

1

Friday, 6th February 2009

2 (10.30 am)

3 MR CLYDE ROBINSON (continued)

4 Cross-examination by MR FITZGERALD (continued)

5 SIR ROBIN AULD: Good morning, ladies and gentlemen.

6 MR MILNE: Mr Robinson is obviously continuing his evidence

7 from yesterday, and Mr Fitzgerald.

8 SIR ROBIN AULD: Yes, Mr Fitzgerald.

9 MR FITZGERALD: Mr Robinson, I think you have had

10 an opportunity overnight to read the letter of Mr Wesley

11 Clerveaux.

12 A. Yes, I did.

13 Q. I just really want to go through the chronology, and it

14 may be there are things which you agree with there.

15 But is this right: the meeting took place on

16 the morning of January 9th and you have already told us

17 that the minister was there, the Premier was there and

18 that you were there, Garnett Jolly, Otis Morris,

19 Mr Williams, Colin Williams was there, and also Wesley

20 Clerveaux and Stephan Kral with, I think, another

21 representative with him, is that right?

22 A. Yes, that is correct.

23 Q. Is this right, at the start the Premier thanked

24 everybody for coming, and then invited Mr Hanchell to

25 take the floor, as it were, and speak; does that accord

1 with your recollection?

2 A. I do not recall it in that chronology. I recalled

3 an opening and Mr Kral speaking.

4 Q. What Mr Clerveaux said is that what happens is that

5 Mr Hanchell explained that the government dock project

6 is separate from the development plan; do you recall him

7 saying that?

8 A. I don't recall it in this chronology. There are a lot

9 of things in this memo which Mr Clerveaux has written

10 that are contrary to the way I understand things.

11 Q. Shall we see what you do agree to.

12 Do you agree that Mr Hanchell at an early stage at

13 any rate said: look, this is a government project and

14 approval for it shouldn't depend on approval for

15 the wider development plan for Salt Cay?

16 A. I recalled the Premier making a statement to that

17 effect, that it was a government project and he

18 explained that it did not require it -- something about

19 could not be refused or something like that.

20 Q. Certainly I think we are probably agreed on this. He

21 was not happy with the fact that you had made

22 a recommendation against what he saw as a government

23 project?

24 A. That is correct.

25 Q. And he expressed the fact. Words to the effect of what

1 are you doing vetoing a government project?

2 A. That is correct.

3 Q. He certainly accepts that that was said.

4 Minister Hanchell equally explaining that the two
5 were not the same, that is to say that one was
6 a government project, the other was the wider project of
7 the developers?

8 A. I don't know about a project. You are calling it
9 project but we -- the Department of Planning is in the
10 process of doing a development plan for the entire Turks
11 & Caicos Islands.

12 Q. Yes, I appreciate that. What Mr Clerveaux says is that
13 the Salt Cay dock project was something different from
14 the plans for the Salt Cay development project?

15 A. There were elements in the dock plan which conflicted
16 with elements which should have been issues of the
17 development plan.

18 Q. Can we just perhaps concentrate on, as it were,
19 the procedure. You agree that Mr Kral was asked to
20 explain and did so briefly his position?

21 A. I don't know about briefly, but the clear explanation is
22 tension in the meeting, it was not the best atmosphere
23 of that meeting.

24 Q. Is this right: that he said that it was their job to
25 build the dock for the government and he explained that

1 that was all their job was, to build the dock for
2 the government and that he further stated that
3 the government initially approved it for the south of
4 the sand, and then that there had been environmental
5 concerns about the docks being sited there on the south,
6 and so the government decided it should be on the north
7 side. Do you remember him saying that?

8 A. I do not recall that comprehensive and clear
9 explanation.

10 Q. But effectively was he saying --

11 A. Something may have been said to that effect. I didn't
12 understand it as comprehensive as you are saying it.

13 Q. It is as Mr Clerveaux is saying it, and he was there, of
14 course. I am quoting what Mr Clerveaux says happened.

15 A. Mr Clerveaux was not in the position as I was, and may
16 have been in a more relaxed position as he see it, and
17 was able maybe to hear and understand things better,
18 I don't know.

19 Q. Is it right that after Mr Kral had explained
20 the situation, he was told to leave the meeting?

21 A. Mr Kral was told to leave the meeting after I tried to
22 explain to the Premier that the board is not bound to go
23 by any obligation that the government has made and that
24 is when the Premier stopped me in my presentation and
25 asked -- because I, during my presentation had asked for

1 Mr Kral to be present during my presentation.

2 The Premier stopped me in my presentation and asked for

3 Mr Kral to leave the room.

4 Q. But in any event, at an early stage in the proceedings,

5 Mr Kral left?

6 A. That is correct.

7 Q. Then do you agree this, that Mr Hanchell, after Mr Kral

8 had left, was asked to explain the position and explain

9 that the government regarded the dock project as quite

10 separate from the development plan for Salt Cay. Do you

11 remember him saying that?

12 A. I don't recall as clear as that, no.

13 Q. The Premier agreed with that.

14 A. As I said, things were not said as clear and frank as

15 you are putting it. It was a very heated discussion.

16 SIR ROBIN AULD: It was a very what discussion?

17 A. Heated and angry discussion.

18 MR FITZGERALD: Can we deal with this, is this right, that

19 Mr Clerveaux was then asked to speak and he said that

20 the Department of the Environment thought that the best

21 location for the dock was to position the dock next to

22 the White House; do you remember him saying that?

23 A. Yes.

24 Q. So he was really saying as far as the Department of the

25 Environment is concerned, the best place is near

1 the White House?

2 A. Yes, he was referring to his memo.

3 Q. The reason for that was that there was already an impact

4 on the marine life in that area, whereas if it was put

5 in the south, it would be interfering with the marine

6 life near a diving site?

7 A. That may have been his explanation.

8 Q. So you don't dispute that. Is it right that he also

9 said that the DECR had not supported your claim at the

10 December 17th meeting and was not in support of your

11 position at the December 17 meeting. Do you remember

12 him saying that?

13 A. I do not recall him saying that because

14 the monitoring -- scientific monitoring officer at the

15 meeting of the 17th, I think it was, did indeed and he

16 said specifically that the Department of Planning had

17 done a very comprehensive review of the environmental

18 impact statement and that he supported our position.

19 Q. He said that he had never said anything to the effect --

20 A. He could say he did not say it, but his monitoring

21 officer did say it. He had no command at that meeting.

22 Q. Mr Clerveaux was there?

23 A. He was there, and he said he had no command himself, but

24 his assistant at that meeting, the scientific monitoring

25 officer, did at the time, it is minuted he supported our

1 position.

2 SIR ROBIN AULD: What was his or her name?

3 A. Marlon Hibbott(?).

4 MR FITZGERALD: Can I get this straight with you: you accept

5 that all long Mr Clerveaux had regarded the best site as

6 being near the White House on the north? That was his

7 position?

8 A. Mr Clerveaux said that he supported the dock being on

9 the north in his memo, but he list a number of very

10 important matters that needed to be addressed.

11 Q. But so the memo that he had prepared for

12 the December 17th meeting supported the White House

13 location, but pointed out that things needed to be

14 addressed?

15 A. Pointed out that very important things needed to be

16 addressed.

17 Q. That is right, is it, he did support the White House

18 location?

19 A. He has always maintained that he had no objections to it

20 being in that location.

21 Q. Is this right, that he was saying, look, my memo should

22 have been distributed at that meeting on 17th December?

23 SIR ROBIN AULD: At which meeting was he saying this?

24 MR FITZGERALD: On the 9th he was saying: look, my memo

25 should have been available to all those who were present

1 on 17th December.

2 A. His memo was read in full to the board at that meeting.

3 Because it was a part of my report to the board. It was
4 a part of my findings in the EIA, and he and all the
5 other persons responded to the statement was attached to
6 my report, my findings on the EIA.

7 Q. What Mr Clerveaux says is that at this meeting with
8 the Premier on the 9th, Mr Colin Williams then said that
9 he had not been aware of the DECR's decision?

10 A. Sir, Mr Colin Williams was not present at the
11 17th December meeting. I find it strange in here that
12 Mr Clerveaux also is referring to Mr Colin Williams on
13 page 45, that Colin Williams then informed the meeting
14 that he was not aware of the DECR's position on the
15 matter as written -- as a written comment, when Mr Colin
16 Williams, as you will check the minutes, he was not at
17 that meeting.

18 Q. He may have meant that he had not been informed of the
19 position before the meeting?

20 A. He had a copy of the agenda, of which you will see that
21 my report to the board is included in that agenda.

22 Q. Can you just help us on this: is this right, that
23 Mr Clerveaux put the position clearly at this meeting on
24 the 9th that the environmental evidence supported that
25 the dock should be placed on the northern location as

1 opposed to the southern location?

