 So all four of them, it seems, were signed by
11 the individuals and witnessed by yourself, even though
12 you say these are wrong and there must be some other
13 documents? Is that right? There is a whole other set
14 somewhere out there that we have not got?

15 A. I don't find it funny. I said to you there is another
16 document similar to this with the correct parcel number
17 in it and you are making it like it is some joke or
18 cartoon.

19 Q. Mr Wilson, we are, I am afraid, reliant upon
20 the documents that we are given. We are given this
21 document by you. We receive other documents which in
22 fact correspond with it. There are no other documents
23 that we can find. You say there must be another one?

24 A. Yes because how, why, why would you -- if the numbers --
25 I think it is a bit of common sense. If you have

1 a document, one set of numbers in it, right, at the
2 beginning of a negotiation --
3 Q. Why must there be another one? Do you recall signing
4 another one?
5 A. There has to be another document.
6 Q. Do you recall --
7 A. No, I don't recall, no, I don't.
8 Q. So you signed these, although they were wrong, you
9 witnessed them, or they signed them and you witnessed
10 them --
11 A. What was wrong? I signed them and they were wrong?
12 Q. You say these numbers are wrong and there must be other
13 documents with the correct numbers on somewhere.
14 MR MISICK: I think maybe there is -- I hope there is
15 a little bit of confusion. I think we are referring to
16 numbers. There are two things, there is the plot
17 numbers and then there are the dollar numbers.
18 SIR ROBIN AULD: I think we are on dollar numbers at the
19 moment.
20 MR MILNE: Yes.
21 MR MISICK: That is what I understand Mr Milne is asking
22 about. I want to make sure that that is what he
23 understands, that we are talking about dollar amounts
24 and not title numbers.
25 SIR ROBIN AULD: Thank you.

1 MR MILNE: Well, neither -- I am grateful to my learned
2 friend and he makes, I think, a valid distinction here
3 but in fact neither sets of numbers correspond with
4 the eventual sale because the plot numbers are
5 different, the money numbers are different; they may
6 total 7 million but the evidence, as we understand it,
7 is that this was four sets of five acres, making 20
8 acres in total.

9 But instead the offers to purchase are for totally
10 different numbers with uneven amounts of money.

11 Now, tell me if I have misunderstood you, sir,
12 because it is important we get this right. Are you
13 saying that notwithstanding the signatures that were put
14 on these documents, the witnessed signature of yourself
15 on each of them, that nonetheless a further set of these
16 documents were issued, signed and they exist, we know
17 not where, but not on the file? Is that your evidence?

18 A. I think my simple answer is ask David, David Wex. He
19 will be the only person who can assist you.

20 SIR ROBIN AULD: Forgive me for interrupting you. You
21 mentioned some files in McLeans.

22 A. No --

23 SIR ROBIN AULD: Who is the person at McLeans, Mr O'Neil, is
24 it?

25 A. No, what I said is that when I left I didn't take any of

1 the -- any documents with me that relates to anything
2 because what actually happened, when we closed this
3 deal, all the files to my knowledge that was with
4 McLeans was transferred to the other lawyer,
5 Hugh O'Neil, not McLean.

6 SIR ROBIN AULD: So we need to contact Mr Hugh O'Neil?
7 A. And find out what all he have and ask him for it.

8 SIR ROBIN AULD: Which firm is he with now?
9 A. Hugh O'Neil is his own firm.

10 SIR ROBIN AULD: Is he round the corner somewhere? Where
11 does he practise from?
12 A. He practise down from his office on Leeward Highway.

13 SIR ROBIN AULD: This is the man you approached yesterday
14 with, or the day before when you had some difficulty
15 getting --
16 A. I approached his office. He is not on the island, he is
17 off. I approached his office --

18 SIR ROBIN AULD: Who is in charge there now?
19 A. Dale Peters.

20 SIR ROBIN AULD: A man or a woman?
21 A. It is a man.

22 SIR ROBIN AULD: So that is the person, if we wanted to get
23 the rest of the files, we should go to, is it?
24 A. Yes, please.

25 (11.30 am)

1 MR MILNE: I know we are going to come back to Mr O'Neil in
2 a few minutes but let's freeze the action at this
3 particular point. This document, dated 7th June 2005,
4 is an offer to purchase between Mr Wex, who will be
5 acting through some company yet to be established, and
6 Mr -- Honourable Jeffrey C Hall in person, correct?
7 Would you agree?

8 A. Sorry, sometimes you are making a statement, I don't
9 know if you are asking a question. Sorry about that.

10 Q. Let's try again. This document of 7th June, if you look
11 at the top of page 57 in the bundle, is not an agreement
12 between companies. The words
13 "Urban Development Limited" do not appear anywhere on
14 it. This is an offer to purchase from an individual?

15 A. Yes.

16 Q. Similarly the other documents are in the names of the
17 individuals?

18 A. Yes.

19 Q. So the agreement that was being struck at this stage was
20 Mr Wex was buying a freehold interest from
21 the Honourable Jeffrey Hall?

22 A. Yes.

23 Q. And indeed buying similar freehold interest from other
24 parties. On 27th June 2005, Mr Wex transferred just
25 under \$200,000 into your attorney account, is that

1 right?

2 A. Sir, I do not have -- that is what I am asking you.

3 I made requests of these documents to be able to provide

4 but I don't know what was -- you know, I don't know what

5 was said.

6 Q. The documents with the metal clip in the corner, turn

7 please to page 5. These are Commission papers?

8 SIR ROBIN AULD: Just for the record, are these new ones?

9 MR MILNE: These are new ones, sir.

10 SIR ROBIN AULD: Do we have a page number?

11 MR MILNE: Page 5. It is not within any bundle, sir. It is

12 a separate discrete bundle unto itself with a cover page

13 on it.

14 Let us be clear about this: the firm of McLeans

15 consisted essentially of yourself together with

16 a Mr Papachristou?

17 A. Yes.

18 Q. And a Mr Prudhoe, is that correct? Those were your two

19 partners?

20 A. Me and Christian was partners.

21 Q. Mr Papachristou was a partner in the firm?

22 A. Yes.

23 Q. And Mr Prudhoe who has appeared here on behalf of

24 Lisa-Raye McCoy Misick, he was also a partner in the

25 firm at the time?

1 A. He was there, yes.

2 Q. So the three of you were partners.

3 We have from the remaining computer files this
4 document at page 5, which is essentially a ledger
5 account relating to this particular transaction, and in
6 June of 2005, on 27th June, \$200,000, or to be precise
7 199,985 was received from David Wex. The notation says:

8 "Received from David Wex, funds wired into trust as
9 per Melbourne Wilson."

10 The next movement is that those monies were
11 transferred, paid to Temple Securities Limited and
12 placed on MM-CD. That is certificate of deposit,
13 I think. Then subsequently they were transferred back
14 at some stage. Funds held on CD. So they went into
15 Temple Securities and came back out again.

16 Whatever the purpose of that we are not concerned
17 here, but you had received, apart from a deduction of
18 bank charges, \$200,000 from Mr Wex, which went into your
19 effectively client account, is that right?

20 A. Yes.

21 Q. That, we must assume, reflects the agreement that took
22 place at page 57 of your bundle, where it said that
23 within five working days of vendor's acceptance of the
24 offer to purchase, the purchaser, Mr Wex, will pay
25 McLeans International Attorney in trust -- will pay to

1 the solicitor, more specifically, but that is McLeans,
2 the sum of \$200,000 as an additional deposit. It is
3 described as the second deposit. Had there been a first
4 deposit paid?
5 A. I don't know. You have the records. I do not know.
6 Q. You don't recall?
7 A. No.
8 Q. The agreement says there should have been an initial
9 50,000, but we don't see that on this record.
10 A. No, unless you can point it to me, I can't recall it.
11 Q. We haven't got any record of it. If you don't and have
12 no recollection, we will leave that but it is clear that
13 \$200,000 does arrive?
14 SIR ROBIN AULD: Before we do can I just ask a question
15 about Temple Securities Limited. You acted
16 for Temple Securities Limited, did you?
17 A. No.
18 SIR ROBIN AULD: No?
19 A. No. That was one of the companies was part of the whole
20 organisation.
21 SIR ROBIN AULD: What organisation?
22 A. McLean, the law firm.
23 SIR ROBIN AULD: McLeans law firm.
24 A. Yes, they work in conjunction. They had arrangement
25 where we work in conjunction to different --

1 SIR ROBIN AULD: Were they separate entities?

2 A. Yes, sir.

3 SIR ROBIN AULD: So you were the -- McLeans were

4 the in-house lawyers for Temple Security.

5 A. Yes, sir.

6 MR MISICK: I do not think that is a correct description,

7 no.

8 SIR ROBIN AULD: I am only asking, tell me what the position

9 is.

10 A. I work for McLeans and you have -- they had various

11 different organisations within that --

12 MR MISICK: I think the short answer, subject to any detail,

13 is that the way law firms operate here is they often

14 provide other non-legal services, financial services and

15 these are normally done by -- through corporate

16 entities. So I would imagine that Temple Securities was

17 a company which was providing financial and it appears

18 to me in this case escrow services.

19 SIR ROBIN AULD: So was my first question right, they were

20 effectively part of McLeans?

21 MR MISICK: Correct, yes.

22 MR MILNE: I believe, sir, that in fact Temple Securities

23 were established initially by McLeans, but were

24 subsequently effectively made into an independent

25 organisation, although they still work closely or did

1 work closely with McLeans.

2 SIR ROBIN AULD: At this time McLeans effectively

3 controlled Temple Securities.

4 A. Yes.

5 SIR ROBIN AULD: Thank you, I understand.

6 MR MILNE: Therefore with large lump sums, it was not

7 uncommon for money to go into McLeans to be held,

8 presumably they would offer a better rate of interest?

9 And funds would be placed on escrow with them, which is

10 what appears to have happened here, at least briefly.

11 Is that right?

12 A. Yes.

13 Q. So two possible explanations in fact; I think it is fair

14 we consider both. It could be the case that that

15 200,000 was in fact four lots of \$50,000, or it could be

16 one lot of 200. So it may be the first payment four

17 times over to four different recipients, or it may be

18 the second payment of \$200,000 one time over.

19 But we see that the money appears to just remain

20 with your firm from that point on and there is no

21 significant movement until around December of 2005.

22 So at this point in June to July of 2005, there is

23 an offer to purchase between the individuals and Mr Wex,

24 and indeed he has made advance payment on that of some

25 sort because this money was attributed to this deal on

1 the McLeans ledger, wasn't it?

2 A. Yes.

3 Q. Can you say now why the 200,000 was put in? Was it

4 designed to be four lots of 50, or was it simply a lump

5 sum?

6 A. I stand corrected. I think it was a lump sum.

7 SIR ROBIN AULD: A lump sum for one person?

8 A. No a lump sum as a deposit.

9 SIR ROBIN AULD: For?

10 A. A lump sum as a deposit for everybody.

11 SIR ROBIN AULD: I didn't catch the last word.

12 A. A lump sum, one deposit that was for the transaction

13 itself.

14 SIR ROBIN AULD: For everybody?

15 A. Yes, sir.

16 SIR ROBIN AULD: That is what I asked you, a lump sum for

17 everybody.

18 MR MILNE: Why was it in that case that the money was paid

19 50 per cent to Jeffrey Hall on 12th December 2005 and

20 a further 100,000 went to McLeans International

21 Attorneys on that date?

22 A. Why is it?

23 Q. Yes.

24 A. Obviously got to be on the instructions of Mr Wex.

25 Q. Well, this money is supposed to be a deposit, is it not?

1 This is supposed to be advance payment for the sale of
2 land?
3 A. Yes.
4 Q. Why is it that the Honourable Jeffrey Hall is getting 50
5 per cent when he is only one of four?
6 A. As I say, it have to be, and I can assure you whatever
7 he got was on instructions of Mr Wex.
8 SIR ROBIN AULD: Mr Wex was instructing how you should
9 disburse the money --
10 A. Yes, everything, straight through.
11 SIR ROBIN AULD: -- already in your own client account.
12 A. This is Mr Wex's money. He give -- the only person
13 could give instructions to any amount of money in that
14 account comes from him was him.
15 SIR ROBIN AULD: Even when it had reached your client
16 account?
17 A. Yes, sir.
18 MR MILNE: Would he have given those instructions by
19 telephone or by letter, e-mail?
20 A. There was a lot of e-mails backwards and forwards.
21 There was telephone calls also.
22 Q. You see from his point of view if he has paid
23 the deposit, why should he care who gets it?
24 A. Why? It is his money. You cannot -- when a person pay
25 a deposit and you put it on a CD or escrow account, you

1 are -- you only could deal with that money on express
2 instructions. You can't go interfere with people's
3 money and do what you like. They have to give you
4 instructions to distribute your money. That is in
5 the event he change his mind, I have to be in a position
6 to give him the money back. I can't go there and just
7 divvy it up the money in any kind of fashion. He has to
8 give me instructions.

9 SIR ROBIN AULD: Would that be a convenient moment?

10 MR MILNE: Certainly, sir.

11 SIR ROBIN AULD: Five/ten minutes.

12 (11.40 am)

13 (A short break)

14 (11.48 am)

15 SIR ROBIN AULD: Mr Milne.

16 MR MILNE: May it please you, sir. Mr Wilson, we have got

17 as far as June of 2005. Mr Wex has paid out \$200,000

18 and you say that in December you gave instructions to

19 pay 100 of that to the Honourable Jeffrey Hall. Did you

20 make that payment?

21 A. The payment would be made by our department. Any

22 payments that would have been made would have been made

23 from our law firm.

24 SIR ROBIN AULD: Made from what?

25 A. From the law firm.

1 SIR ROBIN AULD: From the law firm, McLeans would have paid

2 it?

3 A. Yes.

4 MR MILNE: What happened to the other \$100,000? If you look

5 at page 7 of the little bundle -- page 5 of the little

6 bundle that we have handed you with the metal clip, when

7 it says "paid to McLeans International Attorneys,

8 transfer funds from CD, as per Melbourne Wilson",

9 100,000 appears to come out of the account. What was

10 happening to that money?

11 A. I don't know. I can't say from here. It might have

12 been -- remember I been working on this, you know. So

13 obviously this file had to be billed. So if I bill

14 the file which seems to be the case here, the bill will

15 say "to McLeans". That is the only explanation I give.

16 I can't look at this and just sit down and say with any

17 degree of certainty that is the case.

18 Q. So when we see that, you think it might mean that it is

19 a bill issued by your own firm?

20 A. I would say yes, it could mean that, yes.

21 Q. So if that is the case, 50 per cent of the money that

22 has come in so far appears to be going out in bill.

23 That is quite a large bill, isn't it?

24 A. I don't know. I don't consider large bill. I work on

25 this whole thing for a year.

1 Q. Do you not consider 50 per cent of the money to date

2 going out as being a large bill?

3 A. That depends on whether that was one bill or that was

4 one bill for a lot of work. You know, it could be

5 either one.

6 Q. So this may represent billing for other work done?

7 A. Yes, sir. I am back in 2005 and you expect me to look

8 at this and say to give you a specific and definite

9 answer. If you ask me, the truth is I cannot. I only

10 can look at this and assume, because it has been such a

11 long, what these things may or may not represent, but

12 I don't want you to take it as if this is something that

13 happened the other day and I had these to go through and

14 confirm. I can't do that.

15 Q. Mr Wilson, we don't have the bill on file here,

16 obviously. We have not been provided with that, but it

17 is just that you would be more familiar with this

18 account system than we would, and you may be able to

19 tell from looking at it whether or not that is actually

20 a debit for work done. Now, if you are saying yes, then

21 we will take that; if you are saying I cannot say, we

22 will accept that. But we need to be clear about what

23 you are evidence is on it.

24 A. My evidence, as far as this statement is concerned,

25 I cannot be -- take a firm position, yes or no.

1 Q. Why was Urban Development set up?
2 A. Urban Development was set up to facilitate the Belonger
3 land.
4 Q. To develop the Belonger land. To facilitate
5 the Belonger land. Is that your expression?
6 A. Yes, to facilitate, yes.
7 Q. How was it going to do that?
8 A. How?
9 Q. Yes.
10 A. The idea was to -- not the idea, what actually happened
11 is that Urban Development was set up and the land, the
12 four Belongers' land was acquired in Urban Development
13 from the Crown.
14 SIR ROBIN AULD: Who set it up?
15 A. I did, sir.
16 SIR ROBIN AULD: Right, say that.
17 MR MILNE: Right. Mr Wex, through intermediaries, has
18 approached you. Offers to purchase have been signed to
19 buy land from individual Belongers. Not only have they
20 been signed, they have been witnessed by yourself and
21 therefore may be seem to be binding, would you agree?
22 A. You are missing out a little piece of an important part
23 but in a nutshell, yes.
24 Q. What am I missing out?
25 A. You miss out the fact that Mr Wex's intention then, and

1 I believe still is now, was to acquire that land from
2 and with the Belongers, and said in fact they were
3 supposed to retain our piece of equity in that
4 development.

5 Q. Where do we see the evidence of Mr Wex's intentions?

6 A. Where do you see it?

7 Q. Yes, is it documented anywhere?

8 A. No.

9 Q. On the face of it, Mr Wex is only likely to need this
10 land with a view to development, isn't he?

11 A. Yes.

12 Q. He is a developer?

13 A. Yes, of course.

14 Q. This is land which is being earmarked for development.

15 There are many things you can do with land, but
16 development seems to be the obvious option in this case.

17 He has paid money, he has signed documents, you have
18 signed those documents for a sale. Why is it subsequent
19 to that agreement being documented, signed and money
20 paid, that suddenly a company is being inserted whereby
21 there will be some sort of planning agreement attributed
22 to that company? What was the purpose at that stage?

23 Because the deal was already going through?

24 A. It was -- during our discussion, it was made absolutely
25 clear that as part of acquiring the land, in your words,

1 that there need to be a development agreement and
2 outline planning permission. That was one of two of the
3 conditions that Mr Wex had indicated from initial
4 discussions.

5 Q. And he had indicated that already, before it ever --

6 A. Yes, as I said, initial discussions.

7 SIR ROBIN AULD: Discussions with you?

8 A. Yes, sir.

9 SIR ROBIN AULD: Not with any of the other four?

10 A. No, it was not discussed with the other four.

11 SIR ROBIN AULD: There had to be a development agreement and
12 planning permission?

13 A. Outline planning permission, sir.

14 MR MILNE: Does it mention the outline planning agreement in
15 the offer to purchase? Let me point out what it does
16 mention on page 57 of your little bundle.

17 At the bottom, paragraph 6 says as follows under
18 "Covenants":

19 "By accepting this offer to purchase, the vendor
20 covenants and agrees as follows and acknowledges that
21 such covenants and agreements are being relied upon by
22 the purchaser, no encumbrances, that it will do nothing
23 to encumber the property, that on closing it will
24 discharge any and all mortgages, charges ..."

25 Over the page:

1 "It will allow the purchaser and its agents access
2 to the property."

3 It deals with site signage, sale centre, vacant
4 possession and full title:

5 "The agreement is subject to the title..."

6 Here I am reading from paragraph 7:

7 "The agreement is subject to the title to the
8 property being good and marketable, free from all
9 encumbrances."

10 Now, from the point of view of Mr Wex, he doesn't
11 seem to want in this document any agreements that bind
12 how he develops it. He appears to want it free and
13 clear. So where is it that we would find the evidence
14 that he wants Urban Development involved since that will
15 not be his company but it will be the Belongers'
16 company?

17 A. Where would he find that Urban Development involved?

18 I said I incorporate the company --

19 Q. I know you did.

20 A. -- to facilitate the four Belongers to put all the land
21 in the company.

22 Q. The four developers have by this stage agreed and indeed
23 signed, presumably on advice, but signed agreements to
24 sell their interests. The four developers are expecting
25 to get \$1 million apiece, you tell us.

1 Mr Jeffrey Hall is not a developer, is he?

2 A. No.

3 Q. Are any of the other three, to your knowledge,
4 experienced developers?

5 A. No, sir.

6 Q. Right. So why would they want to stay involved in this?

7 A. I believe every Turks Islander will want --

8 Q. I am sorry, I can't hear your response. You have to
9 lean close to the microphone.

10 SIR ROBIN AULD: Do your best, Mr Wilson.

11 A. Any Turks Islander who is presented with that
12 opportunity, I am sure will want to remain as part of
13 such a huge development.

14 MR MILNE: Is this the case, having signed the agreement to
15 sell their interests, they now want to hang on to part
16 of their interest through Urban Development?

17 A. Sir, I indicated from the outset that that was
18 communicated to David Wex from the beginning that
19 the gentlemen want \$1 million and they retain
20 an interest in the development. If you see my
21 statement, way before Urban Development was
22 incorporated.

23 SIR ROBIN AULD: I have forgotten now, there was
24 a suggestion that you were to act for both sides, wasn't
25 there?

1 A. Yes, doing that --

2 SIR ROBIN AULD: You were acting for both sides at this

3 stage?

4 A. Yes.

5 (12.00 pm)

6 SIR ROBIN AULD: Did you advise Mr Wex to sign this

7 agreement?

8 A. Which one?

9 SIR ROBIN AULD: To accept this offer.

10 A. You mean the offer for --

11 SIR ROBIN AULD: This is an offer to sell. Did you advise

12 Mr Wex to accept it?

13 A. Yes. When we -- throughout discussion, I was acting for

14 him, but still I know he was getting confirmation from

15 Mr O'Neil also.

16 SIR ROBIN AULD: But did you advise him when the time came

17 to sign the acceptance of the offer to sell?

18 A. He signed that -- his attorneys had signed it, to me

19 sign it. When it came to me it was signed by him

20 already and I just take it and gave it to the Belongers.

21 SIR ROBIN AULD: Knowing that he required there to be as

22 a condition a development agreement in planning

23 permission, why did you allow him to sign and exchange

24 it when the document contained neither of those things?

25 A. Because that came to me by e-mail, sir, but he want it.

1 He sent me an email, we had a lot of e-mails backward
2 and forward. Do you understand? Explaining what he
3 want and what he would like to be a part of.

4 SIR ROBIN AULD: If you understood him to make it
5 a condition that there will be a development agreement
6 and planning permission, why did you not advise him not
7 to agree to this offer in the absence of those
8 conditions?

9 A. He have his own -- he have about 40 attorneys.

10 SIR ROBIN AULD: He had what?

11 A. He have a lot of attorneys. He had his own attorneys.

12 SIR ROBIN AULD: But you were acting for him as well, you
13 have just told us.

14 A. We are here locally.

15 SIR ROBIN AULD: You had a duty to him whatever other advice
16 he had.

17 A. Well, I won't necessarily that he was taking my advice
18 all the time. He was being advised by his Canadian
19 attorneys because he have a law firm of Canadians -- he
20 is a lawyer himself.

21 SIR ROBIN AULD: But it is the case that you didn't advise
22 him that this offer didn't satisfy his requirements of a
23 development agreement and planning permission?

24 A. Yes, he know, yes.

25 SIR ROBIN AULD: You didn't advise him at all about that?

1 A. I told him that the offer doesn't have any -- I made
2 that clear, because it was not inside the offer. We
3 discuss it but he never put that in the offer.
4 SIR ROBIN AULD: It was not his offer.
5 A. It was not his offer?
6 SIR ROBIN AULD: This is an offer that is being made --
7 A. By him.
8 SIR ROBIN AULD: By him.
9 A. Yes. He put it together.
10 SIR ROBIN AULD: He put it together without containing those
11 two conditions that he had told you were to be
12 conditions.
13 A. Yes.
14 SIR ROBIN AULD: Did you raise that with him?
15 A. I did.
16 SIR ROBIN AULD: What did he say?
17 A. I got -- do you want to see this letter that states
18 these two conditions, because I have his email here, one
19 of his letters here that says it?
20 SIR ROBIN AULD: Just deal with it, anything to enlighten
21 me.
22 A. Let me just read -- this letter is dated --
23 SIR ROBIN AULD: Which letter is that?
24 A. This is David Wex's letter. Thank God I find this one,
25 15th February --

1 SIR ROBIN AULD: Is this in our bundle?
2 A. No, this is something that I found knocking about and
3 I brought it with me.
4 SIR ROBIN AULD: So it is a letter from Mr Wex to you.
5 A. Yes, sir.
6 SIR ROBIN AULD: Dated?
7 A. Dated 15th February --
8 MR MISICK: Can Mr Milne see it?
9 SIR ROBIN AULD: I haven't got the date.
10 A. 15th February 2006.
11 MR MILNE: It might be a good idea if your own attorney saw
12 this before you read it out.
13 A. It makes no difference to see it. The letter is here.
14 SIR ROBIN AULD: That is long before he made the offer.
15 MR MILNE: Right. (Handed)
16 MR MISICK: It came much later as a letter than February
17 2006.
18 MR MILNE: Can we have copies of that afterwards, sir?
19 A. Yes, sir, you can. But I just want to show you -- to
20 make a clear picture that some papers, like that piece
21 I found and the rest of them ...
22 Q. Where did that come from?
23 A. That was one of the letters that he sent me, and I
24 happened to be searching for my bundle, trying to put
25 everything together for the Commission, and I stumbled

1 on that one there.

2 Q. When was it you stumbled upon it?

3 A. On the Friday when I informed the Commission that

4 I couldn't no longer go, I went and tried, I start

5 digging about to make sure that -- try be -- and

6 I happen to find that one.

7 Q. Are there going to be any other letters that you might

8 have at home?

9 A. No, I say not, I found that one. If there was more

10 I would give it to you. I am trying to help and now you

11 are going to accuse me of...

12 Q. No, I just want to know if there is other documentation

13 that may be of assistance to the Commission?

14 A. I don't have any more documentation.

15 Q. In any event --

16 SIR ROBIN AULD: Let's see what the sequence is. It appears

17 to be a letter written by Mr Wex after an exchange of

18 contracts or agreement reached, introducing conditions

19 before closure.

20 A. Yes, sir.

21 SIR ROBIN AULD: Or completion as we would call it.

22 A. Absolutely, sir.

23 SIR ROBIN AULD: So these are conditions imposed after

24 the event.

25 A. Yes, sir.

1 MR MILNE: The letter that you have there is on the headed
2 letter paper of Urban Capital Limited, which I think is
3 his Canadian company.

4 A. It is one of David Wex's companies, yes, sir.

5 Q. Are the words "Urban Development" mentioned in there
6 anywhere?

7 A. No.

8 Q. It is not addressed to Urban Development, is it?

9 A. No.

10 Q. It is addressed to you, care of McLeans?

11 A. Yes, sir.

12 Q. Urban Development does not appear to crop up as having
13 any role in this, according to that letter?

14 A. No.

15 Q. So what was it that Urban Development was going to do,
16 because it would appear Mr Wex wasn't aware of
17 Urban Development's role as late as January 2006?

18 A. But I just told you what Urban Development was going to
19 do. I incorporate that company to facilitate the land.
20 I put all the land in the company. It was also my
21 understanding -- and this changes also -- that that same
22 company was going to be the company to do
23 the development. That changed, as things went along,
24 that changed.

25 Q. Urban Development never had a bank account, did it?

1 A. Not to my recollection.

2 Q. You set it up, sir. Did you ever set up a bank account
3 for it?

4 A. What I do, we have, again, as was explained, I will give
5 the instructions to the corporate department to set up
6 a company for me, and once I give them that, sometimes
7 you give them instructions to set up a bank account and
8 sometimes you don't, depends on the company. I can't
9 recall if I gave them any instructions to set up a bank
10 account for Urban Development.

11 Q. We have never seen a bank account --

12 A. You asked me about it.

13 Q. We have never seen any evidence of a bank account.

14 There have been no cheques either to it or from it.

15 There is no evidence anywhere in the papers that we have
16 received to suggest that Urban Development Limited had
17 a bank account. Would it be a reasonable assumption
18 that it had no capital, no independent office, no
19 investments other than this interest in the land?

20 A. Urban Development was incorporated by our corporate
21 department, and they had an office, and the office of
22 Urban Development was the corporate office.

23 Q. It was a corporate office. It was held by the company
24 that set it up?

25 A. Yes, sir.

1 Q. Which I think was Windsor Nominees?
2 A. I don't know.
3 Q. So it had an address insofar as Windsor Nominees set it
4 up or whichever company, was it Temple Securities --
5 MR MISICK: Temple Trust Company.
6 MR MILNE: So it was essentially a lawyer's or a banking
7 address, no more than that?
8 A. It was an address for the law firm and the companies
9 that existed in that building.
10 Q. It didn't have any equipment, any staff, any wherewithal
11 to carry out any development in its own right, did it?
12 A. No.
13 Q. It was essentially a shell, no more than that. It had
14 not been filled up with anything?
15 A. No.
16 Q. In the event all the shares in Urban Development were
17 sold to Mr Wex in April of 2006, correct?
18 A. Yes.
19 Q. Your four Belongers, none of them have retained any
20 share whatsoever?
21 A. No.
22 Q. All that Urban Development has done appears to have been
23 to wrap itself around this deal, so that when this
24 matter came before Cabinet, it would appear that this
25 was a legitimate, well-intentioned, bona fide

1 development agreement?

2 A. Are you saying it is not a bona fide development

3 agreement?

4 Q. Yes.

5 SIR ROBIN AULD: I think you might have missed out a word

6 there Mr Milne, Belongers.

7 MR MILNE: What I am suggesting, sir, is that

8 Urban Development was never, ever going to be

9 the developer because Urban Development had no means of

10 being a developer. All it had was a piece of paper.

11 A. I disagree. Urban Development was my understanding, was

12 going to be the company that was going to develop

13 the property that was in that particular company.

14 Q. How was it going to do that?

15 A. It was going to be done by Mr Wex. He was the one that

16 got the money and the Belongers had the property.

17 Q. Right. So the Belongers would simply ride on Mr Wex's

18 coat tails and let him pay for everything, but they were

19 not going to put any money into the development, were

20 they?

21 A. Sir, that is not fair. You have four Belongers that

22 have five acres of beach land that they was putting

23 forward. If you say they are not going to put nothing

24 in it, then that would be your assessment. I can't say

25 that.

1 Q. They would only have the money because Mr Wex gave them
2 the money for their share. They can't have the money
3 and the share, can they?

4 A. No, they had the land.

5 Q. They didn't have the land once they had sold their
6 shares in it. The only reason Mr Wex paid out so much
7 money was because he was getting the land. It is
8 blindingly obvious, surely, sir?

9 A. I just tell you what happened.

10 Q. He was paying because he received freehold rights
11 obtained by Belongers to 20 acres of land. That is why
12 he put his hand figuratively in his pocket and handed
13 over \$7 million. Is that not the case?

14 A. No. I am not going to argue with you, sir.

15 Q. So Mr Wex, if I am to understand it correctly, was
16 desperate to have these four gentlemen, including
17 the Honourable Jeffrey Hall, remain involved, he would
18 give them \$1 million and they will still have
19 an interest; is that how it should have played out?

20 A. That's my understanding was how -- you asked me
21 a question, please let me answer. That was my
22 understanding and that's -- he made his intention clear
23 to me, that he was going to do this development with
24 the Belongers.

25 Q. Right. So where did it all go wrong?

1 A. It all -- I could say but I am not going to say, but at
2 the end of the day it went wrong.

3 Q. So these men had to console themselves with \$1 million
4 each and the bitter regret for not having been involved
5 in this development; is that what it comes down to?

6 A. Yes, sir.

7 Q. And you consoled yourself with your commission for this
8 sale?

9 A. Well, yes, I got my commission.

10 Q. You were never going to be a developer, were you, sir?

11 A. No.

12 Q. No.

13 A. Nor was it going to be part of the development.

14 Q. If you could say what went wrong --

15 A. I am not going to say.

16 Q. Why are you not going to say?

17 A. Because it takes it away from anything that is relevant
18 to this Commission.

19 SIR ROBIN AULD: I think we ought to be the judge of that.

20 Why did it go wrong?

21 A. Because after it get to -- nearly to completion, then,
22 the lawyer, Mr O'Neil, told Wex that he could replace
23 the Belongers and that is what happened.

24 Q. So Mr O'Neil was to become the Belonger --

25 A. Well, he is the Belonger, my understanding even to now.

1 That is my understanding.

2 Q. Okay. It is not Mr O'Neil's understanding?

3 A. Well, I tell you my understanding, sir.

4 Q. Mr O'Neil has told the Commission that he was the lawyer

5 for Mr Wex all the way through and indeed the letter

6 that you showed us a few minutes ago, which you are

7 going to provide us copies with, shows Mr O'Neil writing

8 or being mentioned as providing an opinion. We have

9 some documentation already from Mr O'Neil. He makes no

10 reference at all to being the Belonger developer and

11 indeed has confirmed to the Commission that he is not

12 the Belonger developer and will put that in writing?

13 A. I am saying to you, I do not know what Mr O'Neil say to

14 you but you are saying he said it. I am saying to you

15 my understanding.

16 SIR ROBIN AULD: Just repeat it slowly and audibly, please.

17 A. Yes, sir. My understanding why David no longer proceed

18 with the four Belongers is that Mr O'Neil who was

19 a Belonger was replaced in there. That is my

20 understanding.

21 MR MILNE: You see, Mr Wilson, that is not the understanding

22 of the Commission on this at all. The understanding of

23 the Commission is this is an overseas developer who has

24 bought this property and has the benefit in fact of

25 indemnities which you engineered, which you drafted and

1 which were on the file. So he doesn't have to worry
2 about paying back the Belonger discount because there
3 are signatures on those documents from the four
4 gentleman, aren't there, indemnifying him should there
5 ever be a claim for the Belonger discount.

6 A. An indemnity by who?

7 Q. Is that not right?

8 A. No, no, you say an indemnity by who?

9 Q. Indemnifying Urban Developments and indeed

10 Blue Resort Developments. Look at page 10 of your

11 little bundle. Do you have that?

12 A. Yes, I do.

13 (12.15 pm)

14 Q. There is a document which is an indemnity. It addresses

15 itself to Urban Development and Blue Resort Developments

16 TC Limited, care of Hugh O'Neil:

17 "... in consideration by accepting changes in

18 procedures for the acquisition of the shares of

19 Urban Developments Limited..."

20 It should be Urban Development, I think, and your

21 acceptance of the conditions:

22 "... we the undersigned [and I am moving slightly

23 forward here] all of whom have a direct financial

24 interest in the transaction hereby jointly and severally

25 indemnify Urban Development Limited and

1 Blue Resort Developments TC Limited against any
2 liability that may arise to the Crown or the government
3 of the Turks & Caicos Islands, arising out of any
4 enforcement of all or part of a Belonger discount
5 applied to the sale by the Crown of the property."

6 That indemnity for ten years. If this were
7 a transfer to a company that had a Belonger element,
8 there would be no need for this, would there?

9 A. Sir, I don't know if you intentionally done it or what,
10 but there is an important piece you missed here. It
11 goes on to say:

12 "... and provided that there shall be no change in
13 the ownership and control of the shares of
14 Urban Development."

15 You specifically for some reason leave that part
16 out.

17 MR MILNE: I am happy to read that in.

18 A. It is here.

19 Q. You got the document, sir, and you provided it to us;
20 why would you need an indemnity if it was a transfer to
21 a company that had a Belonger element?

22 A. Why would who need indemnity?

23 Q. Why would anybody need an indemnity? Why would
24 Blue Resort Developments need an indemnity if it was
25 a Belonger-partnered company?

1 A. The indemnity by Blue Resort was presented by Mr O'Neil.
2 Why would he need one? Only him can tell you, sir.
3 SIR ROBIN AULD: What did you say?
4 A. The indemnity for Blue Resort was provided by Mr O'Neil.
5 He asked me why would he need one; and I am saying only
6 him can answer that. Mr O'Neil draft the document or
7 David gave it to O'Neil but I don't know why he wanted.
8 SIR ROBIN AULD: You are saying it is not down to you, this?
9 A. No, for Blue Resort, no.
10 SIR ROBIN AULD: What about --
11 MR MILNE: Let's look at an different indemnity.
12 SIR ROBIN AULD: What about Urban Development Limited?
13 A. The one for Urban Development, I was the one that on
14 behalf of the firm, and as I say because of -- and I saw
15 the e-mails this morning and my former partners, like
16 everybody travel on the bus -- but I know I spoke to one
17 of my senior partners because I always run things by
18 him, he had asked me to make sure to get indemnity from
19 these guys too --
20 SIR ROBIN AULD: So Mr O'Neil was insistent on one aspect of
21 this and your partner or partners insisted on the other.
22 A. Yes.
23 SIR ROBIN AULD: So it is not down to you.
24 A. He asked me for it and I gave it to him.
25 SIR ROBIN AULD: We need to look to them for an explanation

1 for the answer to Mr Milne's question, not you, is that

2 what you are saying?

3 A. No, I was telling him -- but he was asking me about it,

4 perhaps yes, but I was asking about the indemnities and

5 how they came about, but the answer is yes, sir.

6 MR MILNE: You see, you have told us in your statement that

7 the indemnity we see at page 12 of your bundle, where

8 you got each of these men to indemnify their own

9 attorneys, McLeans, jointly and severally, was something

10 that you did on the recommendation of one of your senior

11 partners.

12 A. Yes.

13 Q. There were only three of you who were partners within

14 that firm, weren't there?

15 A. Yes.

16 Q. Yourself, Mr Papachristou and Mr Prudhoe. You have seen

17 by now in the little bundle with the metal clip at

18 pages 1 and 2 that both Mr Papachristou and Mr Prudhoe

19 have contacted the Commission to say that they did not

20 at any stage ask any client of McLeans to execute

21 a client indemnity; they had no prior knowledge of that

22 document, but they never discussed it with you, and if

23 they had discussed it, they would not have supported its

24 use. They are both saying that is wrong?

25 A. Yes, I saw that.

1 Q. From both of them?

2 A. Yes.

3 Q. They are prepared to swear affidavits to that effect if
4 required.

5 A. Of course, Tim will swear an affidavit for anything. If
6 you have the time, you would like to know the history,
7 but I believe that is not important.

8 Q. As a result of a number of these things, you were asked
9 to leave the firm?

10 A. No, no.

11 Q. Let's not step around it. The firm fell apart.

12 A. No, the reason why I was asked to leave the firm was
13 because of the racist and bigoted and total lack of
14 disrespect and regard that Tim Prudhoe have for Turks
15 Islanders. I will not put up with it. He came to fight
16 me and all while I was at McLeans. He accused me of
17 stopping the work (inaudible) and stopping the PRC and
18 I have been in a fight with him for four years.

19 SIR ROBIN AULD: Who is this, Mr Prudhoe?

20 A. Mr Prudhoe. He came in my office to fight me whilst I
21 was at McLeans. He accused me every day. He called me
22 all kinds of names, all kind of racist names and because
23 I don't want to go back to my ways, I just ignored him
24 for three years. That is why I was not surprised when
25 that came in there and I told him to his face, you know.

1 Not only me but everybody who worked with a law firm was
2 black, he fired. He kept one person and the reason why
3 he kept her because he feel like that was his vehicle to
4 still be around here. But he is a racist, he is
5 a bigot, he twice came to fight me. Christian at the
6 time was out of the country. So there is a history of
7 three years and up to now they have not paid me for my
8 shares. So I don't expect for them to say nothing good
9 about me here, nothing.

10 I know you don't want to hear that but that is
11 the truth and it goes worse than that, but I know
12 the Commission don't have the time to hear my story.

13 Q. You have had -- obviously we have given you your
14 opportunity to give your side of the explanation --

15 A. I know but you don't want to hear that, trust me.

16 Q. Turn to the small new bundle with the metal clip, page
17 10. We have a series of documents from the McLeans
18 internal accounts. This also shows the movement of
19 monies. 19th April 2006 on page 10, do you have that?

20 A. Yes, I have the document in front of me.

21 Q. This document, just for clarity, gives movements of
22 money and it is in reverse order. So the earliest
23 events are at the bottom of that column?

24 SIR ROBIN AULD: What is this document?

25 MR MILNE: This is an internal document, I believe from

1 McLeans, showing the movements of monies and
2 subsequently directions given by McLeans
3 to Temple Securities on the following pages. A cheque
4 was received from McLeans into Temple in fact of
5 6.8 million on 19th April 2006, and subsequent to that
6 cheques were issued to McLeans. Taking this I hope
7 relatively shortly, the money that went into McLeans was
8 used in part to pay the freehold price of the property,
9 correct?

10 A. Yes, sir.

11 Q. Together with stamp duty?

12 A. Yes.

13 Q. And some small charges?

14 A. Yes, sir.

15 Q. Temple Security were asked to hold the remaining balance
16 of the money and were then directed to pay out a series
17 of cheques which we have seen, we can go to if we need
18 to, but I don't think there is any dispute, those
19 cheques being 1.810537?

20 A. Yes.

21 Q. To Alliance Realty Limited. That is \$1,810,537?

22 A. Yes, sir.

23 Q. We see that at page 11.

24 Over the following pages \$1 million to Earlsdon
25 McDonald Robinson. \$1 million to Stanfield Greene,

1 attorneys at law. \$1 million to Samuel Ernest Been.

2 \$500,000 to Mr Timothy Smith, and \$70,000 to

3 McLeans Attorneys.

4 Yes?

5 A. Yes, sir.

6 Q. Your evidence, if I follow correctly, is that the money

7 that went to Alliance Realty Limited was a combination

8 of your funds and the funds of the Honourable

9 Jeffrey Hall?

10 A. Yes, sir.

11 Q. He had, we have seen, already received \$100,000 paid out

12 the previous December. Was that supposed to be part of

13 his million?

14 A. I am not sure.

15 Q. Because that obviously would make it more like

16 \$1.9 million?

17 A. No, it would have make it -- if it was part of it, it

18 would make it 1.1 million, not 9.

19 MR MISICK: To be complete, I see from the ledger he had

20 received an additional 20,000 in February. So it

21 appears it would have been 120,000.

22 MR MILNE: I am grateful for the correction. In fact,

23 Mr Wex, of course, had forwarded 200,000 in, I think it

24 was June. We looked at the figure a minute ago. Is

25 that the 200,000 coupled with this figure that would

1 make 7 million?

2 A. Yes, supposed to be, sir. I believe. I believe that

3 but don't hold me to it. I believe so.

4 Q. Mr Smith, of course, has had his half million

5 commission?

6 A. No -- well, yes, whatever you want to call it.

7 Q. He has. He has had a cheque for half a million?

8 A. \$1 million, yes.

9 Q. Are you saying he was entitled to even more than that?

10 A. Yes, he got another cheque.

11 Q. Another?

12 A. He got some more money. I am trying to get information

13 to put it together.

14 SIR ROBIN AULD: Where did he get it from?

15 A. It was paid to him from Alliance.

16 MR MILNE: You have told us in your statement

17 Alliance Realty is, your words, your expression, "my

18 company".