2 A. Yes, the board at the 17th meeting had full

3 understanding of all implications of that dock, left and

4 right and centre, and they came out with their decision

5 of recommendation or refusal.

6 Q. Do you remember at this meeting with the Premier another

7 member of the board saying that after hearing

8 Mr Robinson's presentation, we, the planning board, just

9 rubber-stamped and denied the project? Do you remember

10 somebody saying that in the meeting with the Premier?

11 A. I do not recall that but I make recommendations to

12 the board. I don't make decisions. The board have

13 a right to make whatever -- if they want to call it

14 rubber-stamping, that is their problem.

15 Q. I am just really concerned with whether that statement

16 was made --

17 A. I don't recall that statement, no.

18 (10.45 am)

19 Q. Now, this is right and I think we agree on this much,

20 that the question of what to do next came up, is that

21 right? What do we do in the light of the fact there is

22 the Department of the Environment saying the White House

23 is the best location; there is you saying that the best

24 location is the -- is not there but on the south side

25 and there is a conflict?

1 SIR ROBIN AULD: Was that the recommendation? The thrust of
2 the recommendation was that further study was needed,
3 wasn't it?

4 A. That is correct.

5 SIR ROBIN AULD: Before a decision was made.

6 MR FITZGERALD: Were you in favour of it being ever on the
7 White House side?

8 A. My recommendation clearly stated that it should be to
9 the south of the island.

10 Q. You described the White House location as preposterous,
11 so it was not a question of after a bit more study we
12 might do it; it was it is preposterous to put it there?

13 A. I gave -- out of the environmental impact assessment --
14 statement that I read and the DECR's comments,
15 the director of the DECR stated that he participated in
16 the EIA, meaning that he helped write it and helped with
17 the assessment, and then he goes on, how could you
18 involve yourself with something, prepare it and still
19 write extensive notations of things that are missing?

20 Q. That very often happens, is that you have
21 an environmental impact assessment and it needs a bit of
22 fine-tuning but that doesn't mean you don't approve
23 the -- you don't give the go-ahead, does it?

24 A. No, he highlighted intrinsic issues which was number 1
25 that there was no consideration referring to cultural

1 resources assessment, which involves many things,
2 including the terrestrial environment, the built
3 environment, the cultural environment, the inland
4 environment was not part of the impact assessment.

5 Q. You accept that by the time of 9th January, he was
6 saying quite categorically this is the way forward, we
7 should site it on the north side?

8 A. Who is saying that, sir?

9 Q. Mr Clerveaux. He was quite clear that it should be
10 sited on the White House side of the island?

11 A. He has always maintained that.

12 Q. So whatever the further fine-tuning, that was his view,
13 that that is where it should be approved?

14 A. He was maintaining that regardless of the consequences.

15 Q. Is this right, that it was you who said in the light of
16 the new information, it will have to be taken back to
17 the board?

18 A. I, after all of the arguments at that meeting, I was
19 asked by the Premier something to the effect as to what
20 do we do? How do we move forward? And Mr Garnett Jolly
21 almost simultaneously said: how do we resolve this
22 matter.

23 Q. You said it will have to go back to the board?

24 A. No, I stated two things, unequivocally. I said, number
25 1, I said you can forward the recommendations to Cabinet

1 along with the recommendations of the minister and
2 Cabinet must make its decision. That was the number 1.
3 That is the procedure requirement. Secondly I said and
4 I can quote: I am not a lawyer, but I can inquire
5 whether I can reconvene a meeting for the board to
6 reconsider its position.

7 Q. Mr Robinson, I am not trying to be unduly controversial
8 but it is important, you accept then that the first
9 person to even suggest the board reconvening as
10 a solution was yourself?

11 A. I was asked a question by the Honourable Premier and
12 I answered it.

13 Q. Yes, but no one else had said they must reconvene before
14 that; it was you who said that is a possible way
15 forward?

16 A. I don't recall anyone else asking about -- the Premier
17 asked me and (inaudible) one member of the board about
18 the way, the options -- I initially -- the first thing
19 I said was to take the recommendations of the board
20 along with the recommendation of the minister to
21 Cabinet.

22 Q. Of course Cabinet could have overruled the decision --
23 they could have just not followed the advice, couldn't
24 they?

25 A. Cabinet would have made their decision. The board was

1 making a recommendation.

2 Q. Absolutely. They could have just said: thank you for

3 your recommendation, we disagree.

4 A. The minister could have said that.

5 Q. He would have had to take the decision in Cabinet

6 because of section 44?

7 A. The minister could have made his recommendations to

8 Cabinet, as despite what the board said, he could order

9 the application to go the way he ordered it.

10 Q. Instead of which, you put forward this alternative,

11 which was that the board could have another meeting and

12 is this right, that members of the board said that

13 because they were there in Providenciales now, it would

14 be a good thing to have a meeting immediately?

15 A. No, I did not put an alternative. I was asked about

16 where do we go and I gave two options. And the last one

17 was: I am not a lawyer, you can consider whether ...

18 Q. After that, is this right, you said that looking at

19 page 37, you said yesterday that you were present when

20 that memorandum was drafted?

21 A. I said that I walked into the room when this was

22 drafted. It is quite normal whenever it is

23 an extraordinary meeting convened that the planning

24 Secretariat is where these things are drafted.

25 Q. So there were four members of the board supporting

1 an immediate meeting and the Vice Chairman obviously had
2 been contacted and was summoning a special meeting, is
3 that right?

4 A. I assume so because that is what the planning
5 Secretariat had informed me of. Yes.

6 Q. Really, the long and short of it is that it was at no
7 stage the case that the Premier instructed anybody you
8 must hold a special meeting this afternoon?

9 A. No, I am unaware of the Premier instructing anybody to
10 convene a meeting.

11 Q. And the decision was taken after you had outlined it as
12 a possible alternative at any rate, and after
13 the members of the board themselves had decided that
14 that was the way forward, is that right?

15 A. I was not there when they decided that that was the way
16 forward or whoever decided was the way forward, but
17 I was informed by the planning secretary of the board as
18 I was driving down the road that there would be a board
19 meeting in the afternoon.

20 Q. Do you know whether they themselves were able to contact
21 the Chairman at that stage?

22 A. I understand that, and I saw Mr Garnett Jolly was
23 the one who apparently came with the letter, and said
24 that the Chairman and these members were (inaudible).
25 He was finding was to -- knew where the Chairman was and

1 was to find him.

2 SIR ROBIN AULD: I am not clear about your answer there.

3 Could you say it again there, please.

4 A. Apparently it was Mr Garnett Jolly who knew where the

5 Chairman was and was to contact him and find him.

6 MR FITZGERALD: Mr Garnett Jolly was going to try to contact

7 him?

8 A. That is right.

9 Q. You don't know whether --

10 A. And apparently he had so because he -- the letter

11 clearly says to him, Vice Chairman, so he must have

12 known where he was.

13 Q. He must have known where the Vice Chairman was?

14 A. That's right, exactly, in the absence of the Chairman.

15 MR FITZGERALD: Yes. I mean, the position is that if the

16 Chairman is unable to attend, then the Vice Chairman

17 can --

18 A. That is correct.

19 Q. If four people ask him to?

20 A. That is correct.

21 SIR ROBIN AULD: This was 9th January. Your last meeting

22 was on 17th December. When in the ordinary course of

23 events would the next meeting of the planning board have

24 been?

25 A. There is usually a scheduled meeting the second

1 Wednesday of every month.

2 SIR ROBIN AULD: So within a matter of days there would have
3 been an ordinary meeting of the board?

4 A. That is correct.

5 MR FITZGERALD: Do you know whether in fact that schedule
6 was being adhered to on this occasion?

7 A. The schedule is usually adhered to. I don't recall on
8 this occasion. The schedule is adhered to unless the
9 Chairman at the end of a meeting say for various
10 reasons --

11 Q. Yes, because we don't see on the 17th them saying: we
12 will meet again next month on the 15th or anything like
13 that, do we?

14 A. I don't recall that, so maybe presume to stick to the
15 scheduled time. If they don't say anything, then we
16 stick to the scheduled time.

17 Q. Wednesday, the 17th wouldn't have been the second
18 Wednesday in December, would it?

19 SIR ROBIN AULD: It would have been Wednesday 14th, wouldn't
20 it? This meeting was on Friday 9th and there would have
21 been, if the norm was adhered to, an ordinary meeting on
22 the following Wednesday.

23 A. I presume so but the dates are set. I can check and see
24 when it was scheduled for.

25 Q. I am just looking back to the last one. It appears

1 there is some flexibility, because I don't think the
2 Wednesday the 17th would have been the second Wednesday
3 in the December?

4 A. If it is not a schedule -- if they did not state in
5 their earlier minutes that it would have been changed,
6 then we stuck to the schedule.