19 A. Yes.

20 Q. But we were given to understand in the Commission that

21 Jeffrey Hall was a director of that company?

22 A. I know you are going to bring it up, but I thought that

23 was correct, and that was obviously made clear that that

24 was a mistake. That was made clear on many occasions.

25 I sat and hear that.

1 Q. Yes, it was stated however -- the number of times you
2 tell us that that is a mistake is one aspect of it. But
3 do you understand now that Jeffrey Hall, obviously you
4 would not have been party to this, on two occasions, in
5 two separate years to the Register of Interests had said
6 that he was a director of Alliance Realty Limited. Had
7 you said anything to him that would have led him to
8 believe that was the case.

9 A. To who?

10 Q. Did you ever say to Jeffrey Hall: you are a director of
11 Alliance Realty Limited.

12 A. No, I could not have said that to him.

13 Q. If you look at page 64 of Jeffrey Hall's bundle. Do you
14 have that? Have you got page 64?

15 A. Yes, I do.

16 Q. This is the tail end of a letter. I think it is
17 a letter of 17th November which you wrote to the
18 Commission on behalf of the Honourable Jeffrey Hall.
19 I asked him about this the other day.

20 For completeness you say there:

21 "Our client [meaning Jeffrey Hall] became
22 a shareholder of Alliance Realty Limited on
23 17th October 2005."

24 I will come back to that paragraph in a second. You
25 went on to say:

1 "Our client became a director of Alliance Directors
2 Limited on November 1st 2007."

3 When Jeffrey Hall was in the witness box, I said to
4 him: is that an error, does that in fact mean a director
5 of Alliance Realty Limited; and he said yes.

6 Now, in fact there is a company called
7 Alliance Directors, is there not?

8 A. Yes.

9 Q. There is a further company, we now learn, called
10 Alliance Secretary or Secretaries, yes?

11 A. Yes.

12 Q. There appears to be a third company still called
13 Alliance Nominees?

14 A. Yes.

15 Q. Is Jeffrey Hall a director of each of those companies?

16 A. Sir, you have the documents I presented to you.

17 Q. I don't, sir, with respect. I have a certificate of
18 incorporation for Alliance Nominees but nothing else.

19 Is he a director of that company?

20 A. Yes.

21 SIR ROBIN AULD: Which company is this?

22 A. The nominee companies.

23 MR MILNE: Well, we need to be precise, sir because this is
24 very important. Alliance Nominees Limited --

25 MR MISICK: Do you have page 86?

1 MR MILNE: 85 is what I have in front of me. I have page 86

2 which says "re Alliance Secretary". Is that a wrong

3 page?

4 MR MISICK: No, there are three separate companies listed.

5 MR MILNE: I have what appears to be, and if I have it

6 I must assume everybody else does, a certificate of

7 incorporation for Alliance Nominees at page 85. Page 86

8 and page 87 of my bundle are identical. Each one refers

9 to Alliance Secretary with the registration number

10 11949.

11 MR MISICK: I see.

12 MR MILNE: I am sure this is merely a photocopying glitch,

13 I am sure it is no more than that. Am I to take it,

14 though, that what should be in there is a very similar

15 sheet showing notice of appointment of first directors,

16 Alliance Nominees.

17 A. Yes.

18 Q. Alliance Nominees established 11th October 2007.

19 The other companies, whatever their establishment dates,

20 set up directors on 1st November 2007. Was that done

21 with all three companies?

22 A. Yes.

23 (12.30 pm)

24 Q. So there are two aspects to this: first of all,

25 Jeffrey Hall, although he has failed to declare that --

1 it is not your fault, sir, he has failed to declare it
2 to the Commission or to the Register of Interests -- was
3 from November 2007 a director of three separate
4 companies?

5 A. Yes.

6 Q. But not, you tell us, a director of
7 Alliance Realty Limited?

8 A. Yes, sir, you are right.

9 Q. First of all, what was the point of him joining these
10 companies?

11 A. He didn't join my companies. I just had moved from my
12 old law firm and move in on my own and I asked him to be
13 a director with me until I get up and running. That is
14 all it was. He never signed nothing, never agreed to
15 nothing but he said okay. He never did no work,
16 nothing.

17 SIR ROBIN AULD: Why did you do it?

18 A. Because I needed somebody -- I was travelling backwards
19 and forward and I know I had to do a surgery, and I
20 needed somebody in my office in case we had to do
21 an incorporation, do a company formation while I am off,
22 he could have easily signed that on my behalf.

23 SIR ROBIN AULD: He is not a lawyer. Did you not have
24 anybody else in your office?

25 A. No, I don't, sir. That is the only reason why he is

1 there, and then after I discovered, you can check next
2 week and you will see his name is no longer there.

3 MR MILNE: Would he have known how to establish a company if
4 you were missing?

5 A. No, he would not have been the one to incorporate
6 the company, sir. I would just say he would be the one
7 to sign, I have someone there who could do corporations.
8 But he will sign for me because I used to say -- so
9 I would be out of the country and I need somebody and
10 I know I could trust him and he would sign it for me.

11 SIR ROBIN AULD: I don't understand, if you have somebody
12 there who can do the mechanics of the incorporation, why
13 can't that person become a director?

14 A. Sir, you check the date, I just moved in that office.
15 I understand you. I just move in that office and all
16 I was looking for is to get myself up and running now,
17 nothing else. I just put his name down. I asked him, I
18 said listen. Then I know I had to go do a surgery and I
19 need, you know, things to flow a bit for me. In
20 the event that someone had asked for a corporation,
21 the corporate girl could do it, but I just ask him to
22 sign off. That is all it was. Just asking a friend.
23 I could ask anybody else, but I just happened to ask
24 him.

25 SIR ROBIN AULD: Anybody but somebody in your own office?

1 A. I have now made that -- I made change now. The folks in
2 my office can sign now, but what I didn't do, it was
3 an oversight, and now I discovered, his name is going to
4 be off immediately. Because as I say, he have never
5 signed nothing, he never done nothing on behalf of him
6 being a director for my nominee companies.

7 Q. Presumably he signed papers to become a director?

8 A. Signed what papers?

9 Q. Did he not have to sign some sort of agreement?

10 A. No, he never signed an agreement. I asked him and he
11 did the resolution.

12 Q. There is no requirement that he put his signature on
13 anything at all. He just becomes -- you say he is
14 a director, he is a director?

15 A. To my knowledge I don't think he signed any agreement.

16 Q. He did know he was a director of these?

17 A. Yes, I asked him.

18 Q. Right. When you filled out the letter on his behalf in
19 November last year, you mentioned Alliance Directors.
20 Why not the other two? Any particular reason?

21 A. That is what I just tell you just now, because it just
22 slipped me, because he never done anything, I just asked
23 him to do a favour to help me. But just slipped me
24 until recently I discovered that I still have him down.
25 That is all it is.

1 Q. Mr Wilson, you remembered that he was a signatory on
2 Alliance Directors Limited, and he had signed three at
3 the same time, Alliance Secretaries, Alliance Nominees,
4 but why not mention them?

5 A. Sir, it slipped me to mention that. Me, it slipped me
6 to mention it to you.

7 Q. So you remembered one but not the other two; that is
8 what it comes down to?

9 A. Yes, sir. Had I see them there -- believe me, it is
10 nothing to that.

11 Q. Now, that management of Alliance Realty Limited,
12 Alliance Realty Limited you told us in your document,
13 your letter to the Inquiry that he became a shareholder
14 in December, I think it was. I beg your pardon,
15 17th October 2005. You said in that letter he was asked
16 by the principals of Alliance Realty to be a part of
17 Alliance Realty, which he agreed. You didn't say in
18 that letter the principal was you?

19 A. Did it make a difference?

20 Q. It makes a difference to disclosure and honesty.

21 A. Sir, if you want to call it dishonest, fine. I know for
22 sure what I mean when I do that there. I was the one
23 who invite the minister to be a part of Alliance Realty.

24 Q. We had to go and get the company records of
25 Alliance Realty, to discover that in fact the person you

1 were talking about was yourself. Why not simply say:
2 Alliance Realty Limited is my company, I invited him to
3 join me.
4 A. But didn't I say that in a letter to you? I didn't? If
5 I didn't, I apologise. I thought I made it clear that
6 Alliance Realty belongs to me.
7 Q. We know that now.
8 A. Mr Milne, I apologise for not telling you that
9 Alliance Realty belongs to me.
10 Q. You see, Alliance Realty, you say belongs to you but you
11 own only the same number of shares as he does. You each
12 have --
13 A. Five shares.
14 Q. Equal numbers of shares. The other two people are
15 minority shareholders who appear to play no part in it.
16 Is that right?
17 A. They are minority shareholders, yes.
18 Q. They have one share each, I think, is that right?
19 A. One and two.
20 Q. So on the face of it, this is a company, if it is doing
21 any business, which you and he would share the profits?
22 A. No.
23 Q. You are equal shareholders?
24 A. No, no.
25 Q. Shareholders are entitled to a share of the profits, are

1 they not?

2 A. No, no.

3 Q. So is Alliance Realty Limited simply a vehicle of

4 convenience to put money into and take money out of?

5 A. That is your opinion. Let me tell you what Alliance is

6 about. During our discussion, and this collective

7 discussion with Tim and David, it was suggested that we

8 need a real estate company to sell the units in

9 the development, and as we saw in that discussion,

10 I decided that, well, let me go ahead and take

11 the initiative and incorporate a company to deal with

12 it. When I incorporate the company, I also went ahead

13 because I was convinced that this project would have get

14 off the ground and be up and running and would have had

15 stuff to sell. I go on along with that and I employ two

16 persons, hoping that, and with the expectations that

17 this thing is going to hit the ground running, Mr Tim

18 Smith and a lady by the name of -- from New Zealand.

19 I don't know her name.

20 Q. What did she do?

21 A. Nobody did anything because it didn't get up and

22 running, but I said I made preparations. That is my

23 initiative, to make -- I put everything in place with

24 the expectation that this whole development would have

25 gone off good, I would have -- the real estate company

1 would have been set up and have -- offer somewhere for
2 people to come and look at the stuff. But nothing, as
3 you know, sir, because you say you get everything
4 submitted, nothing never took off.

5 SIR ROBIN AULD: But you were first and foremost an attorney
6 practising as such. You were now branching out, were
7 you, into becoming a realtor?

8 A. Yes, I was trying to expand, taking up different
9 avenues, yes, sir.

10 MR MILNE: Mr Wilson, for a company that never did anything,
11 it made \$4 million.

12 A. You think that is good?

13 Q. How does it make \$4 million by doing nothing?

14 A. Who made \$4 million?

15 Q. \$4 million went through that account?

16 A. To which account?

17 Q. Alliance Realty.

18 A. Yes.

19 Q. Yes.

20 A. From who?

21 Q. That is what we are asking you.

22 A. Come on now, Mr Milne, let's be honest and
23 straightforward here.

24 Q. Let me show you before we go any further because it is
25 set out in a schedule --

1 A. No, there is one --

2 SIR ROBIN AULD: Show him the 4 million.

3 MR MILNE: It is \$4 million. If you turn to Jeffrey Hall's

4 bundle 1, towards the back of that volume. We have

5 scheduled at page 538, running over the page on to 539,

6 all of the credits --

7 A. One minute, please, sir. (Pause)

8 Q. All of the credits that are paid into

9 Alliance Realty Limited which total \$4,017,404?

10 A. Okay.

11 Q. So for a company that never did anything it has a pretty

12 good track record?

13 A. Yes, because it is my company and I used that company to

14 do my business.

15 Q. Right. We know where the initial \$1.8 million came

16 from, which was paid in on the very first day of

17 activity. Within the following week or so, there was

18 a further \$539,000. Where did that come from, can you

19 recall it?

20 A. What is there?

21 Q. 539,000.

22 A. That is not true. I don't know if you are deliberately

23 doing it but that is not true. That didn't come into

24 our account. If you look at the account records of --

25 and you will see that --

1 Q. Let me show you the company and you can comment upon it.

2 Page 215 in the bundle.

3 A. Which bundle? The same bundle?

4 Q. It is the same bundle, page 215.

5 A. Yes.

6 Q. June 1, it says -- June 2:

7 "Customer deposit \$539,587.75".

8 Now, all I am asking is where did that money come

9 from and whose was it?

10 A. But what you -- if you want to do this and you do it

11 properly, you will see further down on June 2nd there

12 was a draft for -- that month there was a draft on

13 1st June for that same amount and if you take that

14 amount and you take all them other payments that you

15 reach, that will total \$976,620.35. Let me explain to

16 you, sir, what actually happened, the Honourable Jeffrey

17 had requested the balance of money that I held for him.

18 That represents the balance of money. I did a draft for

19 him in that amount. When I told him, I told him to come

20 and collect it and he said to me that is not what he

21 meant, he want me -- instead of giving him this in

22 a draft, he want me to tell him what the balance that

23 I hold for him. So he gave me the draft back and then

24 I re-deposit it back to that account, so that is what

25 I did. It came out and went right back the second

1 month. That came out of the -- his money that I was
2 holding for him.

3 SIR ROBIN AULD: That is quite separate from
4 the 1.8 million?

5 A. No, that is the same -- that came out of that, sir.

6 SIR ROBIN AULD: You are saying that came out of the very
7 same money?

8 A. Yes, sir.

9 MR MILNE: So Jeffrey Hall asked for the money out of
10 Alliance Realty?

11 A. He asked me -- he didn't ask me for the money out of
12 Alliance. He asked me for the balance of his money and
13 what I did, went and get a draft prepared and I gave it
14 to him, and when I said to him, I say this is
15 the balance, he said no, that is not what I meant,
16 I want you to tell me the balance. He gave me the same
17 draft and I re-deposited it. That is all I did.

18 Q. Jeffrey Hall hasn't mentioned this to us but you at that
19 stage --

20 A. You're accusing me, you're saying I got \$4 million or
21 \$5 million.

22 Q. You are saying that is simply money that has simply
23 recirculated through the account, yes? That is what you
24 are saying?

25 A. Sir, it is there, right there.

1 Q. It has gone out, it has come back in. So it is money

2 that effectively will be double-counted?

3 A. Yes, one day.

4 Q. So we can discount that, so instead of 4 million, it is

5 3.5 million. What about the other sums that went into

6 that account?

7 A. Other sums as I said to you in my statement, I will

8 repeat, I used Alliance as my company to do other

9 transactions.

10 Q. What sort of transactions?

11 A. I did other land transactions. I did all the kinds of

12 transactions I do with Alliance, whether I negotiate or

13 business, I negotiate -- whatever negotiations I do,

14 I did and I put the money in Alliance.

15 Q. \$360,000 in fact goes in as a customer deposit on

16 2nd June as well -- 6,000, the notation is difficult.

17 Do you know what the 6,000 represented?

18 A. No, sir.

19 Q. Do you recall now any of the other big transactions that

20 went in there?

21 A. I can't be specific but what I wanted to do, and

22 I attempt to do and I have not completed yet, I asked

23 the bank to give me all and they said it will take them

24 a few days to get all this, so I could give it to you so

25 you could see. That is my business.

1 MR MISICK: If it helps you, sir, I have asked Mr Wilson to
2 provide a list of all of the credits into this account
3 in excess of \$10,000 together with the back-up
4 documentation.

5 SIR ROBIN AULD: That would be very helpful, thank you,
6 Mr Misick. When can we expect them?

7 A. I start the process and they said to me they got
8 a manual system and it is going to take them a few days.
9 I tell them that I need it and I request that
10 straightaway.

11 SIR ROBIN AULD: Which bank is this?

12 A. FCIB, sir. Because I know I can't remember all these
13 figures in my head.

14 (12.45 pm)

15 MR MILNE: Of the money that had gone into
16 Alliance Realty Limited in May 2003, you say that
17 \$539,000, nearly 540,000, was essentially money still
18 outstanding to Jeffrey Hall?

19 A. Yes, sir.

20 Q. Because that is why you drew it as a cheque?

21 A. Yes, sir.

22 Q. So presumably there was a ledger, some sort of log kept
23 of his money so that it could be distinguished from
24 yours?

25 A. No, what I did, as he request money, you will find

1 the majority of his money was paid by draft. So
2 a draft.

3 SIR ROBIN AULD: But did you not keep a separate client
4 account for him?

5 A. No, sir, I do not keep a separate client account, no,
6 I didn't. I just took the money --

7 SIR ROBIN AULD: Aren't you supposed to?

8 A. Okay, I do have a client account but I didn't have
9 a separate client account for Jeffrey.

10 MR MILNE: Why not? Why not put this in your client
11 account?

12 A. It is obvious this was 2005, 2006. I didn't have
13 a client account at McLeans. Only one choice I had,
14 either leave it there and let the money be disbursed by
15 Temple, he will go to them and get it when he wished,
16 and they will charge him for doing that, or I did what
17 I did. Now, if you want to punish me, I took it and put
18 it in Alliance account. That is all I did. If I have
19 to be punished for that --

20 SIR ROBIN AULD: Mr Wilson, are you saying you did or did
21 not have a client account at that time?

22 A. No, I did not have one, sir. I was with McLeans when
23 this whole transaction took place. I was not on my own.

24 SIR ROBIN AULD: You were not operating any separate client
25 account?

1 A. No, sir, I could not. I was working with McLeans Law
2 Firm.
3 SIR ROBIN AULD: Do they not have a separate client account?
4 A. Yes, but --
5 SIR ROBIN AULD: Didn't you operate that as a member of the
6 firm?
7 A. All is operated by our accounts department, yes.
8 SIR ROBIN AULD: Why weren't they instructed to put this
9 into the client account? It is fundamental, isn't it?
10 A. Yes, but they would have charged him for it --
11 SIR ROBIN AULD: Who would have charged you for it?
12 A. Every time he wanted money from there, they would charge
13 him for it.
14 SIR ROBIN AULD: Who?
15 A. The firm. He would have to pay.
16 SIR ROBIN AULD: The fact that you put money in a client
17 account maintained by your firm doesn't cost more money
18 than keeping it in your own account, does it?
19 A. Yes, they do. You have to pay for every transaction.
20 It is a law firm. You pay for everything.
21 SIR ROBIN AULD: You have to pay for a transaction when you
22 initiate it out of or into Alliance Realty's bank
23 account?
24 A. No, I mean you pay if there is a bank charge. It is my
25 account.

1 SIR ROBIN AULD: Who are you paying?

2 A. It is my account.

3 SIR ROBIN AULD: Who are you talking about paying, another

4 part of your firm?

5 A. Let me start over. What I did, I took Honourable

6 Jeffrey's money and put it in Alliance account. Had

7 I left it in Temple Securities where it was, he would

8 have to pay --

9 SIR ROBIN AULD: But that is not a client

10 account, Temple Securities. You were an attorney, you

11 had an obligation to maintain a client account. Did you

12 have one?

13 A. No, the firm have a client account.

14 MR MILNE: You did not have your own personal client

15 account, but you were an attorney with a firm of

16 attorneys and that firm had a client account.

17 A. Of course the firm have a client account.

18 Q. But instead of using the firm's client account for one

19 of your firm's clients, the Honourable Jeffrey Hall, you

20 took his money and put it into what you describe as your

21 own company?

22 A. Yes, sir. Not what I described, what is my own company,

23 and as I say, one of the other motivating factors behind

24 that is because I was in one of the bitter dispute going

25 on from that time. You don't want me to say what it is,

1 but the relationship --

2 Q. You have made clear you had poor relations --

3 A. I have not made it clear because you are dismissing

4 that.

5 Q. Are you saying that because you were falling out with

6 your colleagues, because you felt your colleagues were

7 not treating you properly or appropriately, it was more

8 appropriate for you to put the Honourable Jeffrey Hall's

9 money into your personal company bank account --

10 A. I didn't say that. Did I say that --

11 Q. -- than to put it into the client account of the firm?

12 A. I did not say that.

13 Q. Is it not the case that this had the effect, and you can

14 tell us whether it was intended or not, of hiding this

15 money from McLeans?

16 A. I am glad you say that because Tim Prudhoe said that to

17 me when I walked through the door when he was here for

18 Lisa-Raye. He said exactly the same words. What and

19 why would I want to hide something that I had made

20 legal, honest, why would I want to hide it? I was not

21 going to give them any of it, but why would I want to

22 hide it? He used exactly the same words that you are

23 using, that, you know, he told one of his other white

24 colleagues, lawyer I was hiding funds. Why would I want

25 to hide -- and everything I did was on the table,

1 legitimate. I did it there. I didn't hide nothing, you
2 know. If the other partner want to be straight up,
3 which I doubt he would, he could tell you, I never hide
4 nothing about these transactions or any transactions.
5 SIR ROBIN AULD: Did he have access to your Alliance Realty
6 account?
7 A. Who that?
8 SIR ROBIN AULD: Your fellow partners.
9 A. No, sir, that was my -- Alliance Realty belongs to me.
10 SIR ROBIN AULD: How would they know what you were doing
11 with money that should have gone into the client
12 account?
13 A. No, the money went into Temple Securities.
14 SIR ROBIN AULD: That doesn't make any difference.
15 A. Why, sir? It didn't come to me, why it make no
16 difference? I said I misunderstood you.
17 SIR ROBIN AULD: This is client's money which you should
18 have been holding, I ought not to have to spell this out
19 to you, in a client's account. Not
20 in Temple Securities, not in your private
21 Alliance Realty account, of which nobody else was aware.
22 A. So the clients cannot give me instructions to hold their
23 money? And if I take that -- as he did, he gave me
24 instructions to hold his money, and I take it and place
25 it in Alliance, is that a criminal offence, something

1 wrong with that?