7 Q. You of course weren't present at this meeting on
8 the afternoon of 9th January yourself?

9 A. No.

10 Q. You can't assist us as to what occurred on that
11 occasion?

12 A. No.

13 Q. But just drawing back from this, it is quite normal for
14 the minister himself to summons you or want to speak to
15 you about a matter involving planning?

16 A. That is correct.

17 Q. So nothing unusual in that?

18 A. That is correct.

19 Q. Special meetings of the board do take place sometimes at
20 the request of developers who want to make a special
21 presentation. That does happen, does it?

22 A. That request is made to the board, and if it is
23 an extraordinary meeting, it usually is convened by the
24 Chairman and for the members of the board, yes.

25 Q. At no stage throughout this did the Premier dictate what

1 was to happen in terms of there being a special meeting?

2 A. I am unaware. I was not present to anything like that.

3 No.

4 MR FITZGERALD: I am obliged, thank you very much.

5 SIR ROBIN AULD: Any questions from the bar. Mr Milne?

6 Mr Misick, have you any questions?

7 MR MISICK: Yes.

8 Cross-examination by MR MISICK

9 MR MISICK: Mr Robinson, you have been with the planning

10 department in some capacity for quite a long time, is

11 that correct?

12 A. Since 1986.

13 Q. The DECR, Department of Environmental and Coastal

14 Resources, their function is more that of

15 an environmental protection agency, is that correct?

16 A. That is correct.

17 Q. So they are not there to promote development; they are

18 to protect the environment?

19 A. I assume so, yes.

20 Q. I want to ask you a couple of questions about

21 applications for private individuals because we

22 understand that this was a government application. But

23 in the case of an application by a private individual,

24 there is nothing wrong with the Department of Planning

25 discussing the application with the applicant before it

1 is submitted to the board?

2 A. No.

3 Q. And in case it then -- in fact it happens quite often?

4 A. That is correct.

5 Q. It is also the case, isn't it, that on occasions those

6 discussions may involve not only the applicant but also

7 others who might be objecting to the application, so

8 the board could be meeting with both sides to hear their

9 views?

10 A. Yes, we have had consultations with anyone making

11 representations, yes.

12 Q. On some occasions the board has invited applicants at

13 the board meeting to put forward -- to get a better

14 understanding, or for them to give a better

15 understanding of their side to the board.

16 A. Yes, for them to make representations to the board.

17 Q. In the case of -- because this was a government project,

18 there is no reason why any representative of the

19 government shouldn't have been afforded those same

20 opportunities, is that correct?

21 A. From the advertisements, no one made any representation

22 to the board.

23 Q. I see that, no one made a representation, but there

24 would have been no harm -- before I get there, this

25 application was made on behalf of the government by EMS,

1 that is engineering maintenance services?

2 A. That is correct.

3 Q. That is a government department?

4 A. That is correct.

5 Q. So they were the applicants on behalf of the government?

6 A. That is correct.

7 Q. So there would have been nothing wrong in EMS sitting

8 down with you and your staff prior to you making --

9 putting forward any recommendations to discuss a project

10 or the dock, whether from an environmental standpoint or

11 from any other standpoint?

12 A. That is correct.

13 SIR ROBIN AULD: Mr Misick, it may help you to know that

14 I see no problem in the proposition as a generality. It

15 is commonplace in similar planning jurisdictions

16 throughout the common law world. I think it is

17 the context here and how the meeting arose and when it

18 arose that really is the question of -- at issue.

19 The generality of these meetings is not, I think,

20 a problem for me to accept the propositions you have

21 been putting. It needs to be put in context.

22 (11.00 am)

23 MR MISICK: I do understand and hopefully I will -- I am

24 setting the stage for the meeting. If I go on too long

25 I am sure you will stop me again.

1 SIR ROBIN AULD: No, I would not dream of it for the moment.

2 MR MISICK: EMS -- can you tell me this, at what stage did
3 you compile your recommendation or had you completed
4 your review and came to a view that you would not --
5 that you would recommend that the decision be deferred,
6 because I think that was the effect of your
7 recommendations, not to say no or yes but simply to
8 defer the application until such time as the master plan
9 was completed; I think that was the effect of your
10 recommendations, is that correct.

11 A. Well, my report was circulated -- the agenda was
12 circulated to all board members on the Monday before
13 that meeting. It was circulated to all members on
14 the morning of the Monday and the meeting was held on
15 the Wednesday.

16 Q. At what stage did you come to that view, that the view
17 that you came to, to recommend a deferral?

18 A. Well, the EIA had been constantly reviewed and I had
19 also had a telephone conversation with Mr Alfred Smith
20 who indicated that the dock also involved a component
21 which he had concern with, which was the jetty and which
22 was to do with the -- clearly to do with the marina and
23 not necessarily the dock itself.

24 SIR ROBIN AULD: Who was Mr Alfred Smith?

25 A. Mr Alfred Smith, the engineer of EMS. Director of EMS,

1 sorry.

2 MR MISICK: At any stage did you tell the EMS that you were
3 going to recommend that the project not go forward at
4 this stage?

5 A. I was in constant review of the EIS and after going
6 through it thoroughly, completing it on Friday and
7 Saturday, I made my recommendations to the board.

8 Q. The question I am asking you is, did you ever, before
9 you submitted your recommendations to the board,
10 indicate to EMS that you were minded --

11 A. No.

12 Q. To recommend against it?

13 A. No.

14 Q. So we arrive at a set of recommendations which was put
15 to the board, the effect of which was that the dock was
16 not going to proceed and prior to that, there was no
17 indication given to anyone -- sorry, to the government
18 or anyone on behalf of the government that that
19 recommendation would be forthcoming?

20 A. That was my recommendation to the board. Or should
21 I say, my advice to the board.

22 Q. There was a time -- at least we know from documents
23 before the Commission that the Commission had written to
24 the Premier and to the Permanent Secretary in the
25 ministry of natural resources to suggest that

1 the Salt Cay development project, to the extent that it
2 had not had the benefit of any planning permission,
3 should not be allowed to proceed?

4 A. Pardon.

5 Q. The Commission had written to the to the department of
6 natural resources, the PS, suggesting that or seeking
7 assurances that insofar as no approval had been given
8 for the Salt Cay development project that the project --
9 that construction ought not to be allowed to proceed?

10 SIR ROBIN AULD: Not -- for the time being.

11 Q. For the time being, yes.

12 A. I am unaware of that. I know I had something from
13 Mrs Campbell asking about some applications that we had
14 to send to the Commission.

15 Q. Did she not communicate that to you?

16 A. I don't recall the explicit part of your statement but
17 not to proceed.

18 Q. Your recommendation was that it await the outcome of the
19 development plan, but if you turn to the actual decision
20 that was communicated, that is at page 36.

21 Do you see the last sentence in the first paragraph,
22 it says:

23 "After much deliberation the board decided to
24 recommend to the minister for planning that he recommend
25 to the ... Cabinet that planning application SA215 be

1 refused."

2 A. Yes, that is correct.

3 Q. So what was being communicated to the

4 Permanent Secretary was not that the application was

5 going to be deferred but that it was going to be

6 refused?

7 A. That is the board's decision.

8 Q. So the decision was to refuse and not to defer, is

9 that --

10 A. That is correct. That is the board's decision to --

11 what they wanted to recommend to the minister, that to

12 recommend to Cabinet that the application be refused,

13 that is correct.

14 Q. Can I ask you this: as long as you had been in the

15 department of planning, can you tell us of any case, any

16 single case in which an application by the government

17 for development permission has been refused?

18 A. I would have to research that but I don't see

19 the relevance of that, because each application is dealt

20 with on its own merits. So it depends on the

21 implications of that application.

22 Q. I suggest to you that this is the first time in

23 the history of these islands that an application for

24 development permission by the government has been

25 refused?

1 A. That is of no significance to me, because it depends on

2 the type of application --

3 Q. I am not asking you about significance; I just want an

4 answer to the question. Are you able to tell us?

5 A. I cannot say that because I have not researched it to

6 find out that. I have not researched that.

7 Q. Would you like to do that and let us know?

8 A. I can do that, that shouldn't be a problem. But it will

9 have no effect on my recommendations to the board.

10 Q. I understand.

11 Now, the meeting --

12 SIR ROBIN AULD: Are you saying it is customary for Cabinet

13 and ministers to disregard the views of the planning

14 board if they don't like them?

15 MR MISICK: No, sir. My understanding, and this has

16 happened in successive administrations, is that

17 government projects of whatever nature quite often never

18 make it to the planning -- don't actually go through

19 the process. Now, I am not --

20 SIR ROBIN AULD: Is that so? I am surprised that they don't

21 have to go through a planning --

22 MR MISICK: They do have to, by law they have to, but I am

23 saying as a matter of practice, my understanding is that

24 quite often they don't, and even in those cases where

25 they do go, quite often it is the case that work is in

1 progress before the application is considered. It is
2 a rubber-stamping exercise.

3 SIR ROBIN AULD: That is a very serious situation if that
4 is --

5 MR MISICK: That is the case. So it is not -- it is clearly
6 not justifiable, but that is my understanding of what
7 has happened over the years.

8 SIR ROBIN AULD: If government doesn't like
9 the recommendations of the planning board, it just goes
10 its own way does it?

11 MR MISICK: No, it is not that if the government doesn't
12 like it, they go -- it never gets to the stage where --
13 it is a government project and they just get on and do
14 it.

15 SIR ROBIN AULD: That is even worse, isn't it?

16 MR MISICK: I am not justifying it.

17 SIR ROBIN AULD: No.

18 MR MISICK: But if that is an area you want to explore then,
19 I certainly think you would find that that is how things
20 have happened here.

21 SIR ROBIN AULD: Thank you very much.

22 MR MISICK: On this letter to Judith Campbell on page 36.
23 This is sent through --

24 A. Through Judith Campbell and myself.

25 Q. Sent through Judith Campbell to the minister?

1 A. Yes.

2 Q. The minister's case is that he never received this
3 communication?

4 SIR ROBIN AULD: This is Mr Hanchell, isn't it?

5 MR MISICK: Yes. What he did receive was your
6 recommendations and the -- and so I am clear about it,
7 he received your recommendations and the decision of the
8 board, the meeting, in January 2009.

9 A. That was sent separately. This was sent -- the decision
10 of the board was sent separately and it was also,
11 I think, sent in a separate package for the minister,
12 since I should have informed him when I send him
13 the whole decision along with my report and everything.

14 Q. So you send this to Mrs Campbell --

15 SIR ROBIN AULD: What are you holding up, just for
16 the record?

17 MR MISICK: Yes, page 36.

18 A. This was sent through -- for the attention of the
19 minister to the Permanent Secretary for the minister on
20 the same day of the meeting on the afternoon after
21 the meeting.

22 Q. You said you sent him separately your recommendations?

23 A. Again, the recommendations to the board and everything
24 I think was sent before. I think that was actually sent
25 from the Monday. The recommendations, there were

1 a number of packages sent. My recommendations to the
2 board was also sent to the Honourable Minister as well,
3 I think, on the Monday and also I sent this package --
4 this was sent by the secretary after the meeting of
5 the board to the Honourable Minister through
6 the Permanent Secretary.

7 Q. Do you recall getting a telephone call from the minister
8 in January?

9 A. I recall getting a telephone call from the minister
10 asking to re-send it to the secretary and to himself.
11 Whether he had checked with his Permanent Secretary as
12 to whether it was present is another matter.

13 Q. Did you remember getting a call from him asking about
14 the status of the dock?

15 A. The status of the Salt Cay dock?

16 Q. Yes, the government dock that was the subject of this
17 application.

18 A. I do not recall him asking about the status of the
19 government dock, but what I can assure you is this
20 communication was forwarded to the ministry on the same
21 day of the meeting, informing them -- as a matter of
22 fact, the whole statement again was present at the
23 meeting with the Premier on the morning of the 9th.

24 I can assure you, all of the documents were present
25 at the Permanent Secretary's office forwarded to the

1 minister, that I can assure you.

2 Q. In January?

3 A. Immediately after that meeting on the 17th. On the same
4 day of that meeting. This particular communication --

5 Q. You delivered it yourself?

6 A. The secretary to the board delivered it to
7 the Permanent Secretary on the same day of that meeting.

8 Q. To get back to my question, did you receive a telephone
9 call from the minister in January asking you about
10 the status of --

11 A. I do not recall that telephone conversation asking about
12 the status of that.

13 SIR ROBIN AULD: I may have misheard you, Mr Robinson, but
14 I thought you were, at least in the beginning of
15 an answer, said that you did receive a call from
16 the minister in January. Maybe you received lots about
17 all sorts of things.

18 A. I receive regular calls from the minister, but I do not
19 recall specifically maybe asking about this, because
20 this had already been sent on the same day, and if he
21 may have called it, may have been to ask to resend it,
22 I don't know, I can't recollect that. There would have
23 been nothing disingenuous about sending it again if he
24 did not have it, but I can confirm, I know for sure that
25 we delivered it to the ministry the same afternoon.

1 (11.15 am)

2 SIR ROBIN AULD: But Mr Misick's question is whether you had

3 an inquiry from the minister about the status of the

4 dock after --

5 A. I do not recall that particular conversation on the

6 status of the dock, and I received numerous calls from

7 the minister but I do not recall asking specifically

8 about the status of the dock.

9 Because it was all in writing as to what the status

10 of the dock is.

11 MR MISICK: Did you take notes at the meeting on

12 January 9th?

13 A. I may have taken notes, it wouldn't have been much.

14 Yes. I have here some notes.

15 Q. Perhaps you could have that copied.

16 A. Yes.

17 SIR ROBIN AULD: Would you like to get it copied

18 immediately?

19 MR MISICK: Yes. Can I have a look first?

20 SIR ROBIN AULD: If you would like to defer your

21 cross-examination about that while we have it copied?

22 MR MISICK: No, sir.

23 SIR ROBIN AULD: I shall have it copied anyway.

24 MR MISICK: Thank you, sir.

25 Now, you told us that you did not receive any

1 instructions from the Premier to call a meeting; is it
2 also the case that you received no such instructions
3 from the minister of planning, Mr Hanchell?
4 A. I did not. Which meeting are you talking about?
5 Q. On 9th January?
6 A. No, I received no such instructions to convene that
7 meeting.
8 Q. You say you didn't attend the meeting but your deputy
9 did?
10 A. That is correct.
11 Q. Was there any reason why the deputy attended and you
12 didn't?
13 A. As I said because of the atmosphere and my feelings
14 about that morning, I did not attend that meeting in the
15 afternoon.
16 Q. Did you tell the deputy -- your deputy that perhaps
17 the meeting should not be held at all?
18 A. I did not see any reason why the meeting in my
19 opinion -- the Chairman, the Vice Chairman in the
20 absence of the Chairman and four of the members asked to
21 convene the meeting. I thought that was perfectly
22 legitimate. I did not see -- so I did not offer any
23 objection to that.
24 MR MISICK: Thank you, sir. That is all the questions
25 I have.

1 SIR ROBIN AULD: I wonder, Mr Milne and Mr Misick, whether
2 it would be convenient to take an early mid-morning
3 break so that these notes can be copied and brought back
4 and looked at after the break.

5 MR MILNE: I was wondering that, sir, because it would seem
6 to me that Mr Robinson will wish to get away and it
7 would be inappropriate to let him go and have to bring
8 him back a further time.

9 SIR ROBIN AULD: If that is agreeable, we will break for
10 five to ten minutes and if you want to return to --

11 A. It is only one half a page.

12 SIR ROBIN AULD: Even so, we don't know what is in it, at
13 least I don't. Mr Milne, I think, doesn't.

14 MR MILNE: No.

15 SIR ROBIN AULD: We will adjourn for five to ten minutes
16 now.

17 (11.18 am)

18 (A short break)

19 (11.30 am)

20 SIR ROBIN AULD: Mr Misick, I gather we can go ahead?

21 MR MISICK: I have no further questions.

22 SIR ROBIN AULD: Thank you. Mr Milne, have you had
23 an opportunity to see Mr Clyde Robinson's notes of the
24 meeting of the 9th in the morning?

25 MR MILNE: I have, sir. They are quite a short document. I

1 am told by my learned friend that Mr Fitzgerald hasn't

2 had a copy yet.

3 MR FITZGERALD: I have seen what it says.

4 SIR ROBIN AULD: Let's just pause and see if Mr Fitzgerald

5 would like to ask any questions arising out of it.

6 Cross-examination by MR FITZGERALD

7 MR FITZGERALD: Mr Robinson, I think I put to you quite

8 plainly that the Premier was unhappy at the idea of

9 a government project being vetoed. You see the notes

10 there. It says words to the effect of "how could you

11 turn down a government project?"

12 A. Yes, and when I responded, that is when the other

13 gentleman was asked to leave the room.

14 Q. Yes, and in fact one sees from your notes there that any

15 part played by the developer was not even worthy of

16 being subject of a note?

17 A. I didn't write anything down, no.

18 Re-direct by MR MILNE

19 MR MILNE: Just this, Mr Robinson, from the tone of the

20 note, although it is not put in these words, it comes

21 across almost as: how dare you turn down the government

22 dock. Is that a fair characterisation of it?

23 A. That is a fair characterisation, yes.

24 Q. Thank you.

25 A. Can I also point out at the end where I have

1 the asterisk, that should actually be a question mark as
2 well rather than a statement.