2 MR MILNE: Mr Wilson, the story that has unfolded here is

3 that, as you explain it to us, in this deal you were

4 the introducer, you were the attorney for the vendors,

5 you were, you tell us at least for a period,

6 the attorney for the purchaser. Your firm receives some

7 legal fees. You also then receive a fairly substantial

8 commission in the middle of it which does not pass

9 through the firm's account, it is not recorded in

10 the firm's accounts, it goes straight into

11 Alliance Realty Limited and coupled with that you were

12 holding your client's money in an account which you

13 describe as your own.

14 Do you not think there is anything slightly

15 unorthodox about that?

16 A. No, absolutely nothing. It never even crossed my mind

17 that I was doing anything wrong. Never. Never had not

18 even one twinkling that something was wrong with it.

19 SIR ROBIN AULD: Could we just discover, Mr Milne, whether

20 there are attorneys accounting rules in the Territory?

21 Mr Misick, you are best qualified to answer that.

22 MR MISICK: Yes, there are.

23 SIR ROBIN AULD: Where are they to be found, please?

24 MR MISICK: Legal Professional Ordinance.

25 SIR ROBIN AULD: Sorry?

1 MR MISICK: There is a statute called the Legal Professional

2 Ordinance.

3 SIR ROBIN AULD: They are in the ordinance itself?

4 MR MISICK: Yes, there are provisions in the ordinance for

5 separation of --

6 SIR ROBIN AULD: In the conventional way?

7 MR MISICK: Yes.

8 SIR ROBIN AULD: There is also a code of conduct?

9 MR SIMONS: Yes.

10 MR MILNE: I have one final query that you may be able to

11 help us with, Mr Wilson, which is this: we are told by

12 the Honourable Jeffrey Hall that at some stage he

13 decided that \$100,000 of this money would be paid over

14 to the Premier and he instructed you to make payment of

15 that money. Do you recall that?

16 A. Yes, sir.

17 Q. Do you remember that happening?

18 A. Yes, sir.

19 Q. From which account did you make payments?

20 A. From Alliance, sir.

21 Q. Can you show me, please, where that goes out of the

22 account? I am looking at page 215 which is the first

23 period --

24 SIR ROBIN AULD: This is in Jeffrey Hall's bundle, is it?

25 MR MILNE: This is in Jeffrey Hall's bundle.

1 MS MISSICK: Sir, if we may assist, in Mr Wilson's bundle
2 the documents that were given Mr O'Dea last night
3 includes the drafts for payments paid out on behalf of
4 Honourable Hall and at page --
5 MR MILNE: They are the loose documents, sir. They start at
6 page 91 and follow on.
7 MS MISSICK: Yes, at page 93 is the payment to
8 the Honourable Premier.
9 SIR ROBIN AULD: Thank you very much.
10 MR MILNE: Page 93 is in fact a cheque to the Belize Bank
11 for \$100,000. Indeed it is recorded on your schedule as
12 being to the Belize Bank.
13 That is listed on here as being 24th May 2006. But
14 my question remains the same: on this bank statement,
15 which is the very first bank statement, and it is
16 an honest query, sir, it is not in any way a trick
17 question, I simply don't see a debit for \$100,000.
18 A. I can assure you that it come out of that account,
19 I haven't looked for it but I know for sure that is
20 where that came from. If you check, there is a big
21 reference to the bank account, Alliance bank account.
22 Q. We see a cheque that says Belize Bank, but there are no
23 debits on that page. This is the period
24 through 30th June, reflecting 100,000. None on
25 the following page, which takes us through to the end of

1 July, none in August. None in September. Are you able
2 to explain -- did you reconcile the bank account at any
3 stage?

4 A. No, sir.

5 Q. The Premier tells us he had the money. We have no
6 reason to suppose not because we know it went into his
7 account. We saw it credited to his account. You can't
8 explain how that could be the case?

9 A. I will get the explanation for you. But I can't explain
10 that now, no, sir. But I know it came out of this
11 account. What is the date you say? The what?

12 Q. The cheque we have been shown says 24th May.
13 The explanation that we were given on behalf of the
14 Premier --

15 A. Let me help you, sir.

16 Q. Please do. He said it was credited on 26th May. We
17 have a credit of \$100,000.

18 A. Let me help you one minute with that. On 24th May there
19 was a total amount of drafts, the amount of draft that
20 was done on the total sum \$437,000. So it was one slip
21 signed for that with several drafts going out at the
22 request of Honourable Jeffrey Hall. That is why you
23 don't see \$100,000 as one thing, that is the only
24 difference there.

25 SIR ROBIN AULD: Totalling \$400,000 or thereabouts.

1 A. Yes, \$437,032.60.

2 SIR ROBIN AULD: So those --

3 A. And amongst that -- yes, sir?

4 SIR ROBIN AULD: Those are the four payments to the Premier

5 all on the same day.

6 A. No, that was one sign, one request sign with

7 instructions to issue different drafts and one of them

8 drafts amongst the different ones was the \$100,000.

9 SIR ROBIN AULD: Producing a total of 400 --

10 A. Yes, sir, exactly, sir.

11 SIR ROBIN AULD: Is that a convenient moment, Mr Milne?

12 MS MISSICK: Sir, if we may assist, there is a schedule at

13 page 91 showing the various payments made out on

14 24th May.

15 SIR ROBIN AULD: I have it open in front of me.

16 MS MISSICK: It reflects that lump sum.

17 MR MILNE: Just before we leave it, sir, because it is

18 lunchtime, simply this then: the figures that we have

19 for the payments out on behalf of the Honourable

20 Jeffrey Hall don't total 437,000 or anywhere near that,

21 so presumably they made up part of this figure that is

22 drafts but not the whole of the figure.

23 A. Exactly, sir, you are right.

24 Q. Any other payments out would have been your payments out

25 because you were the only other person drawing on this

1 account?

2 A. No, that is the drafts they could have find. I might

3 have paid a cheque out at his request from Alliance.

4 Q. What we are told is a complete list of payments at his

5 request?

6 A. That is a draft. I would not say that is a complete

7 list.

8 Q. It says payments. It does not say drafts?

9 A. No, I am telling you what it is, that is actually bank

10 drafts. I am saying to you that doesn't represent all,

11 because I know I had used a cheque to pay on his behalf.

12 That is all I am saying.

13 SIR ROBIN AULD: I think we will break there and resume at

14 2.00 pm.

15 We ought to look at the programme before we rise.

16 At the moment we are expecting to call two further

17 witnesses, in reserve almost, the Honourable

18 McAllister Hanchell, are we going to reach him?

19 MR MILNE: We will not reach him today, sir. I am very

20 nearly finished, Mr Wilson will be relieved to hear. It

21 may be that I have no further questions. I will

22 consider over lunch. But I would still hope with each

23 of those witnesses who are relatively short that we will

24 be able to get through most if not all of their evidence

25 this afternoon.

1 SIR ROBIN AULD: Mr Misick --

2 MR MISICK: If it helps you, I think I will probably be with

3 Mr Wilson no more than half an hour at the most.

4 SIR ROBIN AULD: Do you think not safe to keep Mr Hanchell

5 waiting?

6 MR MILNE: I think in fairness to Mr Hanchell we can say now

7 it is highly unlikely we would reach him and I would not

8 wish to keep him hanging around on the off chance.

9 SIR ROBIN AULD: Will you give him our apologies. Tomorrow.

10 MR MISICK: Thank you, sir.

11 SIR ROBIN AULD: 2.05.

12 (1.00 pm)

13 (The short adjournment)

14 (2.05 pm)

15 MR MILNE: Mr Wilson, this morning the Commission received

16 a further statement from the Honourable Jeffrey Hall

17 informing us for the first time of a land transaction

18 from which he appears to have benefited, that land

19 transaction involving a gentleman called Evan Harvey,

20 are you aware of this?

21 A. Aware of what, sir?

22 Q. Are you aware of a land transaction involving a man

23 called Evan Harvey?

24 A. Yes.

25 Q. What is your recollection of that less than transaction?

1 A. I was the one who was the lawyer who dealt with that
2 transaction.

3 Q. When you say you dealt with it, who did you represent in
4 that land transaction?

5 A. I represent the purchaser and the seller.

6 Q. Purchaser and the seller?

7 A. Yes, sir.

8 SIR ROBIN AULD: Who was the purchaser and who was
9 the seller.

10 A. The purchaser was -- I can't remember the company.

11 SIR ROBIN AULD: Who was the seller?

12 A. The seller was Mr Harvey and Miss Campbell.

13 SIR ROBIN AULD: Harvey and?

14 A. Campbell.

15 SIR ROBIN AULD: What was her first name?

16 A. Lynn.

17 MR MILNE: Mr Evan Harvey and Ms Lynn Campbell?

18 A. Yes.

19 Q. In that transaction what was the property that was being
20 transferred?

21 A. What was the property?

22 Q. Yes.

23 A. It was property in Northwest Point area.

24 Q. Another property in Northwest Point?

25 A. Yes.

1 Q. Did this involve Mr Wex's company?
2 A. Excuse me?
3 Q. Did it involve Mr Wex's company? Might he have been
4 the purchaser?
5 A. Sir, I would know Mr Wex's company, I said I don't know
6 the company's name.
7 SIR ROBIN AULD: But you represented both parties?
8 A. Yes, sir. I can give you the names but I just don't
9 know them off the top of my head because it has been
10 a while.
11 MR MILNE: Evan Harvey was doing business jointly with
12 Judith Lynn-Campbell, is that right?
13 A. Yes, sir.
14 Q. I think Lynn-Campbell is hyphenated as a surname.
15 This was a further transaction which involved
16 the use of Temple Securities Limited?
17 A. Yes.
18 Q. Temple Securities, in due course, were to pay over
19 \$800,000 to Mr Harvey, over \$466,000 to
20 Miss Lynn-Campbell. So were they both vendors of the
21 property?
22 A. Yes.
23 SIR ROBIN AULD: Did you say 456?
24 MR MILNE: 466, sir.
25 So roughly, I have not done the precise maths, one

1 third, two-thirds, does that sound about right?

2 A. You have the document(?).

3 Q. Alliance Realty Limited received a cheque to the sum of

4 \$320,200?

5 A. That is correct.

6 Q. And that cheque was for commission?

7 A. Yes, sir.

8 Q. In this case had you been, effectively, the introducer

9 again between the two?

10 A. Yes.

11 Q. Between purchaser and vendor?

12 A. Yes.

13 Q. But acted for both of them?

14 A. Yes.

15 Q. The commission went into the Alliance Realty Limited

16 account?

17 A. Yes.

18 Q. Did the Honourable Jeffrey Hall receive some of that

19 money?

20 A. No, not to my knowledge.

21 Q. You sure about that?

22 A. From Alliance's account? No.

23 Q. The Honourable Jeffrey Hall tells us that you involved

24 him in it, is that not correct?

25 A. Told you I do what?

1 Q. He said you involved him in the transaction because you
2 asked him to contact Mr Harvey.

3 A. Yes, I did.

4 Q. So the Honourable Jeffrey Hall did play a part in this?

5 A. No, I just asked him to contact Mr Harvey and then
6 Mr Harvey contacted me.

7 SIR ROBIN AULD: But you asked him to contact Mr Harvey?

8 A. Yes, because I didn't have the number for him.

9 MR MILNE: So all he did was he rang Mr Harvey and asked
10 Mr Harvey --

11 A. To contact me.

12 Q. To speak to you?

13 A. Yes.

14 Q. He was simply passing on a message?

15 A. That is what it was, yes.

16 Q. The Honourable Jeffrey Hall says for passing on that
17 message Mr Harvey was to give him in due course
18 a cheque. Were you aware of that?

19 A. No knowledge at all.

20 Q. Not at all?

21 A. No, sir.

22 Q. The Honourable Jeffrey Hall says that, having been given
23 that cheque, he gave some of the money to you, do you
24 remember that?

25 A. Gave some -- which money? Honourable Hall gave me

1 a cheque, I don't know where he got it from.

2 SIR ROBIN AULD: He gave you the cheque?

3 A. Yes, he gave me the cheque but I don't know where that

4 cheque came from.

5 SIR ROBIN AULD: For how much?

6 MR MILNE: He gave you a cheque for \$100,000?

7 A. Yes, sir.

8 Q. He, it seems, had received \$200,000?

9 A. I don't know.

10 Q. You didn't know that?

11 A. No, sir.

12 Q. Mr Harvey of course had made a reasonable amount of

13 money out of this deal. But he passed on it seems

14 200,000 of it out of his 800,000 to the Honourable

15 Jeffrey Hall. Were you aware of the Honourable

16 Jeffrey Hall playing any other role in this deal apart

17 from simply passing on your message?

18 A. Absolutely none, sir.

19 Q. So \$200,000 for passing on a message to ring you?

20 A. I don't know what it was for, as I say I didn't know

21 anything about the \$200,000.

22 Q. There was nothing else that you are aware of?

23 A. As I said I know nothing about that, sir.

24 Q. The Honourable Jeffrey Hall writes you a cheque, what

25 did you think that cheque was for?

1 A. No, he didn't write no -- the Honourable Jeffrey Hall
2 didn't write my cheque. He gave me a signed cheque for
3 \$100,000 and he told me to "please hold this money for
4 me now". I try to get the cheque because I believe
5 I was the one who filled that cheque out. That is why
6 I trying to get a copy of the cheque. I am not
7 a 100 per cent certain, he told me to hold \$100,000 for
8 him but I am somewhat certain I filled in the cheque and
9 I take the cheque and I put the cheque on
10 an Alliance Realty Limited account. I tried to retrieve
11 a copy now so I can present it to you.

12 Q. Why did you put it into Alliance Realty Limited?

13 A. Where else can I put it? That is where I had the other
14 money, sir. That is where I hold his other money, sir.
15 I ain't got no other account, so I just put it along
16 with that. That's all I did.

17 Q. Did you regard Alliance Realty as being your client
18 account?

19 A. I regard Alliance Realty as being my personal business
20 account.

21 Q. So you put it into your personal business account?

22 A. Yes.

23 Q. Were you holding it on trust for him or did you regard
24 it as your money?

25 A. I hold it for Jeffrey, that is Jeffrey's money.

1 Q. At that stage, in September 2007, were you still holding
2 other money on trust for the Honourable Jeffrey?
3 A. 2007?
4 Q. 2007.
5 A. I do not think so.
6 SIR ROBIN AULD: This was all at that time, was it?
7 MR MILNE: I beg your pardon, 2006.
8 A. 2000 and?
9 Q. It is 2006, my mistake.
10 SIR ROBIN AULD: The introduction of Mr Harvey or
11 the putting of contact of Mr Harvey and the receipt of
12 the cheque from Mr Hall were all about the same time,
13 were they?
14 A. Yes, sir. The transaction took place around that time,
15 yes, sir.
16 SIR ROBIN AULD: How did you come upon the name Harvey? How
17 had you heard of Mr Harvey?
18 A. What I did, sir, is I went and did a search and get
19 the list of all the names of people who owned people on
20 that street stretch because you had a lot of investors
21 looking for a (inaudible). So on that list was his
22 name.
23 SIR ROBIN AULD: Just picked out of the list?
24 A. No, on the list of names that I got --
25 SIR ROBIN AULD: You just picked it off the list?

1 A. Yes, I took it off the list. Sorry.

2 SIR ROBIN AULD: As a Belonger?

3 A. Yes, sir.

4 SIR ROBIN AULD: With property?

5 A. Yes, sir.

6 MR MILNE: You had previously been involved in a deal in

7 which Mr Wex had sought to buy property at

8 Northwest Point. Were there many developers seeking to

9 buy property in that area?

10 A. All over the island.

11 Q. Did they in a number of cases come to you or was he

12 the only one who came to you?

13 A. Who, Mr Wex?

14 Q. Yes.

15 A. No. He was not the only one who came to me. I say

16 plenty of people came to me who want a property and they

17 were broke, couldn't afford it.

18 Q. This property Evan Harvey is involved in is also

19 Northwest Point. You have told us you can't remember

20 but should we read into that that this may have been

21 Mr Wex or it may have been somebody else?

22 A. Sir, I told you from the beginning it was not Mr Wex

23 because I would have remembered. So there is no need to

24 read nothing into about Wex.

25 Q. So it is a different developer altogether?

1 A. Yes, sir.

2 Q. If it was Mr Wex you would have remembered that?

3 A. Of course I would.

4 Q. This is a different name?

5 A. Yes, sir. Altogether different, no connection.

6 Q. The money that you put into your

7 Alliance Realty account, you held on behalf of the

8 Honourable Jeffrey Hall until such time as he would

9 direct you to spend it in some fashion?

10 A. Yes, sir.

11 Q. Just going back to the main David Wex deal that we have

12 been discussing, in total how much did you make out of

13 him?

14 A. I don't know, I will have to do the -- I will have to

15 sit down and put it together, I don't know.

16 Q. Let's posit a possibility and tell me if this sounds

17 right --

18 A. I'd rather be able to work the figures out and give to

19 you a correct figure --

20 SIR ROBIN AULD: Let's do it together now. Mr Milne will

21 see how it goes.

22 MR MILNE: Mr Been, Mr Earlson and Mr Hall each got

23 1 million.

24 A. Yes.

25 Q. That is the first 3 million.

1 A. Yes.

2 Q. The land itself costs 1.5 million including stamp

3 duties, that is 4.5 million gone. We know that Mr Smith

4 was written a cheque from Temple Securities for 500,000.

5 A. Yes.

6 Q. That is 5 million gone. The remaining 2 million appears

7 to have come about this way: that in December or rather

8 in June 2005 Mr Wex sent through \$200,000. There was

9 the additional \$1.8 million that went into

10 Alliance Realty. So together those two sums appear to

11 make \$2 million. Is it the case that the Honourable

12 Jeffrey Hall took 1 million and you took 1 million?

13 A. No, I didn't get \$1 million.

14 Q. Well --

15 A. I should have.

16 Q. You are convinced in your own mind that you didn't get

17 1 million, how far short of 1 million did you get?

18 A. Again you don't want to give me the time to -- but

19 I will say 200,000 plus.

20 Q. You only got 200,000?

21 A. No, you say short of 1 million.

22 Q. I beg your pardon. You got about 800,000?

23 A. Less than that, sir. I can't be precise but I know

24 I could get the figure once I have the opportunity to go

25 through the figures, I can give it to you. I don't want

1 to give a bogus figure.

2 Q. So from your point of view it was a very good deal?

3 A. Yes, it was.

4 Q. And there appear to have been other good deals that

5 followed on because there were further payments such as

6 the 320,000 that we see for Mr Evan Harvey and further

7 deals done after that as well?

8 A. Yes, I did use that to do my business. Yes.

9 Q. Because even discounting the money that was drawn and

10 then repaid, which you have told us about, 3.5 million

11 appears to go into that account including that initial

12 1.8?

13 A. That is your figure but as I say I have not had the time

14 to see and record a value, but if you say that, then ...

15 Q. It is a matter of simple maths and we have it in the

16 schedule at the back of the bundle.

17 A. That is your schedule, sir, just like how these

18 printouts are McLeans' own that I don't agree with,

19 so --

20 SIR ROBIN AULD: Please speak more slowly. Start that

21 sentence again.

22 A. Sorry. I said that is his maths. If he says so, then it

23 will have to be. I haven't had the opportunity to go

24 through and do anything. This is my personal account.

25 SIR ROBIN AULD: I don't know what you are saying.

1 A. Let me start again. I am saying he said that is what
2 the figure is. I am saying that is his figure because
3 I have not had the opportunity to go over and go through
4 the accounts but I will do.

5 SIR ROBIN AULD: I understand that but he has put to you
6 since then that there were other deals like that, for
7 example, the Evan Harvey one, about which you have
8 spoken.

9 A. Yes, sir.

10 SIR ROBIN AULD: And other deals after that of a similar
11 nature.

12 A. No, not of a similar nature. It might be one or two --

13 SIR ROBIN AULD: Might be one or two.

14 A. I am not sure but I will provide you with that
15 information.

16 MR MILNE: Mr Wilson, for completeness, there is a new
17 document at the back of the little bundle with the clip,
18 which we have referred to earlier, the letter that was
19 sent through to us this morning. This was sent in fact
20 by e-mail, the typed signed copy to follow. The little
21 bundle with the club should now have on the back pages
22 29 to 30. This is a letter from Hugh O'Neil.

23 SIR ROBIN AULD: Have you had a chance to read this
24 Mr Wilson?

25 A. No. Page 29?

1 SIR ROBIN AULD: You read it first.

2 (2.20 pm)

3 A. Yes, this letter saying he is not a shareholder of
4 Blue Resort Development.

5 Q. That is right.

6 A. I have read that.

7 Q. Good. It confirms for the record he is not
8 a shareholder of Blue Resort Development. He
9 incorporated the company on behalf of his clients, one
10 of whom was David Wex, a principal of the development
11 company along with five or more other principals.

12 "I never met any of Mr Wilson's clients nor had any
13 contact with any of them with respect to this
14 transaction and dealt solely with him. I never
15 represented to Mr Melbourne Wilson nor could he have
16 ever inferred that I was a shareholder or a Belonger
17 partner of my client's. The entire issue of Belonger
18 partners in Blue Resort Development TC Limited is
19 a legal red herring."

20 He goes on to refer specifically to clause 2 of the
21 transfer. That is the document we have seen before,
22 the relevant land signed by Governor Tauwhare wherein it
23 is stated:

24 "The transferee hereby covenants with the Crown to
25 pay to the Crown immediately the discounted sum if

1 within the period of ten years from the date hereof (a)
2 less than 51 per cent of the shares of the transferee
3 are owned or controlled by a Belonger."