3 SIR ROBIN AULD: You have characterised the whole tone of
4 the note, and I don't suppose there is any real quarrel
5 with that, but the first question as noted, I think it
6 would be right to have that as part of the record,
7 Mr Milne, so the exact note in that respect is reported.

8 MR MILNE: The exact words in the first question:
9 "How could a board turn down a government dock
10 (the Honourable Premier)."
11 Perhaps the first three important. The Honourable
12 Hanchell is mentioned next, and it just says:
13 "(meeting in two parts)".
14 Then the Premier:
15 "The dock is a government dock."

16 SIR ROBIN AULD: Thank you. This will be added to the
17 bundle.

18 MR MILNE: It will, sir.

19 SIR ROBIN AULD: And given a number?

20 MR MILNE: I would invite --

21 MR MISICK: 44A.

22 MR MILNE: That is in the section which lies at the back of
23 volume 7 in relation to that meeting almost at the very
24 end.
25 I have no further questions, sir.

1 SIR ROBIN AULD: Thank you, Mr Clyde Robinson, for coming to
2 give evidence and for making a return journey for
3 the purpose as well.

4 A. Thank you.

5 MR MILNE: Sir the next witness will be Mr Gary Lightbourne.

6 MR GARY LIGHTBOURNE (sworn)

7 Direct-examination by MR MILNE

8 SIR ROBIN AULD: Forgive me, Mr Lightbourne, for
9 interrupting the start of your evidence. I think it has
10 got to be 46 or maybe 47. We have got a 44 and a 45 and
11 a 46.

12 MR MILNE: It is to be a 44A, I think.

13 SIR ROBIN AULD: Well, 44A is in the middle of another
14 document.

15 MR MILNE: I beg your pardon, 43A. That is at the back of
16 red volume 7.

17 Good morning, Mr Lightbourne.

18 A. Good morning, sir.

19 Q. I apologise for the housekeeping from the last witness.

20 I won't need to trouble you with those documents.

21 In a few minutes we will be looking at some documents.

22 For the benefit of the Commission, rather than create

23 a new bundle, they are a discrete section within

24 the second volume of the Honourable

25 McAllister Hanchell's papers. They deal with Crown land

1 which was addressed with the Honourable
2 McAllister Hanchell. Mr Lightbourne has come to help
3 cast some light on a particular aspect of it in his
4 personal experience.

5 Mr Lightbourne, I think one matter needs to be set
6 straight and I want to give you the opportunity to do
7 that: you in your professional life I think have been
8 a boxer; is that correct?

9 A. Yes, sir.

10 Q. You were characterised, and I believe unfairly as
11 somebody who had never won a fight; I think your career
12 was much more successful than that?

13 A. Pretty much. I started out in the Bahamas back in 1980,
14 1989 and I was successful, becoming
15 the Bahamas heavyweight champion for a number of years,
16 and later on back in 1981, Berbick was supposed to fight
17 Muhammed Ali and he started training in the Bahamas, and
18 he come and watch me work out, and he select me to be
19 one of his sparring partners and in the event of that we
20 trained and we trained in the Bahamas, and he was
21 successful, being the last man to beat Muhammed Ali.

22 SIR ROBIN AULD: You can be sure I shall be very respectful
23 to you.

24 MR MILNE: I think you have now -- you are some years
25 retired from the boxing world, is that correct?

1 A. Yes, sir. Later on from that I moved to Canada and
2 I boxed in Canada for a little bit, box amateur and
3 there I had some people from New York come to Canada and
4 they checked me out and invited me to come to New York.
5 So I went to New York in 1983 where I started training
6 up in New York and I was looking around. I had
7 a selection of promoters to select from which is Butch
8 Lewis, Don King and Bob Arum(?) and I chose Top Rank.
9 The result is that I signed a five-year contract
10 with Top Rank, and I start boxing out of New York and
11 Atlantic City.
12 I was successful in my first 13 fights. I lost
13 the 14th one. I lost the 14th fight, and from there
14 I went on to Vegas, I lived in Vegas for 12 years.
15 Q. You are a native Turks & Caicos Islander, is that right?
16 A. Yes, sir.
17 Q. By virtue of that you are a Belonger?
18 A. A Belonger, yes, sir.
19 Q. Did there come a point when you returned to the Turks &
20 Caicos Islands to live full-time?
21 A. Yes, sir, I returned in 1992.
22 Q. I think you are better known these days for running
23 a limousine firm, is that correct?
24 A. Yes, sir.
25 Q. I am going to come back to your career in a few minutes'

1 time, because there was a period when you worked

2 directly for the Premier?

3 A. Yes, sir.

4 Q. I am leaving that for the moment. I need to deal

5 firstly with issues in relation to land because they go

6 back some way.

7 A. Yes, sir.

8 Q. We have been provided with a number of documents and

9 I am not going to take you through all of them because

10 I think we can summarise them relatively briefly. It

11 has been pointed out that you have, as have many other

12 Belongers, on occasions in the past applied for

13 conditional purchase leases with a view to getting

14 parcels of land, initially for residential purposes to

15 build a house.

16 A. Yes, sir.

17 Q. And, sir, we have the page numbers if we need them, but

18 it is clear from the documents that were provided that

19 applications were made in 1998 --

20 SIR ROBIN AULD: Just identify the bundle reference.

21 Q. It is page 118 within this bundle, and that was

22 an application in January of 1998. Indeed, at pages 121

23 onwards, you in fact accepted that. It was a parcel in

24 the 60900 area for the purposes of a house. Do you

25 recall that?

1 A. 6?

2 Q. 60900/220?

3 A. You know I never accept it because the location I was

4 trying to -- I applied for land in Chalk Sound and

5 I think they given Leeward and the response to that,

6 I never follow up on it; I never take the offer and you

7 had a certain time to follow through on the offer so

8 I never take the offer.

9 Q. There were other applications made and these are not

10 the ones that concern the Tribunal. These are dating

11 back to 1999 and the year 2000. The one that I am

12 concerned about though is as follows, that you first

13 made an application for a commercial CPL?

14 A. Yes, sir.

15 Q. The paper that we have on that is our page 128. That

16 was an application for a commercial CPL?

17 A. Right.

18 Q. The plot number was 60809/48?

19 A. Yes, sir.

20 Q. I think the application form described it as commercial

21 entertainment?

22 A. Yes, sir.

23 Q. What was the nature of the application?

24 A. For a gym and a nightclub. Me and my brother was

25 looking to set up a gym and a nightclub.

1 Q. Another -- you made a further application. This
2 specifically for a gym. We have that at page 114.
3 Forgive me, sir, you are coming new to our bundles.
4 These are actually rather complicated because a lot of
5 papers are put in. It is not near the beginning
6 although it is a big bundle. If you go to the very back
7 and work your way forward to page 114, you will find
8 there is a section in there which has its own numbering.

9 We are looking at page 114 in the final section of
10 that volume. It might assist actually if the secretary
11 flicks through it because he knows this volume rather
12 better.

13 A. Okay.

14 Q. Mr Lightbourne, that obviously is a document that
15 appears to be an application for a conditional purchase
16 lease. This one is in fact Chalk Sound area and
17 the intended use of the land which is in the middle of
18 the page, gym and sports complex. About halfway down
19 the page. Intended use of land. It is not a very good
20 copy, I am afraid, but it says gym and sports complex.
21 Do you have that?

22 A. Gym and sports complex, I think I never applied for no
23 land in Chalk Sound for a gym and sports complex.

24 Q. With this document, is that your signature, do you
25 think?

1 A. Yes, sir. It is my signature.

2 Q. It may be that somebody has filled in further details

3 there that you had not written in?

4 A. No, I didn't -- I have not write this out on the top.

5 Q. Do you remember making that particular application at

6 114?

7 A. For the gym in Chalk Sound?

8 Q. Yes.

9 A. No. Not for the gym in Chalk Sound.

10 Q. What was it you wanted in Chalk Sound?

11 A. I needed a residential piece of land in Chalk Sound.

12 (11.45 am)

13 Q. I am going to take you to a further document in that

14 bundle. There came a point where you made a further

15 application and if we turn back to page 98, so it is

16 a few pages before then. This is a later document.

17 I am afraid these documents have arrived at various

18 different times. They are not in chronological order.

19 This one is a later document, 26th February 2004.

20 Again, this is -- it is written out. Is that your

21 handwriting throughout most of the document?

22 A. What, 98?

23 Q. Looking at most of the writing on there, is that your

24 handwriting? I am afraid I don't know your -- the style

25 of writing, sir.

1 SIR ROBIN AULD: This is another gymnasium, another
2 commercial gymnasium?
3 A. Right, what happened, every plot that I applied for,
4 I went to the land department, and I speak with
5 Cecil(?).
6 SIR ROBIN AULD: Is this your application? The last one
7 wasn't.
8 A. Cecil Ingram(?). I spoke to Cecil Ingram and he would
9 direct me to which plot is vacant that someone had seen
10 it, man, you should apply for it, right, because
11 the previous plots that I applied for was -- I did
12 the same thing. So nothing ever come of it. I never
13 see or hear anything from it so therefore I applied
14 for -- I re-write the application and try to get another
15 plot.
16 SIR ROBIN AULD: Was this your application for a commercial
17 gymnasium, this time I think in Providenciales?
18 A. Everything I apply for is in Providenciales.
19 SIR ROBIN AULD: The last application document we looked at,
20 you said wasn't yours, you didn't apply.
21 A. I didn't -- not for Chalk Sound.
22 SIR ROBIN AULD: The document at page 114, you said that was
23 not your application.
24 A. That was not my application --
25 SIR ROBIN AULD: But this one is.

1 A. This one here.

2 MR MILNE: So that is page 98. That is your application.

3 A. June 22nd 1999?

4 Q. I am looking at page 98, sorry?

5 A. What are you talking about, the June 22nd 1999? That is

6 what you were talking about?

7 Q. No. The one I am looking at at present is page 98 at

8 the bottom right-hand corner. The date on this is

9 26th February 2004.

10 It may be, Mr Lightbourne, we can take it rather

11 more shortly because it appears from this -- you have

12 been quite persistent. It has obviously been

13 an ambition of yours to be able to set up a boxing --

14 A. A gym, yes.

15 Q. Given your professional sport background, it is

16 an obvious line to pursue. Cutting to the chase, did

17 you ever get an allocation of land to build a gym?

18 A. In 2004, the Chief Minister, I used to be the driver and

19 the cook, the work-out guy, everything, and he --

20 I would tell him about the gym. He gave me a piece of

21 land up here on the Grace Bay area, which is 0.62 of

22 an acre.

23 SIR ROBIN AULD: He gave you a piece of land in Grace Bay,

24 the Chief Minister?

25 A. Right, 0.62 acre. It says for gym, for boxing gym.

1 When I received the letter from him, I drive him there,
2 and I told him, I say this piece of land ain't good for
3 a gym. Two words, it was on the water, one, it was on
4 the water, two, it was not big enough; and you know, if
5 it was on the water, I would not mind. It was under
6 the water.

7 I told him, I say, you know what, I don't want this.

8 I told him I didn't want it.

9 SIR ROBIN AULD: Was he giving you a piece of his land?

10 A. No, he was giving me a piece of government land but it
11 was underwater, it was flooded and I told him I didn't
12 want it. Because number 1 it was too small, number 2 it
13 was too -- it was underwater. That was like --
14 the letter that I get from him was done in 2004 and this
15 was like 2005 when I drive him, when it was underwater.
16 I drive me and him and Mark, I drive him across there
17 and I say: I didn't want this land, this land ain't good
18 for a job. Number 1, when you are building a gym you
19 need parking space, so it was 0.62 of an acre, and it
20 was under the water at the time. You need a boat to get
21 there.

22 Q. I think the letter that you are talking about, we have
23 in our file, and if you look towards the very back, it
24 is the last but one page, page 140.

25 A. I know, I look -- almost a photographic memory, so.

1 Q. This document says that following your application for
2 a CPL, the parcel was 60809/150, they had considered and
3 approved the request for that?

4 A. That was 2004.

5 Q. 2004. This is September 2004?

6 A. September 2004. And I -- I receive it, I think from
7 Mark in 2005.

8 SIR ROBIN AULD: This is a letter from the Chief Minister's
9 office. It is signed by Lou Selver, Undersecretary,
10 natural resources, and it is of 7th September 2004. Who
11 is Mark?

12 A. Mark was the person, was the Permanent Secretary for
13 the Chief Minister.

14 MR MILNE: Is that Mark Fulford?

15 A. Yes, Mark Fulford.

16 Q. I think after that in December of 2006, this is a month
17 or two before the most recent elections, did you receive
18 a further letter and we have this at page 94 in that
19 section. This is a letter dated 6th December 2006?

20 A. I am familiar with it, very familiar.

21 Q. That letter is addressed to yourself in Providenciales
22 and it says:

23 "Application for commercial conditional purchase
24 lease on parcel 70300PT in West Caicos."

25 The letter comes from and is signed by

1 the Honourable McAllister Hanchell.

2 It says:

3 "Reference is made to your application for
4 a commercial conditional purchase lease over the parcel
5 we have mentioned in West Caicos."

6 It appears to be offering the grant of an offer of
7 2.2 acres on West Caicos. Had you ever applied for
8 commercial land in West Caicos?

9 A. No, sir, never.

10 Q. Did you want it?

11 A. Not at all.

12 Q. Was that the first time you had ever heard of this
13 apparent application?

14 A. The very first time. Could I break that down how I get
15 it?

16 Q. Yes.

17 A. I frequently would be at the airport. I was at the
18 airport and Honourable Boyce's husband come and say
19 Lillian want to see you, and when she saw me, she gave
20 me the envelope. Just like how she gave me
21 the envelope, I stuck it in my pocket, so I continued
22 with my chores and later on I opened it. I opened
23 the envelope, then I saw what it was, 2.2 --

24 Q. This was this letter we have here?

25 A. It was that letter.

1 Q. So it was actually handed to you by the Honourable

2 Lillian Boyce?

3 A. Right, it was handed to me by the Honourable

4 Lillian Boyce. What I did with the letter, I hold it,

5 right, I told my wife about it and then what I did

6 I give it to Honourable Derek Taylor. The reason I give

7 it to the Honourable Derek Taylor was because if you

8 look at the letter, it doesn't have the condition or

9 the lease on it. It doesn't, so I say, wow, these guys

10 desperate, you know. That is exactly -- I say these

11 guys desperate. I have been with the Chief Minister

12 since 2003. 2003, and I mean it was like pulling teeth

13 to get a piece of land, and all of a sudden there is

14 grants start popping up from everywhere.

15 Q. How did you view this offer in response to

16 an application that you had never made? What did you

17 see it as when you received it?

18 A. What I saw it, I saw it as election time and

19 I understand the game, so I see it as it was just

20 a game. I see it as an election game to -- I had left

21 them 2005 and it is now election time 2006. They know

22 my position at the time and I saw it was like they are

23 trying to cool him down, calm him down.

24 Q. In fact we see, and you mentioned this a minute ago, if

25 we look at the last paragraph of the letter, although it

1 refers to paying a survey fee, the letter actually says
2 the open market value, the freehold purchase price and
3 the annual rents are not available?
4 A. Right, that is the part that stuck in my mind the most
5 because I knew -- I had one of them before which was
6 the first one I really hold in my hand was, I think,
7 the one from the Premier in 2004.
8 Q. Did you ever take it up since this was an offer being
9 made to you?
10 A. No, I didn't, I didn't, I didn't.
11 Q. That is 6th December --
12 SIR ROBIN AULD: Before you leave it, Mr Milne, do we know
13 what happened to this parcel of land, 70300?
14 MR MILNE: The problem is, sir, is the notation is so vague
15 because it is a division, there is insufficient
16 information in that letter for us to say whether
17 somebody else was given it at a later stage, because it
18 is a very big block we are talking about.
19 SIR ROBIN AULD: Survey lots 42. Don't know what happened
20 to it. Thank you.
21 MR MILNE: Mr Lightbourne, that was 6th December. I am
22 afraid we are going to go through several more pages.
23 If we go further to the back of the bundle at page 139.
24 This was missed out earlier and has since been inserted.
25 You find at that page another letter addressed to

1 yourself. It is dated the following day, 7th December.

2 Again it comes from the McAllister Hanchell.

3 This one is, it says:

4 "In relation to your application for a residential
5 conditional purchase lease on a parcel at Proggins Bay
6 60300/2PT..."

7 Had you made an application for land at
8 Proggins Bay?

9 A. No, I never made an application at Proggins Bay,

10 I didn't even know where Proggins Bay is.

11 This piece of land was, one day I was at the airport
12 again, around December and I was getting a soda at the
13 soda machine and the Chief Minister drive up. He drive
14 up in his black and yellow jeep and he called me. I was
15 facing with my back to him and he say, Gary; and I say,
16 what's your problem besides me; and he say, man, come
17 in.

18 So I walk around the jeep and I put one leg -- he
19 say, man, come in the jeep. I put one leg in the jeep
20 and one leg out of the jeep and he gave me that.

21 SIR ROBIN AULD: That is the Chief Minister's driver?

22 A. No, the Chief Minister was driving himself.

23 SIR ROBIN AULD: Gave you the letter?

24 A. And he gave me the letter.

25 MR MILNE: So this was actually handed to you by

1 the Chief Minister.