4 He continues:

5 "The control of the shares of
6 Urban Development Limited is exercised by Hibernian
7 Directors Limited our in-house corporate director, which
8 is also the director of Blue Resort Development TC
9 Limited; which company (Hibernian) is controlled by me,
10 a Belonger. The control arises from the directorship of
11 the two companies and not from any shareholding in
12 the underlying companies. The four Belonger
13 shareholders of Urban Development Limited sold all of
14 their shares to Blue Resort Development TC Limited and
15 have no further interest in Urban Development Limited."

16 He goes on to say:

17 "The development agreement with the government was
18 drafted by [yourself] and submitted to us for review and
19 comment."

20 He then deals with the question of the scholarship
21 fund and says that that was reduced following
22 the conversation between I think yourself and his
23 clients.

24 He goes on to say that the scholarship payments have
25 been made by his clients.

1 "There was only one land transaction as far as our
2 clients were concerned. When our clients were
3 introduced to the property by Tim Smith, we were advised
4 that subdivisions to the area had not yet been completed
5 and the proposed sellers, who at that time held their
6 leases or commitments for leases in their personal
7 names, had been allocated the wrong land, some
8 800 metres or more from the site and I understand that
9 what the subdivision was completed the title numbers as
10 now exist were allocated to the four sellers. We were
11 not the attorneys for Mr Wex's group at that time, thus
12 the reference to 'we are advised'. The original
13 \$200,000 deposit paid by Mr Wex for our clients was
14 applied to the \$7 million purchase price of the
15 Urban Development Limited shares."

16 I read that for completeness so it is all on
17 the record and obviously if you wish to comment on any
18 aspect of it you may do so.

19 SIR ROBIN AULD: Just before you do, in the second paragraph
20 where he says:
21 "I incorporated the company..." he is referring
22 there to Urban Development Limited, is he?

23 MR MILNE: No, it is Blue Resort Development TC Limited.
24 I should also add that he says, and I think this has
25 already been commented on and accepted, that his former

1 partner Finbar Dempsey had no connection whatsoever nor
2 knowledge of this transaction. I think we are at one
3 with that.

4 SIR ROBIN AULD: He starts the letter in the first person
5 singular and ends in the third person.

6 MR MILNE: Yes.

7 SIR ROBIN AULD: On whose behalf, Hugh O'Neil & Co?

8 MR MILNE: Hugh O'Neil & Co. Mr O'Neil is now, I believe,
9 a self practitioner and we have his headed paper on
10 an earlier letter which -- there are two of these.

11 The fax heading at page 18. The letterheading at
12 page 19 of that bundle.

13 SIR ROBIN AULD: The letter we are looking at bears no
14 address.

15 MR MILNE: It does not because it is an email and
16 the original we are told will be handed in later today,
17 which will be a signed copy. Mr Wilson is there
18 anything you wish to comment on that?

19 A. I told you the facts about this matter and how it should
20 have gone and there is nothing I can add. There is
21 nothing I can add to Hugh's letter but, as I say, I now
22 know that he does not hold the Belonger interest in the
23 land, which was my understanding, and I said that to you
24 this morning. I would only be repeating myself over and
25 over and over.

1 Q. Thank you. I have no further questions at this stage,
2 sir.
3 SIR ROBIN AULD: Mr Fitzgerald, do you have anything for
4 this witness?
5 MR FITZGERALD: No, I have not.
6 Cross-examination by MR MISICK
7 MR MISICK: Mr Wilson, you told us that you incorporated
8 Urban Development, right?
9 A. Yes, sir.
10 Q. And the reason was to hold the Belonger interest in the
11 four plots of land?
12 A. Yes, sir.
13 Q. It was suggested to you that Urban Development was
14 a sham. Do you accept that?
15 A. No, I do not.
16 Q. Urban in fact still owns the land?
17 A. Yes, sir.
18 Q. And it has the benefit of a development agreement with
19 the Crown?
20 A. Yes, sir.
21 Q. And it has a development permission to carry out
22 the project?
23 A. Yes, sir or I will say outline planning approval.
24 Q. You were asked some questions about the sums of money
25 that were in the various contracts. Do you recall that?

- 1 A. Yes.
- 2 Q. In the case of the contract relating to the Honourable
3 Jeffrey Hall, the sum was about 2.144 million, is that
4 correct?
- 5 A. Yes, sir.
- 6 Q. That was the same in the case of Mr Samuel Been?
- 7 A. Yes, sir.
- 8 Q. In the case of the others the amounts were somewhat
9 less?
- 10 A. Yes.
- 11 Q. Who put those sums in those contracts?
- 12 A. Mr Wex, he is an attorney and he has his own attorneys.
- 13 Q. So who prepared the contract?
- 14 A. David Wex.
- 15 Q. Did he explain to you why he wanted those numbers in the
16 contract?
- 17 A. He said he wanted to represent the total amount for
18 the purchase price and all the associated fees and he
19 wanted to also be able to show it to his partners.
- 20 Q. So he wanted documentation showing that the total outlay
21 would be?
- 22 A. 7 million. Yes, sir.
- 23 Q. As far as you were concerned, was that the total outlay?
- 24 A. Yes, sir.
- 25 Q. Did that total outlay include the payment to the

1 government for the acquisition of the land and stamp
2 duty?
3 A. Yes, it did.
4 Q. And various fees and commissions?
5 A. Yes, sir.
6 Q. As well as the \$1 million to each of the Belongers?
7 A. Yes, sir, it did.
8 Q. Was there any other reason why Urban Development Limited
9 would hold the land?
10 A. Yes, the other benefit for Urban holding the land would
11 be the stamp duties, that they would pay less if it was
12 held individually.
13 Q. So there is a lower stamp duty on the transfer of shares
14 in a company --
15 A. There is.
16 Q. -- than there is on the transfer of land?
17 A. Yes, sir, there is.
18 Q. On the transfer of shares in a company the rate of duty
19 is 8 per cent, is that correct?
20 A. Yes.
21 Q. On the transfer of land, the rate is 9.75 per cent?
22 A. At that time.
23 Q. At that time it was --
24 A. 9.75 at that time.
25 Q. Have you been involved in negotiating other development

1 agreements between developers and the government, other

2 than this one with Mr Wex?

3 A. Yes.

4 (2.30 pm)

5 Q. It is right, isn't it, that in most cases at the time

6 that the development agreement is being negotiated

7 the development company has no actual assets?

8 A. Absolutely not.

9 Q. Or employees?

10 A. No.

11 Q. So was there anything strange or unusual in the fact

12 that at the time this development agreement was

13 negotiated that Urban Development Limited had not yet

14 been capitalised?

15 A. Nothing unusual about it.

16 Q. We know that the Honourable Jeffrey Hall in his

17 declaration has suggested that he was a director of

18 Urban Development Limited as well as

19 Alliance Realty Limited. Do you recall that?

20 A. Yes, but that is not correct.

21 Q. I would like you to turn to the small bundle at tab 2,

22 page 60A. These are the --

23 A. This is the registration of the members, directors and

24 secretaries.

25 Q. Can I just make sure that I am referring to the right

1 document (Pause).

2 Sorry, it is my mistake. The document I want to
3 refer the witness to starts at page 20. At page 20 is
4 the first meeting of the directors. It is the meeting
5 of the shareholders. The first meeting of the
6 shareholders of Urban Development Limited which at the
7 time was Windsor Nominees Limited. Did you see that?

8 A. Yes, at page 21, paragraph 4.

9 Q. You see at that meeting there was only one director
10 appointed and that director was Temple Directors
11 Limited?

12 A. Yes.

13 Q. As far as you know, Mr Hall has no relationship with
14 Temple Directors Limited?

15 A. Absolutely not.

16 Q. Just so we are clear about it, that document is signed
17 by whom?

18 A. Mr Arthur Robinson.

19 Q. You told us that you gave instructions to incorporate
20 Urban Development; what would have been the mechanics
21 after you had given instructions? Who would have been
22 responsible for preparing the corporate documents?

23 A. The corporate department Sandy Morris, Sandy Morris
24 specifically.

25 SIR ROBIN AULD: Corporate department of whom?

1 A. Of Temple Trusts.

2 MR MISICK: Temple Trusts would have prepared these
3 documents, is that correct?

4 A. Yes.

5 Q. Then we see at the next page there is the first meeting
6 of the directors in which Temple Secretary Limited is
7 appointed as the officer of the company?

8 A. Yes, sir.

9 Q. Secretary of the company. Then we see at page 22, we
10 have now moved in time from 2005 to 2006, this is when
11 the transaction for the transfer of the shares has been
12 completed?

13 A. Yes, sir.

14 Q. There is a resolution of the directors of
15 Urban Development Limited, authorising the transfer of
16 the shares from the four Belongers to Mr Wex's company,
17 Blue Resort Development TCI Limited, do you have that?

18 A. Yes, I do.

19 Q. You see that, this the undersigned being all
20 the directors of the company, entitled to vote and so
21 forth, and then it is signed by Temple Directors
22 Limited?

23 A. Yes, it is.

24 Q. There is no reference in any of these documents to
25 Mr Hall?

1 A. No, sir.

2 Q. Being a director of Urban Development Limited?

3 A. No.

4 Q. While we have that, if we can just complete the process

5 in relation to Alliance Realty, I think that is in

6 the same bundle at tab 2.

7 Page 62.

8 If we turn to page 65, this is a resolution of the

9 sole shareholder of Alliance Realty at the time. This

10 was in 7th October 2005. And we see from this document

11 that Temple Directors Limited is appointed as the sole

12 director of Alliance Realty Limited?

13 A. Yes, sir.

14 Q. That is signed on behalf of Windsor Nominees Limited?

15 A. Yes, sir.

16 Q. Then at the back, and I am taking this at the next page

17 because this is a copy of the register of directors?

18 A. Yes, sir.

19 Q. Of Alliance Realty Limited?

20 A. Yes, sir.

21 Q. And it shows that --

22 SIR ROBIN AULD: Which page are you on now?

23 MR MISICK: It is on page 66. It shows on October 7th 2005

24 Temple Directors Limited were appointed as the only

25 director of Alliance Realty Limited.

1 A. Yes, sir.

2 Q. You will also see that on 25th April 2006,

3 Temple Directors ceased to be the director?

4 A. Yes, sir.

5 Q. Then on the next line you see that you were appointed --

6 you became a director on 25th April 2006?

7 A. Yes, sir.

8 Q. On that same date, just for the sake of completeness,

9 Temple Secretaries ceased to be the secretary of the

10 company and you became the secretary of the company?

11 A. Yes, sir.

12 Q. Just before we move from that, we see that if we go to

13 page 64, we see that there was a meeting on

14 7th October 2005?

15 A. Yes, sir.

16 Q. When Temple Directors was appointed the company

17 secretary. You see this document is signed by

18 Temple Directors Limited as the sole director of

19 Alliance Realty?

20 A. Yes, sir.

21 SIR ROBIN AULD: You say there was a meeting, who was

22 meeting?

23 MR MISICK: That is a good question, sir. It is a person --

24 SIR ROBIN AULD: It says Catherine Caldwell meeting herself,

25 was it?

1 MR MISICK: Yes. What I want to ask you about that,

2 Mr Wilson, is that in relation to

3 Alliance Realty Limited these documents were prepared

4 again by Temple Trust Limited.

5 A. Yes.

6 Q. In the same fashion, in the same manner that they

7 prepared Urban Development Limited?

8 A. Yes, sir.

9 Q. This is what usually happens in relation to all

10 the companies incorporated by McLeans?

11 A. Yes.

12 Q. They refer the corporation, the incorporation to

13 Temple Trust?

14 A. Yes, sir.

15 Q. So once you had given them instructions you were no

16 longer involved from the corporate perspective, is that

17 correct?

18 A. Absolutely, sir.

19 Q. So when you told the Commission that Mr Jeffrey Hall was

20 a director of Alliance Realty, that is disputed by these

21 documents, do they not?

22 A. Yes, it was a legitimate mistake. It is.

23 Q. It was suggested that at the time the Cabinet offered

24 the freehold title or approved the freehold title to

25 Mr Hall and the others, that at least in relation to

1 Mr Hall his offer of conditional purchase lease, which

2 was granted in 2004 had lapsed, do you recall that?

3 A. Yes, that is the suggestion.

4 Q. Now, it is right, isn't it, that there is a normal

5 provision in the offer letters that an offer would lapse

6 if not taken up within nine months?

7 A. Yes, that is correct.

8 Q. Have you had experience in dealing with -- I think you

9 have -- I think we can say now that you have had some

10 experience in dealing with the grant of Crown land to

11 Belongers and the taking up of those offers?

12 A. Yes.

13 Q. Is it right that more times than not, offers are not

14 taken up within the nine months?

15 A. Yes, that is the standard thing that goes on, from all

16 I see, all the offers have the same standard clauses

17 inside them.

18 SIR ROBIN AULD: What happens to the Crown land in question

19 then? Does it go back into the pool or is there

20 an informal holding-over by the government?

21 MR MISICK: I was going to come to that next but I think you

22 have answered the question that I was going to put to

23 Mr Wilson.

24 So there is this informal holding-over and in fact

25 even though the time period has expired, if you were to

1 search the records, the records will still show that

2 the land being allocated to that --

3 A. To that individual.

4 Q. To that individual?

5 A. Yes, sir.

6 Q. Just so that we can give the complete picture to the

7 Commission, if the offer is taken up by someone else, of

8 course that would not be reflected in the files for that

9 particular -- for the original offeree, is that correct?

10 A. Yes, that is correct.

11 SIR ROBIN AULD: Now, valuations are invalid after six

12 months. So what happens when there is an informal

13 holding-over and then the Belonger comes back again? Is

14 there a revaluation or does it very often go at the

15 original valuation?

16 MR MISICK: I think the idea is that there ought to be a new

17 valuation, but I think -- Mr Wilson will tell you more

18 often than not, there is no revaluation.

19 A. Exactly.

20 SIR ROBIN AULD: That was my impression from looking at

21 a number of transactions.

22 A. Yes, sir.

23 MR MISICK: So in this case, although the offer had lapsed,

24 it is right, is it not, that what the Cabinet was

25 offering the Honourable Jeffrey Hall in 2005 was not

1 the result of any new application?

2 A. Yes, sir, that is correct.

3 Q. You told us that your clients, the Belonger group, they

4 wanted to -- they each wanted to have \$1 million and

5 they wanted to retain an interest in the development?

6 A. Yes, sir.

7 Q. Is it uncommon for Belongers to receive both a cash

8 payment as well as some interest in developments?

9 A. More or less in my experience, that is the norm.

10 Q. In fact tell me this, correct me if I am not right, in

11 the other transaction to which you responded to

12 questions from my learned friend Mr Milne involving

13 Mr Harvey and Miss Campbell, I believe at least in the

14 case of Miss Campbell, that is the case where there was

15 both a cash payment as well as an interest, is that

16 correct?

17 A. Yes, sir.

18 Q. You said after Mr O'Neill became involved in the

19 transaction and you had a meeting with Mr Wex, he told

20 you that Mr Wex will be his -- that Mr O'Neill would be

21 his Belonger partner?

22 A. Mr Wex told me.

23 Q. Do you stand by that evidence as to what you were told

24 by Mr Wex?

25 A. Yes, I still stand by it regardless of what they say.

1 SIR ROBIN AULD: That Mr O'Neill --

2 MR MISICK: Was to be ...

3 SIR ROBIN AULD: Yes.

4 MR MISICK: Now, was Mr O'Neill present when Mr Wex

5 communicated that to you?

6 A. Not sure. I won't say -- I can't say with any degree of

7 certainty that he was there. I know David told me that

8 on many occasions. But I can't say that Mr O'Neill was

9 there. I don't want to say that.

10 Q. At any rate we now know that all the shares in

11 Urban Development Limited were transferred to Mr Wex's

12 company, Blue Resort Development Limited?

13 A. Yes, sir.

14 Q. There is a company search of Blue Resort Development, if

15 I can just ask you to look at that for a moment. It is

16 at tab 3, page 89.

17 Now this company we know was incorporated by

18 Mr O'Neill and not by you, is that correct?

19 A. That is correct.

20 Q. We know that if we go at the top, under "Company Related

21 Persons", Hugh O'Neill & Co is described as the agent?

22 A. Yes, sir.

23 Q. Then under "Directors" you see

24 Hibernian Directors Limited?

25 A. Yes, sir.

- 1 Q. That is Mr O'Neill, is that correct?
- 2 A. Yes, sir, that is him.
- 3 Q. Then there is another director, Shaun O'Neill?
- 4 A. That is his son.
- 5 Q. That is Mr O'Neill's son?
- 6 A. Yes, sir.
- 7 Q. Then you go to the next column, secretary,
8 Hibernian Secretaries Limited?
- 9 A. Mr O'Neill again.
- 10 Q. That is Mr O'Neill?
- 11 A. Yes, sir.
- 12 Q. Then under "Shareholders" you have
13 Hibernian Trust Company Limited?
- 14 A. Mr O'Neill again.
- 15 Q. Then you go over the page, there is one share, Hugh
16 O'Neill & Co.
- 17 A. Yes, that is Mr O'Neill.
- 18 Q. So it is right, isn't it, that anyone looking at this
19 document would not see Mr Wex anywhere?
- 20 A. Nowhere.
- 21 Q. The only person they would associate with this company
22 would be Mr O'Neill?
- 23 A. Hugh O'Neill.
- 24 Q. I would like you to look at the form of transfer that
25 was signed by the government, and Mr O'Neill refers to

1 that in his letter. Page 49.

2 Now, before this transfer was submitted to

3 the government for signature, you would have seen it?

4 A. Me? Yes, I would have seen it. A copy would have been

5 forwarded to David and a copy would have been forwarded

6 to Hugh.

7 Q. And Mr O'Neill would have seen it too as well, right?

8 A. Yes, he forwarded everything, yes.

9 Q. Of course the offending part of this document is that on

10 the face of it it suggests that it is owned by

11 Belongers?

12 A. Yes.

13 Q. Owned and controlled by Belongers?

14 A. Yes.

15 Q. We all know in fact at this stage that all the shares in

16 Urban Development Limited had already been transferred

17 to --

18 A. Blue Resort Development.

19 Q. -- Blue Resort Development?

20 A. Yes.

21 Q. So when Mr O'Neill approved of this transfer, he knew,

22 did he not, that this company was not being transferred

23 to Belongers -- that this company was not being owned

24 and controlled by Belongers, if his client Blue Resort

25 Limited owned it outright?

1 A. Sir, yes.

2 Q. You told us that it was his idea to have the indemnity?

3 A. Yes.

4 Q. In favour of Urban Development Limited and Blue Resort

5 Limited?

6 A. In favour of Blue Resort.

7 Q. It is right, isn't it, that the indemnity would benefit

8 his client, Blue Resort Limited?

9 A. Yes.

10 Q. Who owns 100 per cent of the shares?

11 A. Yes.

12 Q. And Mr Wex?

13 A. Yes.

14 Q. And it would also protect him as Mr Wex's lawyer?

15 A. Yes.

16 Q. I will just refer you to two passages from that letter.

17 SIR ROBIN AULD: Which letter?

18 MR MISICK: It is Mr O'Neill's letter to the Commission this

19 morning.

20 MS MISSICK: Page 29, slim bundle.

21 MR MISICK: The paragraph says:

22 "The entire issue of Belonger particulars in Blue

23 Horizon Development TCI Limited is a legal red herring."

24 That is what he says. Then he says:

25 "I refer you specifically to clause 2 of the

1 transfer."

2 That is the one we just referred to:

3 "The transfer hereby covenants with the Crown to pay
4 to the Crown immediately the discounted sum if within
5 the period of ten years from the date hereof less than
6 51 per cent of the shares of the transferee are owned or
7 controlled by a Belonger."

8 Do you see those words?

9 A. Yes.

10 Q. "owned or controlled by a Belonger"?

11 A. Yes.

12 Q. Whatever may have been the beneficial ownership of
13 Urban Development Limited, its ultimate control as
14 a matter of law was with Mr O'Neill, was it not?

15 A. Yes, and it still is.

16 Q. Because he and his company and his son were the only
17 directors and officers?

18 A. Yes, sir.

19 Q. Of Blue Resort, is that correct?

20 A. Yes, sir.

21 Q. Then just to be clear about it, he admits that and he
22 says:

23 "The control arises from the directorship of the two
24 companies and not from any shareholdings in
25 the underlying companies."

1 A. That is on the second page, page 30.

2 Q. So is it your case that if this was a legal herring, it
3 was one that was created by Mr O'Neill?

4 A. Exactly, that is what it is, and not by me.

5 Q. Now, I would like to ask you to look at the letter that
6 was sent -- the e-mail that was sent to the Commission
7 this morning by your two former partners, Mr Christian
8 Papchristou --

9 SIR ROBIN AULD: Where is that please?

10 MR MISICK: This is the slim bundle at pages 1 and 2.

11 Now, if I can summarise what that letter says,
12 basically two things. First of all, is that they knew
13 nothing about the indemnity that the four Belongers gave
14 the firm?

15 A. This is not true.

16 Q. I am coming to you. Then secondly, that the only
17 payment that the firm received was the sum of \$70,000 in
18 respect of invoice 19310.

19 Okay? Let's deal first of all with the payments.
20 There is the trust account they provided to the
21 Commission in relation to this transaction. We see
22 that -- the first payment coming into this trust account
23 was towards the end of June 2005. That is on page 5.