2 A. It was handed to me by the Chief Minister.

3 (12.00 pm)

4 MR MISICK: The Chief Minister or the driver?

5 A. The Chief Minister, he was driving himself.

6 MR MILNE: Again for clarity, at that stage, this is in

7 2006, were you looking for any sort of residential --

8 A. No, I was not looking for anything.

9 Q. Did you see this in the same light that you had seen

10 the other one?

11 A. I saw it in the same light because I mean it was 2006,

12 they know exactly where I stand, they know exactly where

13 I stand leading up to the election.

14 Q. The wording at the end of this letter, very similar to

15 the previous one:

16 "No information on open market value, freehold

17 purchase or annual rents."

18 A. Right, so that is why I never paid no attention to it.

19 Q. And presumably you never took it up, is that right?

20 A. I never took it up.

21 Q. You have obviously a very firm view on these. Had

22 you --

23 A. Repeat that.

24 Q. You clearly formed a conclusion?

25 A. Yes, I did.

1 Q. Concerning the reasons for these. Had you personally
2 come across this sort of thing happening elsewhere to
3 other people?

4 A. Yes. I mean, I stay in the view a lot in the Five Cays
5 area, and I mean it was at election time that was like,
6 it was the thing. Because I say, boy, these guys
7 desperate. They was giving around -- they was out
8 giving papers like they was out of their mind. So
9 I formed that view on it.

10 Q. Mr Lightbourne, you have told us that you worked for
11 a while for the Chief Minister. I am going to go back
12 over that now if I could. Do you remember when it was
13 that you first started working for the Honourable
14 Michael Misick?

15 A. 2003.

16 Q. Was that before the election or around that time?

17 A. That was like around -- I tell you how I come to work
18 with him. In 2003 I was in Vegas and the Premier
19 happened to be in Vegas at the same time. I didn't know
20 he was in Vegas. I was walking from my hotel across
21 the Bellagio and I was walking through the Bellagio when
22 I saw him in the Bellagio and he was so excited to see
23 me. He just jump all over me and -- at the time I lived
24 in Vegas for 12 years and I had a rental car, so he was
25 with his girlfriend then, Vanessa Hutchinson, and

1 I offer him to take him around Vegas. I took him
2 around, me and him drive around, and me and him and
3 Vanessa drive around and I show him and introduce him to
4 a couple of places, to a couple of people. I say, man,
5 I say, if you become the Chief Minister, I say this is
6 what you need to do for the kids.

7 So I was showing him a couple of buildings. I took
8 him to the Sugar Ray Leonard sports complex, and I said
9 this will be the perfect thing to start off. I say, if
10 you are looking for advertising, I say, man, the perfect
11 advertising is to have a few kids in sports and
12 travelling around the world, and I think that would
13 bring perfect advertising for the Turks & Caicos.

14 Q. Were you suggesting he build something like that in
15 the Turks & Caicos?

16 A. Right, I have a suggestion. I say if and when you
17 become the Chief Minister, I said that is what we need
18 to do for the kids. I stated, I say if I had the same
19 opportunity that I would like to see for the Turks --
20 I say I would be heavyweight champion of the world.
21 Because when I started boxing, I started boxing,
22 I already sailed for six years, sailed around the world
23 for six years, and I started boxing at the end of 1978,
24 and by that time I considering boxing kind of late.
25 Where I advanced so fast, I say, man, if I had

1 started this boxing, take for instance when I start
2 sailing, if I started boxing when I started sailing,
3 there is nothing in the world that would stop me from
4 being a heavyweight champion of the world. Because back
5 then, I went on to box with 16 world champions.

6 Q. Going back to the Premier, this was a proposal that you
7 were putting to him in Las Vegas?

8 A. That was -- that's what I tell him in Las Vegas.

9 Q. Obviously he recognised you. How long had you known him
10 before that?

11 A. I know when his Mom was pregnant. I know him from
12 a baby.

13 Q. Throughout his entire life?

14 A. His entire life, but what happened, in between I was,
15 when he was growing up, I went sailing in the 1970s, so
16 I went sailing from 1972 to 1978.

17 Q. When you knew him before he became Chief Minister, back
18 in the early part of the 2000 and that period, was he
19 a man at that stage who had the trappings of wealth?

20 A. I would not say he had wealth because when I met him,
21 when I start hanging with him, he rent a rental car.
22 First he had a jeep, everybody probably knew the maroon
23 jeep and it was mashed in the side. The maroon jeep was
24 mashed. So when he started the politics thing, they had
25 a rental car from Avis. That is the one I started out

1 driving. The rental car. The rental jeep from Avis,
2 and the jeep was rented for a long time until he get
3 the Eskali(?).

4 Q. So you became bodyguard. Were you driver as well?

5 A. I was his bodyguard, driver, cook, work-out man, I was
6 everything.

7 Q. So you did a lot of work for him by the sound of it?

8 A. I did a lot of work.

9 Q. Did that continue throughout his early years when he was
10 Premier, when he was Chief Minister to start with?

11 A. Yes, sir, that continued until 2005.

12 Q. So the period you would have been with him, 2003 to 2005
13 did you see any changes come about during that period
14 that gave you cause for concern?

15 A. I saw a lot of changes.

16 Q. What sort of changes were they?

17 A. Well, with my experience and my exposure, I travelled
18 with two world heavyweight champions before, before
19 I met with him and travelling with the Chief Minister,
20 I got to say he was always travelling under the radar.

21 Q. How do you mean?

22 A. When I say travelling under the radar, I mean we would
23 go places and as a government official, I always think
24 from one government official to the next, when you
25 travelling, the government on the other side should know

1 that you are coming there.

2 So it is like a port of call kind of thing. If you

3 leave here, you will be in contact with the government

4 over there or the high-profile people over there. This

5 only happened on a couple of occasions.

6 SIR ROBIN AULD: What only happened on a couple of

7 occasions? That he made his presence known?

8 A. Right, that he made his presence known.

9 SIR ROBIN AULD: Mostly you say he didn't.

10 A. Mostly he didn't.

11 MR MILNE: What was he doing on the trips when he was not

12 making his presence known?

13 A. Well, hanging out.

14 Q. Did it appear to be work or did it just appear to be

15 leisure time?

16 A. Well, it was leisure time most of the time.

17 Q. When you were travelling with him, how were you

18 travelling, was this on commercial air flights?

19 A. A couple of times on a commercial air flight and

20 a couple of times on -- a few times on private jet.

21 Q. We know that the government bought a private jet or

22 leased a private jet according to the Premier later on?

23 A. Yes, that was before my time, I mean, that was after my

24 time.

25 Q. That would be after the period when you were working

1 with him. But in the period up to 2005, you were
2 travelling on privately leased jets as well?
3 A. Yes, we travel on jet a couple of times, a few times,
4 and when we going to England, we will travel on
5 American Airlines.
6 Q. When you travelled, who would generally travel with you
7 and with the Premier?
8 A. Me and him and Mark.
9 Q. Again Mark Fulford?
10 A. Mark Fulford.
11 Q. During the time that you were with him, can you remember
12 now which countries he visited, which places?
13 A. I could tell you, I will start from up this way, some of
14 the countries that I visit with him.
15 Q. Just briefly if you could.
16 A. Briefly? Okay.
17 Q. I suspect there is a lot of information you could give
18 us over a long period of time --
19 A. I know where I have been, believe me.
20 Q. Just a snapshot really for us.
21 SIR ROBIN AULD: Please, this might be amusing, it might be
22 entertaining, but it is also very serious. Let's treat
23 this witness the way we treated all the others, please.
24 A. The first, we travelled to St Lucia, supposed to go to
25 Barbados, we went to Barbados, touched down, be there

1 for a couple of minutes and then went on to the
2 Dominican Republic. That was one trip on a private
3 plane.
4 We spent the night in Dominican Republic and then
5 come home the next day. I went to Cayman, went to LA,
6 went to Washington, went to England a few times, went to
7 Prague, went to Monte Carlo, went to Nice, went to the
8 Bahamas.

9 Q. You mentioned particularly Prague. We have heard
10 references to Prague. You probably know this. It has
11 come up before. When you went to Prague, first of all,
12 can you recall on that particular trip, was it just
13 yourself the Premier and Mr Fulford or was there anybody
14 else with you?