24 A. Yes.

25 Q. Look at the top. You will see the first sum coming into

1 this account. Then about five months later, there are
2 the two payments, one for 100,000 paid out to
3 Mr Jeffrey Hall, and then there is a sum of \$100,000
4 paid to the firm, McLeans International Attorneys.

5 Now, if we follow all the way down to the next entry
6 in the disbursement column, that is in February 10,
7 2006, we see there are no disbursements out of this --
8 from this ledger in favour of anyone else?

9 A. Yes, I see it.

10 Q. What does that suggest to you? Does that suggest
11 anything about the destination of that money?

12 A. It suggests to me that the money was paid into McLeans
13 Attorneys' account.

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

15 A. It suggests to me that the money was paid into McLeans
16 Attorneys.

17 MR MISICK: It was paid into their account.

18 A. Yes.

19 Q. Would it be their trust account or office account?

20 A. That would be their office account.

21 Q. It would be paid into their office account?

22 A. Yes.

23 Q. If it was paid into their office account, presumably
24 that would reflect in their bank statements for that
25 same period?

1 A. Yes.

2 Q. So if anyone wanted to verify that?

3 A. They could check that, yes.

4 Q. So we are now in December when the \$100,000 had been

5 paid out, and we know the first payment came in in June.

6 So during this period had you been working on this file

7 on behalf of Mr Wex?

8 A. Yes, continuously.

9 Q. Then we see there is a further payment at the bottom of

10 that page of \$20,000, again paid to McLeans

11 International Attorneys. Do you see that?

12 A. Yes.

13 Q. Again there is no entry showing that that money was

14 received by anyone other than McLeans?

15 A. Yes, sir.

16 Q. Then if we look at the bottom of page 2, there is

17 a further payment of \$133,393.50 paid to McLeans?

18 A. Page 2?

19 Q. At the bottom of page 6, I'm sorry. Can you help us as

20 to what that payment may be?

21 A. Which one are you talking about?

22 Q. That is 28th April 2006.

23 SIR ROBIN AULD: Which sum?

24 MR MISICK: 133,393. It is the one at the very bottom of

25 the page. Can you help us as to what that payment may

1 have been for?

2 A. I could only assume that it was paid -- could have been

3 paid for work.

4 Q. For work done?

5 A. Yes, I am not 100 per cent because I don't --

6 Q. Okay. Then on page 7, we see there is a payment for

7 70,000 and then there is a reference to invoice that

8 they refer to in their letter?

9 A. Yes.

10 Q. That is the one they acknowledge receiving?

11 A. Yes, sir.

12 Q. Then if you go further down the page, there is a further

13 sum for 70,000. Do you see that, sir?

14 A. Yes.

15 Q. It says:

16 "Paid to McLeans, conveyancing fees."

17 A. Yes, sir.

18 Q. That clearly indicates that was an invoice payment?

19 A. Yes, sir.

20 (3.00 pm)

21 Q. Then on September 20th 2006 there is a small sum for

22 \$1,086.18 paid to McLeans International Attorneys,

23 client paying bill?

24 A. Yes.

25 Q. So now as far as you are concerned, based on those

1 documents and based on your own recollection, was
2 the sum paid to McLeans Limited for \$70,000 over that
3 period?

4 A. No.

5 SIR ROBIN AULD: We can see interestingly at the bottom of
6 the page a small donation to the PNP from
7 Blue Resort Developments. I say small, \$10,000.

8 A. You are correct, sir.

9 MR MISICK: You my recall, I don't know what the answer to
10 this is, but I was going to ask Mr Wilson --

11 SIR ROBIN AULD: It is about the right time, 7th February.

12 MR MISICK: Also you may recall that in Mr Hall's statement,
13 he did say he got \$10,000 from Mr Wex.

14 A. Yes.

15 SIR ROBIN AULD: In fact it is recorded there.

16 MR MISICK: Yes.

17 SIR ROBIN AULD: Comes in and then it goes out.

18 MR MISICK: Yes.

19 The other issue before we leave McLeans is
20 the question of the indemnity. They have denied
21 vehemently that they authorised the indemnity or -- and
22 if they had known that one was being suggested, they
23 would not have agreed to it?

24 A. As I said this morning, I repeat, I am not surprised
25 because --

1 Q. Before you comment, is that suggestion true or not?

2 A. No, it is not true. What I would like to add, sir --

3 Q. Before you --

4 A. Okay.

5 Q. Did any of the two -- any of your two ex-partners spoke

6 to you regarding this indemnity?

7 A. Yes.

8 Q. Which of the two?

9 A. Christian Papachristou.

10 Q. What was the context in which you had that conversation

11 with him, in which he raised the question of the

12 indemnity?

13 A. What actually happened was when I start working on this

14 area, because it was a big -- I would say it is a big,

15 big client for the firm, one of the persons I introduced

16 to Mr Wex and put --

17 SIR ROBIN AULD: Mr Wex was the big client?

18 A. Mr Wex was the big client to the firm. I knew it was

19 a big operation, and at the end of the day, once he

20 would stay with the firm, I would need assistance, so

21 I introduced Christian Papachristou to Mr David Wex.

22 During the stage of the negotiations he came down and

23 visited his office and I told him he enlarged on his

24 proposal. So the work that I was doing on this while

25 I was there, I had several conversations and discussions

1 with Christian, because he know I was working on this.

2 For him to turn around and say he knows nothing --

3 I am not surprised because of the battle they had with

4 me. For him to really put that to you is so

5 disingenuous and so far from the truth, it is beyond my

6 belief and to be supported by somebody like Tim Prudhoe,

7 it just beats me but I believe that is what it is.

8 MR MISICK: Your evidence is that you were told that

9 the firm required an indemnity from the Belonger group.

10 A. He insisted I get one.

11 Q. He insisted?

12 A. Yes.

13 MR MISICK: There is one thing I should have asked you

14 before in relation to the indemnity in favour of

15 Blue Resort. There is an email that is dated

16 1st May 2006. It is at page 60F of the bundle.

17 MS MISSICK: Sir, if I may assist, there are two bundles

18 that have a little metal clip on them, just so that

19 the Commission can follow. It is in the first one of

20 the metal clip that we provided to Mr O'Dea yesterday

21 afternoon.

22 SIR ROBIN AULD: Why don't we remove this torture and have

23 Mr Melbourne Wilson's bundle 1 and then the ones

24 produced yesterday which starts with a schedule, is that

25 right?

1 MS MISSICK: Yes, sir.

2 SIR ROBIN AULD: Let's call that Melbourne Wilson 2.

3 MS MISSICK: The third set this morning will be numbered 3.

4 SIR ROBIN AULD: That should make life a lot easier.

5 MS MISSICK: Thank you, sir.

6 SIR ROBIN AULD: Now we are looking at which?

7 MS MISSICK: Bundle 2. 60F. (Pause) I do have an extra

8 set.

9 SIR ROBIN AULD: Just identify the document for

10 the transcript.

11 MR MISICK: It is an email from Mr David Wex to Melbourne

12 Wilson dated 1st May 2006.

13 MR MILNE: Sir, can I also remind my learned friends that

14 there is a letter that was read from this morning by

15 Mr Wilson.

16 A. It is right here.

17 MR MILNE: I wonder if at some point we could copy that, we

18 can insert that before everybody disappears.

19 I am going to propose, I don't wish to cut across my

20 learned friend Mr Misick, but since we have 60F, and

21 this becomes 60G and perhaps 60H. (Handed)

22 SIR ROBIN AULD: E-mail of 1st May 2006, Wex to Mr Wilson.

23 MR MISICK: Obviously you were on very good terms because he

24 calls you "Hi Nevi".

25 He says:

1 "I understand that we are starting the closing
2 process by paying for the first transfer from the Crown
3 to Urban."

4 He knew that the land was going directly from
5 the Crown to Urban.

6 "I am hoping that we can wrap this up next week.
7 Here is what we need. (1) share transfer, transferring
8 all of the issued shares of urban to Blue. I believe
9 you have provided this to Tim. Hugh, please confirm
10 when you have received them. Transfer documents with
11 proper evidence of registration, please deliver these to
12 Hugh as soon as they are available."

13 So that confirms that Hugh did in fact see
14 the transfer of documents?

15 A. Yes.

16 Q. "Hugh needs to provide us with a title opinion, a draft
17 of which I have seen, and he needs the registration
18 evidence before doing this. I am hoping to have this
19 settled by mid this week."

20 Okay, now, you are familiar with title opinions as
21 a lawyer, are you not?

22 A. Yes.

23 Q. What a client seeks in a title opinion is first that
24 the transferee, in the case of registered land as this
25 is, would get absolute title free from encumbrances?

1 A. Yes, sir.

2 Q. Secondly, the client would want an opinion that all

3 taxes, fees and other payments due to government --

4 A. Yes, sir.

5 Q. -- would have been paid?

6 A. Yes.

7 Q. Did you see the opinion that Hugh provided?

8 SIR ROBIN AULD: Just pause for a minute. This is an email

9 as I understand it to Mr Wilson?

10 MR MISICK: Yes.

11 SIR ROBIN AULD: For him to pass on by way of instruction to

12 Mr O'Neill or is it copied to Mr O'Neill?

13 MR MISICK: It is copied to him.

14 A. It is copied to him, sir.

15 SIR ROBIN AULD: It is copied?

16 MR MISICK: Yes, it is copied to Mr O'Neill.

17 Then he says -- talking about the opinion,

18 "the draft of which I have seen".

19 So Mr Wex had seen the draft opinion but you had not

20 seen the draft opinion.

21 A. No, I had not.

22 Q. So you cannot tell us as to what Mr O'Neill was telling

23 Mr Wex?

24 A. No.

25 Q. With regards to --

1 A. Title to the land.

2 Q. And so forth?

3 A. Yes, sir.

4 Q. Then he refers to indemnity from the vendors. Clearly

5 he was also -- Mr Wex was also looking for an indemnity.

6 A. Yes, sir.

7 Q. Just to wrap this up, the suggestion that this is all

8 your fault and that Hugh O'Neill had nothing to do with

9 it, and the other partners in McLean had nothing to do

10 with it, that is not the case, is it?

11 A. It is rubbish.

12 SIR ROBIN AULD: I take it the suggestion you are referring

13 to is not that of Mr Jeffrey Hall, but of the Commission

14 in its line of questioning, is it?

15 MR MISICK: Not necessarily Commission -- I am not accusing

16 the Commission of anything.

17 SIR ROBIN AULD: No, no. I mean, it is not coming from

18 Mr -- this is not a suggestion of Mr Jeffrey Hall.

19 MR MISICK: This does not come from Mr Jeffrey Hall.

20 SIR ROBIN AULD: That is the only point I wanted to make.

21 MR MISICK: This is not on behalf of Mr Hall, certainly not.

22 Perhaps I can re-frame the question.

23 Any suggestion that you engineered a transaction to

24 defraud -- you by yourself -- engineered the transaction

25 to defraud the government of half of the money that

1 would have been paid when this land was transferred to
2 Mr Wex's company, that is not the case, is it?
3 A. No, sir, that is nonsense.
4 Q. I have a few more questions to ask you about
5 Alliance Realty Limited. You said that that was your
6 company and you used it for various transactions?
7 A. Yes, sir.
8 Q. Apart from Alliance Realty Limited, do you also have
9 a client account for your law firm?
10 A. Me personally?
11 Q. Yes.
12 A. No.
13 Q. Well, do you now accept that you should have one?
14 A. That is not the way they run the law firm. They have --
15 the law firm had a client account --
16 Q. No, no, I am talking about you now, Melbourne Wilson.
17 You are now operating as a sole practitioner?
18 A. Yes.
19 Q. Do you, Melbourne Wilson as a sole practitioner --
20 A. Yes.
21 Q. -- have a client account?
22 A. I do.
23 Q. You do?
24 A. Yes, sir.
25 SIR ROBIN AULD: But not at the material time?

1 A. No, sir.

2 MR MISICK: When you were told by Mr Hall to hold the money

3 for him, what was your understanding of what he was

4 asking you to do?

5 A. It was clear. Me and Jeff were friends. He asked me to

6 hold his money. When he wanted it he would ask for it.

7 He did not tell me where to put it. I just took it and

8 put it into my company's account.

9 Q. Was it your understanding that he was asking you to hold

10 it in the client account of McLean McNally?

11 A. No, sir, that never was my understanding. I know

12 Jeffrey would never ask me to do this. It make no

13 sense.

14 Q. You can understand that it is a little confusing to

15 anyone looking at it objectively. Here you have

16 a client account, which is meant to be a place where you

17 deposit monies you are holding on behalf of your

18 clients, right?

19 A. Mmm hmm.

20 Q. Mr Hall was a client?

21 A. A friend, a client, yes.

22 Q. Why were you differentiating monies coming from him as

23 opposed to other monies from clients?

24 A. Jeffrey told me to hold that money as a friend, not as

25 no client.

1 Q. You thought you were holding it as a friend, not as
2 a lawyer?

3 A. Exactly, not as a lawyer and a client.

4 SIR ROBIN AULD: You are not saying, are you, he said: hold
5 this as a friend, not as a lawyer. This is what you
6 inferred from his request?

7 A. He did not ask me, he didn't want -- my understanding is
8 Jeffrey -- listen, me and you is friends, hold this
9 money for me, not as me working for McLean. Because I
10 knew he would not ask me that, to put his money in
11 McLean client account. Jeffrey would never suggest that
12 to me.

13 Q. What was your relationship with the partners of McLeans
14 at this time?

15 A. You know it was --

16 Q. I don't want you to repeat all of what you said this
17 morning, but was this at a time when things were
18 beginning to get sour or had become sour between you?

19 A. Things was bad, I haven't been speaking to --

20 Q. All right.

21 A. All right, bad. Rodney can tell you right down there,
22 he experienced the same thing, another lawyer with
23 the firm.

24 SIR ROBIN AULD: I unfortunately didn't hear that.

25 A. I said Mr Rodney, another lawyer who was there at the

1 time can tell you of the experience. He is right there

2 sitting there, he suffered the same fate.

3 SIR ROBIN AULD: Relations were bad.

4 A. Terrible, sir, not bad.

5 MR MISICK: Was Mr Jeffrey Hall aware of the state of the

6 relationship when he gave you the instructions to hold

7 the money?

8 A. Yes, not only him, I think everybody was.

9 (3.15 pm)

10 Q. Now, I think your evidence and that of Mr Jeffrey Hall

11 is that monies were paid into Alliance Realty from

12 the transaction in relation to Mr Wex, and that

13 a further sum of \$100,000 was paid into that account in

14 relation to Mr -- the transaction involving Mr Harvey.

15 Do you recall that?

16 A. 100,000 was paid in by me.

17 Q. By you?

18 A. Yes.

19 Q. As far as you are aware, of all of the other credits

20 that were made into the account of

21 Alliance Realty Limited, do any of those credits

22 represent the proceeds of money belonging to Mr Hall?

23 A. No, sir.

24 Q. Did you handle any other transactions, other than

25 the one in relation to Urban Development Limited and

1 the one in relation to Mr Harvey in which Mr Hall had

2 any involvement?

3 A. No.

4 Q. Now you did benefit substantially from the transaction;

5 it is right to say that you, apart from the legal fees

6 that were paid to McLeans, you yourself received by way

7 of commissions hundreds of thousands of dollars, is that

8 correct?

9 A. Yes.

10 Q. Now, whatever one may say about the nature of the

11 payments and whether you earned them or not, were any of

12 them paid to you by way of bribe?

13 A. Me? No.

14 Q. Were any of them paid to you to do something which you

15 considered or knew to be illegal?

16 A. No.

17 Q. Finally, are you able to identify in -- at the

18 appropriate time and hopefully in the very near future,

19 the source of all of the payments into Alliance Realty?

20 A. Yes. Yes.

21 SIR ROBIN AULD: How near in the future would that be?

22 A. I have been working on it. I can push this -- you know,

23 try to get it to you as soon as the bank could give me

24 what I am looking for. I asked them already, sir, and

25 I know they are helping me.

1 SIR ROBIN AULD: We can help you because we can serve
2 an order on the bank.
3 A. You can do that too, but they already said.
4 SIR ROBIN AULD: Perhaps you might let them know that.
5 A. No, but they decide to co-operate with me so --
6 MR MISICK: Perhaps we can do the same letter that was done
7 in relation to the others.
8 SIR ROBIN AULD: So I will provide bank material re payments
9 out of Alliance Realty Limited.
10 Thank you.
11 MR MISICK: I have no further questions.
12 Re-direct by MR MILNE
13 MR MILNE: Mr Wilson, this is bundle either 2 or 3, the one
14 we served and it was page 7 you were asked about a few
15 minutes ago.
16 The monies derived for McLeans at page 7. This
17 being one of McLeans' accounts, we see that \$70,000 is
18 withdrawn. It says "payment for invoice" and an invoice
19 number is given.
20 Was it normal practice when monies were being
21 collected on behalf of the firm for an invoice to be
22 issued?
23 A. No, I am surprised to see that. That was not normal to
24 me. I am surprised to see that single invoice.
25 Q. So an invoice is purely arbitrary, it may be there, it

1 may not?

2 A. No, I never see -- the first time I seen that, what I am

3 saying to you, it is new to me.

4 Q. It is the only deduction on this schedule that appears

5 to have an invoice number attached against it?

6 A. Yes, and you should ask why, sir, it is strange.

7 Q. Why is that?

8 A. Because who did it? You got it from Tim Prudhoe, not

9 from me.

10 Q. So other monies could have been withdrawn from McLeans

11 and there would be no invoice number against it.

12 A. I'd never seen invoice like that sir, never, all my time

13 working there. Not on this statement. I see

14 statements, the statement while I was there. That's why

15 I was surprised to see an invoice number, but I know

16 what it is all about. You might not know, I do.

17 MR MILNE: Sir, I am not going to delve into that again, and

18 I don't think there is anything further that we seek

19 from it.

20 SIR ROBIN AULD: Thank you, Mr Melbourne Wilson, for coming

21 to give evidence.

22 A. Thank you very much.

23 SIR ROBIN AULD: Five/ten minutes.

24 (3.22 pm)

25 (A short break)

1 (3.30 pm)

2 MR MILNE: Sir, before we begin, the next witness will be
3 Mr Clyde Robinson. We have inserted at the back of red
4 core bundle 7 a series of documents. There were already
5 some there, pages 1 to 15. At the request of my learned
6 friends, who didn't have a complete sequence, we have
7 copied again the complete sequence. Some of these
8 documents from page 16 onwards may duplicate earlier
9 ones, but better to have too many than too few has been
10 the approach, and therefore the sequence that I am going
11 to be dealing with with Mr Robinson will begin at
12 page 16 and follow through. A few moments ago we
13 received a further letter. You should be handed a copy
14 of that now, sir.

15 SIR ROBIN AULD: I have it, thank you.

16 MR MILNE: This from the attorneys on behalf of the Premier,
17 and it is a letter regarding Mr Wesley Clerveaux signed
18 by him. For ease of reference, what we have done is
19 numbered that numbers 44, 45, and 46 and put that at the
20 end.

21 The Commission will, if approached, provide a hole
22 punch to ensure that we could not lose it, but it will
23 follow in the sequence, and if my learned friend wishes
24 to use that sequence and simply write the numbers, that
25 would help.

1 SIR ROBIN AULD: Thank you.

2 MR MILNE: With the Commission's leave I will call the next
3 witness, Mr Clyde Robinson.

4 MR CLYDE ROBINSON (sworn)

5 Direct-examination by MR MILNE

6 MR MILNE: Good afternoon, Mr Robinson.

7 A. Afternoon.

8 Q. Mr Robinson, I am going to be asking you a series of
9 questions from the outset. I think I should make clear
10 that the issue with which the Commission is concerned is
11 a relatively narrow one, but it is one we hope you will
12 be able to assist us with. That issue arises from
13 certain meetings and discussions that took place at the
14 end of 2008 and in the early part of 2009 in relation to
15 your professional position.

16 I think by the end of last year you had become
17 the Director of Planning, is that correct?

18 A. By 2003.

19 Q. 2003 you became the Director of Planning, I beg your
20 pardon, I am perhaps chopping your job down. You had
21 been in that position obviously for some time?

22 A. Yes.

23 Q. On occasions we have seen references to the acting
24 Director of Planning?

25 A. Deputy Director of Planning.

1 Q. That was the Deputy Director, was it?

2 A. Yes.

3 Q. What I am going to endeavour to do is to take you
4 through the sequence as we understand it by reference to
5 a number of documents. You should have to your -- you
6 may have those documents in front of you, I am not sure,
7 but we have them in our red bundle 7. I think
8 the documents you have are just an extract from that.
9 Do they begin with page 1 or page 16?

10 A. They have a precursor and then it starts at 16.

11 Q. I am going to be starting at page 16. (Pause)

12 We are talking about the same documents, I think.
13 The document we have at page 16 is dated 3rd November
14 2008. The heading on the letter there relates to
15 the DECR, that is the department of environmental and
16 coastal resources, which is the -- it seems
17 a subdivision of the ministry of natural resources and
18 the letter is specifically about an EIA, that is
19 an environmental impact assessment, on Salt Cay,
20 the barge landing dock.

21 Is that right?

22 A. Yes.

23 Q. Everything essentially turns around the discussions that
24 went on. May we assume, and I am not going to question
25 you at length about this, that you are familiar with

1 the ongoing process at Salt Cay and development
2 agreements, development applications that have been
3 made?
4 A. Not development agreements.
5 Q. Not development agreements?
6 A. No.
7 Q. Planning applications?
8 A. Yes.
9 Q. Let me see if I understand this correctly. You as
10 Director of Planning would be required to provide
11 reports, provide advice and ultimately to provide
12 recommendations to the physical planning board; is that
13 part or a large part of your work?
14 A. Yes.
15 Q. We have at page 16 a letter from the DECR of
16 3rd November, addressed to Carla Harrison, the acting
17 director, planning department?
18 A. Yes.
19 Q. This letter essentially makes a series of
20 recommendations regard the Salt Cay barge landing dock.
21 It is clear by this stage consideration was being
22 given to the possible construction of a barge landing
23 dock, is that right?
24 A. Yes.
25 Q. We need not read through every line of it and you will

1 be no doubt questioned if my learned friends wish to
2 raise any specific points.

3 But this letter from the director of the DECR,
4 Mr Clerveaux, who signs it at our page 17, it is
5 essentially his comments which would in due course be
6 passed on to the physical planning board, is that right?

7 A. No. It feeds to me to give me information in terms of
8 determining the application in order to provide advice
9 to the board.

10 Q. So he is not advising the board but he is providing
11 information to you so that you may do that?

12 A. That is correct.

13 SIR ROBIN AULD: This is on 3rd November 2008.

14 A. Yes.

15 MR MILNE: Over the page at page 18 we have a memorandum and
16 the heading is the Department of Planning, your
17 department. This in fact from the Deputy Director. So
18 your deputy.

19 A. Yes.

20 Q. 28th November 2008. This gives a series of comments
21 which are addressed to Ms Lichele Hue whose title is
22 the land use planner/secretary, PPB. PPB being
23 the physical planning board?

24 A. Yes.

25 Q. So this lady Lichele Hue, the secretary to that board

1 and essentially forwarding a memorandum to her?

2 A. Yes.

3 Q. This gives a series of comments on the environmental
4 impact assessment.

5 I am sure we will all be in agreement in a few
6 minutes, but application SA215 is the same one we
7 mentioned before. That is the Salt Cay barge landing,
8 is that right?

9 A. Yes.

10 Q. Obviously this is not your document. This appears to
11 come from Carla Harrison, Deputy Director. Can you
12 simply tell me this, did you see this document at the
13 time?

14 A. Yes.

15 Q. Did you agree with its contents?

16 A. Yes.

17 Q. If we perhaps cut to the chase, on page 21
18 the recommendation that is derived from this memorandum
19 by Mrs Harrison is that the environmental impact
20 assessment must examine the existing and estimated
21 population, that is of Salt Cay; provide a brief
22 statement of the agreement Salt Cay Devco has with
23 the TCI government; and include briefings of the
24 meetings held with the residents and government
25 departments as part of the reasons for and

1 justifications for the location and the design of the
2 proposed development.

3 The applicant must address the above-mentioned
4 concerns prior to the determination of the EIA.

5 So essentially, tell me if you agree with this
6 assessment, saying that there is more work to be done?

7 A. Yes.

8 Q. And the EIA cannot be properly assessed,
9 the environmental impact cannot be properly assessed
10 until these aspects have been addressed by
11 the appropriate parties?

12 A. That is correct.

13 Q. We move on again.

14 Now, the next document which is a relatively lengthy
15 one, we know in fact is signed ultimately on page 29 of
16 the bundle by yourself.

17 Do you have that?

18 A. Yes.

19 SIR ROBIN AULD: It is an EIA, is it?

20 A. Yes, it is the review of --

21 SIR ROBIN AULD: Of Salt Cay.

22 A. -- of the same EIA.

23 SIR ROBIN AULD: So it is a review of the EIA.

24 A. By myself.

25 MR MILNE: So we are clear, the environmental impact asset

1 is carried out not by your department?

2 A. No.

3 Q. Is that done by the DECR or by another department again?

4 A. It is usually done by independent consultants.

5 Q. They would be commissioned by whom?

6 A. By the -- must be approved by the Director of Planning.

7 Q. Are you the person who would, or would it be your

8 department who would employ them or would it be another

9 department that would employ them to prepare the EIA?

10 A. The qualifications and experiences of the consultants to

11 be engaged in this study would be submitted to us upon

12 receipt of the terms of reference. And then we would

13 make a decision on whether they are suitable to be

14 engaged in this study.

15 Q. In any event, can we assume, although we don't have it

16 in this sequence of documents here, that an EIA had been

17 received?

18 A. Yes.

19 Q. This clearly is your review of it?

20 A. Yes.

21 Q. It is obvious from the title.

22 Again, I am going to take this relatively shortly,

23 the thrust of your review, which is a fairly lengthy

24 document, is critical of aspects of the EIA, in some

25 cases really quite critical and we must assume that is

1 your professional judgment. Essentially saying it is,
2 I hope I don't misrepresent it, but you say it is
3 inadequate, it fails to address a number of very
4 important issues?

5 A. Yes, that is correct.

6 Q. And indeed fails to take into account what you regard as
7 important aspects, particularly I think as regards
8 the historic significance of certain parts of the town
9 centre on Salt Cay?

10 A. That is correct.

11 (3.45 pm)

12 Q. Over the page we have at page 30 a short document, in
13 slightly more formal terms but seemingly to be read in
14 conjunction with the earlier one which quite simply in
15 the recommendations at page 31 advises the physical
16 planning board that in their recommendation to the
17 Honourable Minister for planning,
18 the Honourable Minister must recommend to Cabinet that
19 the subject planning application, that is SA215, not be
20 determined until such time as the development planning
21 for Salt Cay is completed and approved, and not until
22 all outstanding matters arising out of the environmental
23 impact statement, that is the EIS, have been resolved to
24 the satisfaction of the Director of Planning.

25 Mr Robinson, I am going to ask you something which

1 we can't actually derive from the documents. It may be
2 that a title page has gone missing at some point.
3 The one thing we can't find from these is in fact
4 the date of their preparation. They are not dated
5 documents. That is not meant to be a criticism but just
6 to be sure that we have these documents in the correct
7 order and we are reading the sequence truly, is it fair
8 to assume that those documents followed on from
9 the earlier one we saw of Carla Harrison dated
10 28th November?

11 A. These documents were prepared and submitted along with
12 the agenda to the board. They were part of the agenda
13 to the board.

14 Q. We know that there was, and we will come to it next
15 because it is the next document in sequence, there was
16 a meeting of the physical planning board which took
17 place on Wednesday, 17th December. So these documents
18 were in anticipation of that meeting, correct?

19 A. That is correct.

20 Q. We turn to that meeting now at page 32. Pause for
21 a second. Your duty is not to tell the physical
22 planning board what to do but simply to advise based
23 upon your experience?

24 A. That is correct.

25 Q. They may or may not accept your advice, of course?

1 A. That is correct.

2 Q. And they may accept it in part, in whole or not at all.

3 Presumably, there are occasions, this may be one of
4 them, where you are required to speak in fairly
5 trenchant terms as to what you think still needs to be
6 done and to give firm views if appropriate on the rights
7 or wrongs of a particular application?

8 A. That is correct.

9 Q. The meeting that takes place then, we see on this
10 occasion you are in attendance. This is the 586th
11 meeting. So it has clearly been in existence for quite
12 some time. We have this at page 32. As I mentioned,
13 Wednesday, 17th December, taking place in the
14 Department of Planning in a conference room.

15 Again we have seen this document before in the
16 context of the Commission. Six members of the board
17 were in attendance and four were absent, but also in
18 attendance yourself, your deputy Mrs Carla Harrison,
19 the land use planner/secretary whose name arose earlier,
20 that is Lichele Hue, and a gentleman called Mr Adrian
21 Malcolm was a senior development control officer.

22 The four of you, I see from
23 the Department of Planning?

24 A. That is correct.

25 Q. Also in attendance two other government officials,

1 Mr Wesley Clerveaux, the director of the DECR, and
2 Mr Marlon Hibbott(?) who was a scientific monitoring
3 officer, also from the DECR.

4 In a meeting of this nature you are attending
5 obviously in a professional capacity. What is required
6 of you when you do attend? Are you required to speak to
7 the paper that you have presented?

8 A. That is right, simply to present my findings on
9 applications to the board and that is it.

10 Q. The other parties present who are not members of the
11 board such as Mr Clerveaux or Mr Hibbott, would their
12 views be invited if appropriate?

13 A. Yes. Usually, particularly in respect of matters like
14 this.

15 Q. But in terms of the final decision taken, do you get
16 a vote on the board?

17 A. No.

18 Q. So you are not a voting member, you are simply there
19 ex officio?

20 A. In an advisory capacity.

21 Q. We know from going through the papers, this meeting in
22 fact ran from 10.05 in the morning until around
23 lunchtime, and the discussion in relation to SA215,
24 the dock proposal, is contained at page 34.

25 It refers here to "the director". I take that to

1 mean yourself:

2 "... read his report on the subject planning

3 application to the board in full and the Director of

4 Planning highlighted that a February 2008 study carried

5 out by ATM Consultants and commissioned by Salt Cay

6 Devco concluded and recommended that the subject dock

7 was to be located in the southern section of the island.

8 He also mentioned the environmental impact statement

9 which accompanies application SA215. It clearly states

10 the application submitted involves partly construction

11 of dock and implementation of phase one of the marine

12 development [that is dredging] construction of a jetty

13 and stockpiling of fill which will be retained for

14 reclamation within the town Salinas."

15 It goes on within this document. You pointed the

16 board's attention to the deficiencies of the EIS as

17 outlined by the director, DECR, the Deputy Director and

18 himself.

19 "The director [again, that is you] advised the board

20 they may accept or reject his advice on the matter."

21 The next paragraph deals with your deputy reading

22 her report, which is the earlier one we have seen to the

23 board in full:

24 "The Chairman after hearing all the advice stated

25 that his view is to refuse the planning application."

1 He expressed again fairly strong views of what he
2 described as the arrogance in wanting to place
3 an industrial dock in the middle of the town for
4 eventual destruction of Salt Cay's heritage.

5 It goes on to say that:

6 "The Chairman indicated a representative of Salt Cay
7 Devco Limited had indicated in a previous meeting that
8 he had proposed to have the dock in the southern section
9 of the island and it was the government representatives
10 who directed him to relocate the proposed dock in the
11 town centre."

12 Finally, it is clear that there was a recommendation
13 that flowed from that to recommend a decision of
14 refusal. There was a show of hands and all were in
15 favour of the motion.

16 So the Committee, having heard and indeed having
17 passed comment on certain aspects of it, essentially
18 adopted your view and felt that it was inappropriate to
19 proceed at that stage with this application as it stood.

20 Is that a fair summary?

21 A. Yes, that is correct.

22 Q. Now, that is the situation as of December 2008. Indeed
23 we see at page 36 a note that is in the form of
24 an memorandum, essentially going forward to the minister
25 for planning, the Honourable McAllister Hanchell,

1 communicating that decision. Communicating that

2 recommendation that it go no further?

3 SIR ROBIN AULD: It is dated the very same day.

4 MR MILNE: It is dated the very same day. That is page 36.

5 What follows is events that took place subsequent to

6 that. We are moving essentially to the early part of

7 2009. Mr Robinson, did there come a point, we believe

8 this would either have been Thursday, 8th January or

9 Friday, 9th January 2009, where you were contacted in

10 relation to this earlier meeting, where you were asked

11 to attend a meeting of some form?

12 A. I was asked to attend a meeting on -- I got contacted on

13 the Thursday and was asked to be present at a meeting on

14 the Friday.

15 SIR ROBIN AULD: So Thursday would be 8th January, would it?

16 A. That is correct.

17 MR MILNE: Can you recall now, I will take it in stages,

18 firstly, how did that message reach you?

19 A. It was a text message.

20 Q. Could you tell from that text message who it was had

21 sent it?

22 A. It was the Honourable Hanchell.

23 Q. The Honourable --

24 A. McAllister Hanchell, yes.

25 Q. It may be asking the impossible, do you remember now

1 the wording of that message?

2 A. It said that there was to be a meeting at the Premier's
3 office to discuss planning matters and it was scheduled
4 for 10.00 am and that only members receiving the text to
5 attend.

6 Q. Was that out of the ordinary, or was that something that
7 had happened to you before?

8 A. I have attended meetings at the Premier's office before.
9 It was not out of the ordinary.

10 Q. On the following morning, the 9th, did you attend at the
11 Premier's office?

12 A. Yes.

13 Q. The precise time isn't important. Was it an early
14 morning meeting, 9 o'clock, 10 o'clock, something of
15 that --

16 A. 10 o'clock.

17 Q. When you got there, did you see any of the other people
18 at the Premier's office?

19 A. I arrived simultaneously with Honourable Hanchell and
20 present was Mr Wesley Clerveaux already in the
21 conference room.

22 Q. So Mr Clerveaux, the Honourable Hanchell, did there come
23 come a point when the Premier was in attendance?

24 A. Yes.

25 Q. Did he arrive before you or after you?

1 A. He arrived after me.

2 Q. Any other persons in the meeting at that stage?

3 A. Yes, arriving after me was also Mr Garnett Jolly,

4 Mr Otis Morris and I think it was Mr Colin Williams.

5 Q. Mr Garnett Jolly, Mr Otis Morris and Mr Colin Williams,

6 you will be aware but just for the record, are all in

7 fact members of the physical planning board, aren't

8 they?

9 A. Yes.

10 Q. Apart from those members, the Premier and the Honourable

11 McAllister Hanchell, was anybody else come into the room

12 while you were there?

13 A. Yes, Mr -- two representatives of Salt Cay. I know --

14 the first one I think is Stephan Kral and

15 Mark Backer(?).

16 Q. Now, when everybody was there, what sort of conversation

17 took place?

18 A. Well, the meeting started by representatives of

19 Salt Cay Development company expressing concerns about

20 the lack of progress on matters relating to

21 the construction of the dock in summary.

22 SIR ROBIN AULD: That was the two Salt Cay representatives?

23 A. Yes.

24 MR MILNE: Did they speak for very long?

25 A. Not very long, no.

1 Q. The concerns that they expressed, were they addressed to

2 anybody in particular?

3 A. No.

4 SIR ROBIN AULD: Were they addressed to the various

5 environmental aspects which had been the subject of the

6 EIA and your review of it?

7 A. No, they just expressed general, nothing out of the

8 ordinary.

9 MR MILNE: Was there any discussion of those aspects while

10 they were still there?

11 A. No.

12 Q. Having put their case, having raised those complaints,

13 did they stay or did they leave?

14 A. They were asked to leave.

15 Q. Asked to leave by?

16 A. The Honourable Premier.

17 Q. By the Premier?

18 A. Yes.

19 Q. When those two gentleman had left, all the rest remained

20 with you?

21 A. Yes.

22 Q. What was said at that stage after the other two men had

23 gone out of the room?

24 A. Well, there was a very heated debate or argument, if you

25 want to call it that, about the recommendations that

1 were made to the board by myself, and concerns expressed
2 about how we had basically determined that application
3 and that it was important, the applications were
4 centrally important for government and for Salt Cay.

5 Q. You say heated debate. Which of the parties present
6 took part in it?

7 A. It was myself, the Honourable Premier and Honourable
8 Hanchell.

9 Q. Given that you had previously expressed fairly clear
10 views, is it reasonable to conclude that they were
11 expressing opposing views to the advice you had given?

12 A. Yes. It is fair to say that.

13 SIR ROBIN AULD: What was the word you added?

14 A. It is fair to say that they thought that it should be
15 approved in that location.

16 MR MILNE: Did any of the other parties, the members of the
17 board who had been in attendance, Mr Clerveaux, express
18 any views at that stage?

19 A. Yes, Mr Clerveaux expressed and confirmed that he had no
20 objections to the dock being in that location.

21 Q. Just pausing for a moment, in relation to that, had
22 Mr Clerveaux expressed the same view back in the
23 December meeting or indeed any view in the December
24 meeting?

25 A. During the December meeting, Mr Clerveaux did not

1 comment at that meeting.

2 Q. The nature of the heated debate as you put it, how did

3 you feel, given that you were arguing with two fairly

4 senior ministers?

5 A. I would be lying if I said it was a pleasant meeting.

6 It was not. But I stuck to my point and presented my

7 report and stuck to the recommendation that I had made

8 to the board.

9 SIR ROBIN AULD: Did they engage with the environmental

10 arguments that had been the subject of your review?

11 A. There was not any depth to any argument as far as

12 getting technical at that stage. It was simply

13 a critique of myself really if you want to call it that.

14 (4.00 pm)

15 SIR ROBIN AULD: What was wrong with you?

16 A. Well, we had disagreement on whether the dock should

17 be -- where the location of the dock should be.

18 MR MILNE: I fear I can't summarise this without probably

19 misstating it. As we understand it, I am sure it is

20 more complex, the choices that were being put forward

21 were either to build the dock in a relatively central

22 place within the old town or to put it on the south side

23 of the island which would involve obviously a different

24 set of considerations, is that right?

25 A. That is correct, and as a matter of fact

1 the February 2008 study recommended that the dock be in

2 the south and the marina in the north.

3 Q. You clearly had recommended, and the board previously

4 accepted that it not be put in the centre of the town

5 because of potential environmental damage to cultural

6 artefacts essentially, to old buildings within the town.

7 A. That is correct.

8 Q. Is that an accurate reflection?

9 A. That is correct and the report itself and

10 the recommendations from the DECR also indicated that

11 the report did not properly address the impact on the

12 cultural resources.

13 SIR ROBIN AULD: But this wasn't the subject really of the

14 heated discussion.

15 A. No.

16 MR MILNE: So the detailed debate that had taken place

17 before, this wasn't a re-run of that debate?

18 A. No.

19 Q. What was it they were telling you they wanted you to do?

20 A. Well, it was simply a discussion of a difference of

21 opinion about -- and expressing that the project was

22 a government project, and essentially Salt Cay needed

23 the dock. My view was kind of abstract from the needs

24 of the community, really.

25 Q. How long did that debate go on for, this particular

1 meeting?

2 A. It went on for about half an hour I would say, probably

3 20 minutes to half an hour.

4 Q. Can we conclude from what you have said that you were

5 not in agreement at the end of it any more than you had

6 been at the beginning?

7 A. That is correct.

8 Q. How did it come to an end? Who called it to a close?

9 A. Well, in the end, both -- almost simultaneously

10 Mr Garnett Jolly and myself decided, well, there is no

11 need to continue to argue about this, because I am not

12 changing my opinion and the suggestion of resolution had

13 to be found.

14 Q. Was any suggestion brought forward for resolution?

15 A. Yes, I suggested two things. One could be, as supposed

16 to be the case, procedural, that the recommendation from

17 the board be forwarded to Cabinet as is required, or

18 alternatively, I am not a lawyer, but there could be

19 some consideration as to whether the board could

20 reconsider its decision, its recommendation rather.

21 Q. What was the response to that? To that suggestion?

22 A. Well, there was discussion about convening a meeting.

23 Q. Now, we see because we have probably turned, I trust as

24 far as page 37, there is actually at page 37

25 a memorandum, again, headed up Department of Planning,

1 this time from the Vice Chairman, Mr Everette Greene,
2 saying that he, at the request of four other members of
3 the physical planning board and he names them -- that is
4 Mr Jolly, Mr Willard Williams, Mr Otis Morris and Mr
5 Colin Williams -- consented to the convention of an
6 extraordinary physical planning board meeting, which was
7 to take place on Friday, 9th January. Was that document
8 drawn up whilst you were present?

9 A. Yes.

10 Q. We know, because we have over at page 38, that that
11 meeting did in fact take place that afternoon?

12 A. That is correct.

13 Q. Did you consent to be present at that meeting?

14 A. I was not present at that meeting.

15 Q. Were you invited to be present?

16 A. No, I was not invited, and I did not need to be invited

17 to board meetings. I must attend all board meetings.

18 SIR ROBIN AULD: You dropped your voice there. I didn't

19 hear.

20 A. I decided not to be present at that meeting.

21 MR MILNE: Did you have a particular reason for choosing not

22 to attend?

23 A. I was not happy after the morning session -- after

24 the meeting in the morning and I decided I did not want

25 to attend that meeting.

1 Q. Did you correspond or talk to any of the other members
2 of the board that day other than those you had met in
3 the morning?

4 A. I spoke to the Chairman on that day.

5 Q. We have obviously heard evidence from the Chairman at
6 the time, which was Mr Earl Handfield?

7 A. Yes.

8 Q. Again, doing the best you can, by way of recollection,
9 what time would it have been that you spoke to him?

10 A. I kept the Chairman briefed. I spoke to him before
11 the meeting -- the discussion meeting at the Premier's
12 office, and I asked him whether or not he had received
13 some indication of that meeting and I continually --
14 I also informed him after that meeting, and I spoke to
15 him, I think later on sometime.

16 Q. Right. At each of those conversations, by telephone or
17 face to face?

18 A. By telephone.

19 Q. We have heard from Mr Handfield, we know already, that
20 he took the stance that he was not prepared to attend
21 the meeting and he disputed the legality of it.

22 Did you speak to any of the other members or was he
23 the only one?

24 A. I didn't speak to any other members except when I --
25 sometime -- while the meeting was in attendance I was

1 walking along the beach, and I called one member,

2 assuming that the meeting was over.

3 Q. Subsequent to that, can we take it that you were

4 informed of the outcome of that meeting?

5 A. Yes.

6 Q. Were you able to see the minutes of the meetings that

7 took place?

8 A. Yes, I was informed by the Deputy Director as well

9 afterwards.

10 Q. We have -- the discussion -- this is a much shorter

11 meeting. This meeting took 24 minutes, beginning that

12 afternoon at 4.26 pm. Now the discussion that took

13 place is evidenced by page 39 of our bundle.

14 It says:

15 "The director of DECR [that being Mr Clerveaux who

16 seems to have been in attendance together with the five

17 members of the committee] informed the board that the

18 DECR had no objection or has no objection to the

19 proposed location of the dock, and its position remains

20 the same as previously expressed at meeting 586 when

21 the application was originally tabled.

22 "The Deputy Director of Planning [that is

23 Mrs Carla Harrison who was there] informed the board:

24 "The Department of Planning's original

25 recommendations remain the same. There are many

1 outstanding matters that must be resolved including but
2 not limited to a comprehensive EIA for the proposed
3 current location of the dock. She also reminded
4 the board of the detailed study that was done in
5 February 2008 which recommended that the dock be located
6 to the south and not the current proposed location."

7 So your deputy, giving advice there in accordance
8 with what she had previously recommended and indeed it
9 seems in accordance with what your recommendation had
10 been?

11 A. That is correct.

12 Q. The minutes continue:

13 "After hearing all the information regarding
14 the subject planning application, and much deliberation,
15 the board decided to re-consider its previous
16 recommendation and recommend approval of the subject
17 planning application as submitted with all of the
18 conditions to the DECR to be included. The motion to
19 approve the application is made."

20 It names Member Colin Williams, seconded by member
21 Otis Morris, all in favour by show of hands.

22 It goes on to deal with planning application PR9925,
23 which I don't propose to read out. That deals with
24 dredging works.

25 Page 41 is in fact a letter from yourself to

1 the Permanent Secretary of the ministry of natural
2 resources, answering a series of questions that were
3 posed. It simply gives something of the background to
4 and workings of the physical planning board. Again, it
5 is available for my learned friends, should they wish
6 it.

7 Mr Robinson, it seems to come down to this, if we
8 follow your evidence correctly: you gave advice, that
9 advice was followed on the first meeting, clearly it was
10 disregarded on the second.

11 Did your position as regards your advice remain
12 the same throughout?

13 A. Still to this day.

14 MR MILNE: Thank you very much.

15 That is all I propose to ask at this stage unless
16 you have any questions. My learned friends may have
17 some questions to follow.

18 SIR ROBIN AULD: It is Mr Fitzgerald I suppose.

19 Cross-examination by MR FITZGERALD

20 MR FITZGERALD: Mr Robinson, I want to go through
21 the history, and some of it is just setting the context,
22 although there are some points on which I will have to
23 press you on your version of events. Just to start, is
24 this right, there has been a longstanding plan to build
25 a government dock for Salt Cay?

1 A. I am unaware of that.

2 Q. You are aware of it because it is not your province or

3 because you don't think there has been such a plan?

4 A. I am just unaware of any proposal to build a new dock on

5 Salt Cay.

6 Q. Can you assist on this, that in September 2007, one of

7 the development conditions with

8 the Salt Cay Development Company was that a dock should

9 be built for the government by the developer?

10 A. Is that a planning condition?

11 Q. No, it is part of a development condition.

12 A. I am unaware of that. I am unaware of the development

13 agreement. I am not privy to development agreements.

14 Q. But you certainly -- would you accept this, that this

15 was a government application for a government dock to be

16 built?

17 A. That is correct.

18 Q. So you are unaware of the fact that the government had

19 actually insisted that the developers should build

20 a dock at Salt Cay for the benefit of the community in

21 Salt Cay?

22 A. I am unaware of that.

23 Q. But you are aware that there had been some to-ing and

24 fro-ing, if I can put it that way, about what the best

25 location would be for a dock --

1 A. Can you repeat that, sir?

2 Q. There was some disagreement over, the year before this,
3 the events you have described, as to where it would best
4 be to have a government dock on Salt Cay?

5 A. My involvement into this came only upon submission of
6 the application and review of the EIA.

7 Q. Can you assist on this: were you aware that originally
8 there was a recommendation that it should be located in
9 the north, that is to say at the White House location?

10 A. No, the February 2008 report which was commissioned by
11 Salt Cay Development Company recommended that the dock
12 be in the south.

13 Q. But before that they had been thinking in terms of
14 the --

15 A. I am unaware of --

16 Q. I see, all right. You agree that then the focus came on
17 the south location and indeed the developers were quite
18 content to build a government dock on the southern
19 location?

20 A. Upon submission of the documentation.

21 Q. But that was their proposal to build in the south?

22 A. That is what the EIA says.

23 (4.15 pm)

24 Q. Obviously the EIA wouldn't be addressing it unless the
25 developers were saying they were ready to do that, to

1 build it on the south?

2 A. I assume so.

3 Q. Is this right, that the problem with locating it on

4 the south was that there was a diving site there, and

5 that there was a danger of interfering with the marine

6 life on the south side?

7 A. The EIA concluded that the dock could be 400 feet to the

8 south, I think, or 300 feet to the north, and it

9 concluded that the dive site being sited in the southern

10 section of the island would pose no impact upon the dive

11 site, and they also made the recommendation that

12 the channel could be altered to accommodate that.

13 Q. But there were concerns, weren't there, about the marine

14 life on the south?

15 A. Well, the EIA recommended and said that it will have

16 minimal impact on the ecological environment on the

17 south section.

18 Q. That was the February 2008?

19 A. That was the February 2008 report commissioned by Salt

20 Cay Development Company.

21 Q. Help us on this: are you aware that after that, that is

22 the Salt Cay Development Company were proposing at that

23 stage, we will build it on the south and we can solve

24 the problems of the diving site and the pollution to

25 marine life?

1 A. I am unaware of that.

2 Q. Would you accept this, that if they weren't prepared to
3 do it, there wouldn't be any EIA being commissioned?

4 A. Yes, but I am unaware of any subsequent...

5 Q. Is this right, that by July of 2008, the government and
6 the Department of the Environment and Coastal Resources
7 had agreed that the White House location would be better
8 in order to avoid pollution of marine life on the south
9 side?

10 A. That was brought to our attention during the development
11 plan study by Mr Stephan Kral himself. There was never
12 any impact assessment done on the location of that dock
13 near the White House.

14 Q. The government and the DECR first came to that agreement
15 in principle, that that would be the better location, to
16 do it near the White House?

17 A. The Department of Planning was completely unaware of
18 that.

19 Q. I appreciate that, but you are just helping us to set
20 the scene. The reason why the government made
21 an application to the Department of Planning was because
22 they had decided that in order to avoid damage to the
23 marine life, it would be better to go back to the north
24 side; that is why you had to consider an application to
25 put it near the White House.

1 A. That is still contrary to the recommendations of the
2 February 2008 report and also it is -- it is not only
3 contrary to 2008 report --

4 Q. I am not arguing. I am trying to establish
5 the chronology.

6 A. This is where they find in the study itself --

7 Q. But is it right that the government put forward
8 a proposal that there was an application made to locate
9 it on the north side, and that was the application which
10 you ended up commenting on?

11 A. That is correct.

12 Q. And it was a government application?

13 A. That is correct.

14 Q. And it was to place it near the White House?

15 A. That is correct.

16 Q. Thank you. That was after the government had discussed
17 the matter with the Department of Environmental and
18 Coastal Resources?

19 A. I assume so.

20 Q. The suggestion from the Department of Environment and
21 Coastal Resources was we need an environmental impact
22 assessment?

23 A. I know nothing of those discussions or agreements.

24 Q. You know that there was an environmental impact
25 assessment?

1 A. That is correct.

2 Q. So in other words one was commissioned and I think you

3 have said that the person -- the makers of the report

4 you approved of, is that right?

5 A. No, I did not.

6 Q. Were you consulted about that?

7 A. No, not prior -- I had no prior consultations in respect

8 of the terms of reference or this report prior to its

9 submission.

10 Q. 3rd November, you got it at page 16, you see

11 the Department of Environment and Coastal Resources have

12 obtained an environmental impact assessment prepared by

13 ATM, is that right?

14 SIR ROBIN AULD: There is no point, you know. We have

15 the story very clearly already. He would not have

16 written a review if he didn't know that there had been

17 an environmental impact assessment.

18 MR FITZGERALD: I am obliged, sir. I am actually trying to

19 establish that this was the government's proposal.

20 SIR ROBIN AULD: That has been made many times, and I have

21 that point loudly and clearly. The real issue in this

22 case is that whatever the rights and wrongs of the

23 different views, there were two different views and how

24 they were dealt with by government in the critical

25 meetings.

1 MR FITZGERALD: Sir, I promise you I am coming to it.

2 Is this right, that then the EIA was put forward?

3 A. Yes.

4 Q. It elicited comments first from the Deputy Director that

5 we have at pages 18 onwards, Carla Harrison and then

6 from yourself, your own review which we have at pages 22

7 onwards, is that right?

8 A. That is correct.

9 Q. You took a strong view, describing the proposal at one

10 stage as preposterous?

11 A. I don't know if I used that word.

12 Q. You did actually?

13 A. Well, fair enough if I did.

14 Q. Page 24, before saying the location was preposterous,

15 you also say:

16 "It is undeniable that the construction of a new

17 barge landing dock on Salt Cay will bring about

18 significant benefits to both the residents and business

19 community of Salt Cay."

20 A. That is correct.

21 Q. You agreed it was a good idea to have a new dock?

22 A. Yes, that is correct.

23 Q. The reason why it was a good idea to have a new dock was

24 so that things could be brought in by barge, for example

25 for improving the -- materials to improve the airport

1 and other materials that had to be brought in by barge.

2 A. I don't know about those specific things, but the barge

3 is good for the community of Salt Cay.

4 Q. You wrote your review of the EIA. I want to just come

5 on to the meeting of 17th December, which we have at

6 pages 32 to 35. Just before that, at pages 30 to 31,

7 you had an addendum to your review, which we see it

8 headed "Report to Physical Planning Board"?

9 A. Yes.

10 Q. At the end of that, page 31, you are saying the physical

11 planning board is recommended to advise that in their

12 recommendations -- they recommend to Cabinet essentially

13 that you don't do anything about the dock until

14 the whole development plan has been agreed?

15 A. There is two components to the dock. First of all,

16 the EIA clearly states -- there are two phases to this.

17 One is phase one of the implementation of the marina.

18 So a marina on any island, particularly an island like

19 Salt Cay being sited in a historic town like that,

20 should be the subject of a strategic review which is a

21 development plan.

22 Q. So that is the overall development plan for Salt Cay.

23 In your view you had to complete the overall thing

24 before you approved the dock.

25 A. Not necessarily the dock, but as I said, the application

1 for the dock was not just a dock. It involved the first
2 phase of implementation of the marina as well. It was
3 just a jetty component.

4 Q. At the meeting on 17th December, my learned friend has
5 already taken you to it but is this the position: that
6 the board considered the recommendation, that your own
7 recommendation was put before the board and the Chairman
8 expressed concerns about the arrogance. Who was he
9 saying was arrogant? The government?

10 A. I think he was referring to -- I cannot -- I think that
11 should be posed to the Chairman.

12 Q. You can't remember because in fact it is quite clear
13 from the context the developers were saying: we will do
14 it wherever you want us to but it is the government who
15 were saying we want it in the town centre. If you read
16 on:

17 "The Salt Cay Devco Limited indicated previously
18 that he had proposed to have the dock in the southern
19 section. It was the government representatives who
20 directed him to relocate in the town centre."

21 Do you see that?

22 A. I cannot speak for the Chairman but I know we had a
23 meeting during the development plan stage with
24 Salt Cay Development Company about where the dock should
25 be set. This discussion came up.

1 Q. Was it your understanding that it was the government
2 that wanted it located in the town centre?
3 A. Yes, the government submitted the application.
4 Q. It was not at the behest of the developers, it was their
5 own decision, that they wanted it in the centre of town?
6 A. Yes, the government --
7 Q. Yes, the government thought that was the best place for
8 it?
9 A. By submitting the application.
10 Q. You took the view that that was a bad idea and the
11 Chairman and the members on that occasion agreed, is
12 that right?
13 A. That is correct.
14 Q. Had you circulated the views of the Department of the
15 Environment to that meeting?
16 A. Yes, I read their documents, I read my report. Their
17 report was attached to my report.
18 Q. Are you sure you read it?
19 A. Yes, they were attached to my report. They are all
20 attached to my report.
21 Q. After that decision was taken, is this right, that it
22 was not notified to Minister Hanchell what the result of
23 that decision was?
24 A. Yes, the recommendation was forwarded to the --
25 Q. But did he actually receive that recommendation at that

1 stage?

2 A. I am sure he did.

3 Q. Well, can you help us about this because, you see, his
4 recollection, if I can put it to you just to set
5 the scene, is that the first time he discussed this
6 matter with you was in early January when he phoned you
7 and said: what is the status of this development, of the
8 Salt Cay dock plan; and you then sent him, see if you
9 can help us on this, you just sent him your
10 recommendations at pages 30 to 31?

11 A. First of all, this report was sent the same day to the
12 ministry of natural resources of the meeting,
13 the recommendations of the board, and I can confirm with
14 the secretary that the minister also sent back to us
15 requesting that he wanted two memos to be separated, one
16 for Salt Cay and the other for the government dock, the
17 dredging, the channel, separately, so I am sure he
18 received it in a timely manner.

19 Q. Did you have a conversation in early January in which he
20 said: what is the status of the dock development.

21 A. I do not recall that conversation.

22 SIR ROBIN AULD: You will remember, Mr Fitzgerald, that
23 Mr Hanchell said that he had been away. I think he said
24 he had been abroad either before or over Christmas, I am
25 not quite sure, but there had been a gap there.

1 MR FITZGERALD: That may well be that explains that, sir.

2 Can you recall him phoning and saying: what is going
3 on about the dock plan; and you then sending him your
4 recommendation at pages 30 to 31?

5 A. I do not recall that. I know that I can confirm that it
6 was September, that the decision of the recommendation
7 from the board was forwarded to the minister -- ministry
8 on that same day.

9 Q. We know that on 8th January, you as Director of Planning
10 were invited to a meeting the next day at the Premier's
11 office. You confirmed that?

12 A. That is correct.

13 Q. For you to meet with your minister in charge and discuss
14 matters would not be anything unusual, would it?

15 A. No.

16 Q. What is going on, what is the plan, how are we going to
17 progress, this would be quite normal for you to discuss
18 with the minister?

19 A. That is correct.

20 Q. You attended the meeting the following day, 9th January,
21 is that right?

22 A. 9th January, yes.

23 Q. In the morning. Is this right, at that meeting you have
24 given evidence that there was a change of views and you
25 have said it was a pretty strong exchange of views but

1 there was no question of the Premier ever instructing

2 you to hold a new meeting?

3 A. Well, no, I do not convene meetings so he would not be

4 instructing me.

5 Q. And he didn't order you to do anything?

6 A. No, he did not order me to do anything.

7 Q. Present at that meeting you have said is yourself,

8 the Premier, Minister Hanchell, and then also from

9 the planning board, Garnett Jolly, Otis Morris,

10 Colin Williams and also Wesley Clerveaux was present, is

11 that right?

12 A. That is right.

13 Q. Stephan Kral came in also, I think, with one of

14 the members of his firm?

15 A. He was there from the outset of the meeting.

16 Q. What I would invite you to do is to look at a account of

17 this meeting given by Mr Wesley Clerveaux which we have

18 at page 44 to 46. And see if you can assist --

19 SIR ROBIN AULD: Mr Fitzgerald, I am loath to interrupt you.

20 How much longer do you think you might be? It is not

21 for myself or for most people, but the court reporters

22 have had a fairly difficult day with the last witness.

23 MR FITZGERALD: I appreciate that sir. I may need half

24 an hour, I am afraid.

25 SIR ROBIN AULD: I thought you might need a bit more time,

1 and I would normally have asked them to sit on, but
2 I think it has been a strenuous day trying to discern
3 sometimes what the last witness was saying. If it is
4 not an inconvenience to you, Mr Clyde Robinson, to
5 return tomorrow morning, we would like you to do so, is
6 that all right?

7 A. Yes, I can return tomorrow morning.

8 MR FITZGERALD: Could I before he retires ask him one
9 question.

10 SIR ROBIN AULD: It is a good opportunity for him to take
11 away Mr Wesley Clerveaux's letter.

12 MR FITZGERALD: Absolutely.

13 Can you help us on this, I recorded your answer as
14 you were shown page 37, if we can just go back for
15 a moment to page 37, I recorded you as saying that you
16 were present when that document was drafted.

17 A. Present when the document was drafted?

18 Q. Yes.

19 A. I did not draft this document, the secretary of the
20 board drafted it.

21 Q. Is it your evidence that you were present when that
22 document at page 37 was drafted?

23 A. Yes, I came into the room where it was being drafted.

24 Q. By the Vice Chairman?

25 A. No, the secretary was drafting it for Mr Garnett Jolly.

1 Q. Do you see who convenes the meeting is the Vice
2 Chairman?
3 A. Yes.
4 Q. So how could it be being drafted, the Everette Greene --
5 the Vice Chairman, when the Vice Chairman wasn't even
6 present?
7 A. Well, Mr Garnett Jolly came into the room and said he is
8 doing this for the Chairman --
9 Q. Came into which room, the Premier's room?
10 A. No. At the secretary of the physical planning board --
11 the planning Secretariat at the Department of Planning.
12 Q. This is not in the presence of the Premier at all?
13 A. No.
14 Q. This is completely separate?
15 A. Yes, this is something complete separate.
16 Q. So you are not suggesting that any of this took place in
17 the presence of the Premier?
18 A. No.
19 Q. You are saying that at a later stage --
20 A. This is later on during the day.
21 Q. You are saying that the Vice Chairman was not present
22 but it was being drafted in the Vice Chairman's name, is
23 that what you are saying?
24 A. No, he was not present.
25 Q. That is your evidence?

1 A. This was not -- I saw this and I saw Mr Garnett Jolly in
2 the planning secretariat and the Vice Chairman was not
3 present at that time.

4 Q. You saw this document you say?

5 A. Yes, I saw this document.

6 Q. To the Director of Planning from the Vice Chairman?

7 A. Yes.

8 Q. What time was this?

9 A. I do not know the exact time.

10 Q. We know that it was after the meeting, nothing to do
11 with the Premier then?

12 A. No, it was an afternoon. It was around lunchtime,
13 around that time but I do not know the exact time.

14 Q. It is headed, " Ministry of Natural Resources, Fisheries
15 and the Environment, Department of Planning." You are
16 saying it was made in your department?

17 A. Yes, from the planning secretariat.

18 Q. It may be I will have some further questions about that
19 tomorrow.

20 SIR ROBIN AULD: Thank you Mr Fitzgerald. 10.30 tomorrow
21 morning.

22 MR MILNE: Sir in terms of housekeeping before we leave
23 today can I indicate that following on from Mr Robinson
24 we would hope then to have Mr Lightbourne, subsequent to
25 that the Honourable McAllister Hanchell. We will liaise

1 with our learned friends as regards timing to avoid

2 keeping anybody unnecessarily.

3 It may be we might be able to have a fourth witness

4 since I don't think any witness will be a long time

5 tomorrow. We may be able to start on Mr Garnett and

6 realistically the two remaining witnesses are likely to

7 be required on Monday morning.

8 SIR ROBIN AULD: Are you saying to take them out of the list

9 tomorrow?

10 MR MILNE: We cannot realistically reach Mr Musgrove or

11 Mr Higgs tomorrow. We will liaise directly with them

12 and obviously we will keep our learned friends informed.

13 SIR ROBIN AULD: We want to make the most of what is left of

14 this week for evidence if we can.

15 MR FITZGERALD: Sir, I wonder if I could invite you briefly

16 to give us an indication in relation to the question of

17 speeches. I understand we will be able to be permitted

18 to give oral submissions at the conclusion and I wonder

19 if we could commence those on Tuesday morning?

20 SIR ROBIN AULD: I was hoping we could commence them on

21 Monday morning, with the weekend intervening, and

22 I would like us to do that if we can or at least at some

23 stage in the day. What I anticipate for speeches and

24 I have not put a programme together yet, is that counsel

25 will certainly have an opportunity of all interested

1 parties to make oral submissions at the end, relating
2 not to the generality of the terms of reference of the
3 Inquiry but to the matters we have touched on in these
4 oral hearings.

5 They may, if they wish, submit skeletons or speaking
6 notes or neither. I would have to, I think, try to work
7 out a fair system of allocation of time. I will try to
8 do that tonight and everybody can fall upon me in the
9 morning when I say what I have in mind.

10 MR FITZGERALD: Are we talking in the region of an hour, an
11 hour and a half?

12 SIR ROBIN AULD: Thereabouts and I will hope we can finish
13 speeches by Wednesday, close of play.

14 MR FITZGERALD: Then, because Mr Milne will go last, it will
15 be permissible for us to put in further written
16 submissions --

17 SIR ROBIN AULD: Absolutely.

18 MR FITZGERALD: -- in order to shorten our oral submissions
19 and that can be within a week or two.

20 SIR ROBIN AULD: Certainly if people feel they have not had
21 enough time to make their points properly or if other
22 points occur to them after they have gone home, we will
23 receive oral submissions which are put in. But
24 I emphasise they have to be referable to the matters we
25 have touched on in these oral hearings. It would be

1 nice to invite speeches particularly in relation to the
2 term of reference 2, but I fear that is not practical.

3 Although we will be glad to hear any suggestions in
4 writing that there may be as to that second term of
5 reference if people have the will to do it. 10.30
6 tomorrow.

7 (4.40 pm)

8 (The court adjourned until 10.30 am
9 on Friday, 5th February 2009)

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