15 A. No, it was three of us.

16 Q. Just the three?

17 A. Three of us, yes.

18 Q. Did you meet anybody whilst you were in Prague?

19 A. No, as a matter of fact we met Mario in London.

20 SIR ROBIN AULD: This was in the 2003 and 2005 period.

21 A. 2005. Before -- as a matter of fact that is before

22 I leave.

23 Q. So towards the end.

24 MR MILNE: When you say you met Mario in London, was that on
25 your way to Prague?

1 A. No, what happened, there was -- in London they have
2 tourism, you know the tourist market thing that they
3 have every year, where all the countries visit.
4 Q. Yes, like a convention?
5 A. We was in London for that, and then we met Mario in
6 London. From there Mario invited him to Prague for
7 a football game. As a matter of fact it was one place,
8 and then it was -- I forgot the name, we land in one
9 place and then we land in another after.
10 Q. Getting from London to Prague, how did you make that
11 journey?
12 A. On a private plane.
13 Q. Whose private plane was that?
14 A. Mario.
15 Q. So Mario Hoffman's private jet?
16 A. Jet, yes.
17 Q. Had you ever met Mario Hoffman before that?
18 A. Yes, sir. I met Mario Hoffman in 1999. I know Hoffman.
19 In 1999 I used to run a taxi operation and Hoffman would
20 come to the airport and I pick him up. He bought
21 a house in Chalk Sound. I was living in Chalk Sound for
22 16 years. He bought a house in Chalk Sound and I would
23 take him there, take him to his house.
24 Q. So in fact you knew him from the Turks & Caicos
25 Islands --

1 A. Right, he in the Turks & Caicos, and later on he would

2 just hire my cab from time to time to take him -- to

3 take his family to Beaches at the time.

4 Q. Were you present when the Premier had particular

5 discussions with Mario Hoffman about projects or ideas?

6 A. Well, at one point I was present.

7 SIR ROBIN AULD: Before you go on, you referred to Beaches

8 there. What was it you said?

9 A. That is Sandals --

10 SIR ROBIN AULD: I know what it is. What were you saying

11 about beaches?

12 A. I used to take his family to Beaches from Chalk Sound,

13 to Beaches in my van.

14 SIR ROBIN AULD: Thank you.

15 (12.15 pm)

16 A. I will elaborate more on that because after that, Mario,

17 he bought a boat. He didn't know where to put the boat

18 down, so I been at his house a couple of times, he

19 didn't know where to put the boat down, so I would take

20 the boat and put it down in Discovery Bay and show him

21 how to come around to Chalk Sound.

22 So I know him a little bit.

23 MR MILNE: We were speaking a moment ago about projects that

24 you had been present when they were being discussed, and

25 you said there was one, I think.

1 A. There was one, yes.

2 Q. Which was that?

3 A. That was the casino.

4 Q. How did that come up in conversation? Who mentioned it

5 first?

6 A. Well the Chief Minister mentioned it first.

7 Q. Was that when Mario Hoffman was there? Were they in

8 discussion?

9 A. Yes, Mario Hoffman was -- and the conversation was

10 me, Mario and Gilly. Well, I am the back seat guy, and

11 I got my ears open so -- you can't stop from having your

12 ears open ...

13 Q. What was being suggested at that stage? What was being

14 discussed?

15 A. Well, a casino.

16 Q. Was there any proposal as to who would be involved in

17 the casino?

18 A. Well, in the conversation, would really come up in

19 the conversation then was, wasn't enough volume in

20 the Turks & Caicos for the casino because tourism is

21 only from, what, November to April and what come up is

22 like the native will have to be involved for it to

23 really sustain it in the Turks & Caicos Islands because

24 they had already had one casino here fold before.

25 Q. Was there any invitation extended to Mr Hoffman to be

1 involved in any way?

2 A. Well, at that stage of the thing they tried to ditch me.

3 Q. I am sorry, how do you mean?

4 A. Well, they tried to move away from me then. What Mario

5 did, they didn't even have a clue that I know Mario and

6 I played the same role Mario played. He act like he

7 don't know me, I act like I don't know him. And Mario,

8 when Mario saw what he was trying to do, Mario, we

9 always ride in -- we had two vans. So Mario and Mike

10 and Gilly went in the front of one van and they throw me

11 in the back with the driver in another van. So

12 when Mario saw that, Mario jump out the van that where

13 Mike and Gilly was and he come into the van where I was.

14 And he started questioning me, saying: what is up with

15 these guys.

16 SIR ROBIN AULD: Who started questioning you?

17 A. Mario. He said: what is up with these guys. All I said

18 was they cool. I leave it at that. I didn't entertain

19 the conversation. I say they are cool.

20 MR MILNE: Mr Lightbourne, we know, you have said, come 2005

21 you left the employment of the Chief Minister.

22 A. Yes.

23 Q. Why did you leave?

24 A. Well, I guess the reason I leave, I had enough at that

25 point and there was places I -- I didn't like the way

1 I had been treated to a point because we went several
2 places and these guys leave me outside, and I could
3 draw -- a guy with my experience and my exposure, I know
4 a lot of people, and take for instance we went to
5 the Grammys --

6 Q. These are the Grammy awards held in Los Angeles?

7 A. Right.

8 Q. Show business awards?

9 A. Right. We went to the Grammys and they hooked up with
10 this lady, her name was Marilyn Crawford and I mean,
11 the way Marilyn Crawford had him, it was like she sell
12 him the moon, the stars, the sun, everything, and had
13 them to believe they can get them all these tickets to
14 go to the Grammys. And we went there and was me and --
15 me, Mark, Mike and this lady named Nadine. So the lady
16 come over, three ticket, one for Mark, one for Piper and
17 one for Mike. We get to the Grammys, we stepping up,
18 I think -- this is funny. I think Mark get the tickets
19 for everybody. We get there walking up the red carpet.
20 I am clean as the board of health.

21 We get there, the guys look around and tell me I got
22 to stay outside.

23 SIR ROBIN AULD: So this is the three -- the Chief Minister,

24 did you say Piper, you meant Mr Hanchell?

25 A. McAllister Hanchell.

1 SIR ROBIN AULD: And Mark Fulford. They went in and you

2 stayed --

3 A. And they say I got to stay outside. So I started -- the

4 steam blow in my head, and I said, boy, I ain't staying

5 out here. I turn around and I look for a taxi, so I get

6 a taxi to go back to the hotel. When I jump in

7 the taxi, the taxi drive across this one hotel and

8 I went to jump out. Just as I jump out the taxi, I saw

9 a guy from BET, say: hey, Gary, what you doing up here,

10 say, you here for the Grammys. I say yeah. Say you

11 want two tickets, just like that. I pick up two tickets

12 on the street quicker than I could get from them guys.

13 I say: no, man, I am going back to the hotel. And

14 I went back to the hotel and I went to my room and

15 I just lay down there and around 12.30, 1 o'clock --

16 SIR ROBIN AULD: This was the break-up really between you

17 and --

18 A. No, this was -- I am just saying this is one of the

19 incidents that I am referring to.

20 SIR ROBIN AULD: It was one of a number of incidents where

21 you felt left out or pushed out, is that right?

22 A. Right. One of the incidents. So after the Grammys and

23 Mark tried to call me, he say, so he ring the phone,

24 I was not sleeping. He ring the phone and ring

25 the phone, I would not answer the phone. So around 4.30

1 in the morning, 4.30, Mark come back and he said, man,
2 he was calling you; I say for what, what he was calling
3 me for, and I just leave it at that.

4 Another incident, I am travelling as the bodyguard
5 and we went to Washington to
6 the National Prayer Breakfast. It was one time in
7 Washington and again everybody get a ticket. They got
8 about 157 different nations there. Everybody get
9 a ticket and that is another incident where they leave
10 me outside again. So after it happened I see everybody
11 went in, and I am standing outside looking stupid, and
12 I say, I went to the Secret Service, and after I went to
13 the Secret Service, I gave my situation and one of them
14 walked me in.

15 SIR ROBIN AULD: I don't want to stop you if you have got
16 something which really adds to the story. I can
17 understand your concern. There were a series of
18 incidents where you were put to one side, is that right?

19 A. Yes, sir.

20 MR MILNE: Was it shortly after that that you left
21 the employment of the Chief Minister?

22 A. Back then, no, the time I left was after we went to
23 Prague. That is when I really left.

24 SIR ROBIN AULD: After you went to Prague.

25 A. After we went to Prague and we come back here, that was

1 December 2005. That was November 2005.

2 SIR ROBIN AULD: Was there --

3 A. Because I left December 3rd 2005.

4 SIR ROBIN AULD: Was there a sort of final incident there in

5 Prague which caused you to do that or what?

6 A. Well --

7 SIR ROBIN AULD: I don't want the detail of it.

8 A. The two incidents that really caused me to leave, he

9 went from Prague to Nice. We fly from Prague to Nice.

10 SIR ROBIN AULD: What are you flying in?

11 A. In a private jet.

12 SIR ROBIN AULD: From where, where did you set out from?

13 A. From Prague.

14 SIR ROBIN AULD: But you have got to Prague, how did you get

15 to Prague?

16 A. We get from England. We fly from Miami to England on

17 American Air. We met Mario in London. We fly from

18 London to Prague. From Prague we spent a little time in

19 Prague and then we fly from -- let me get this straight

20 before we go any further -- before that happened with

21 Gilly, there was a flood that happened here in 2005.

22 There was a flood. So Gilly said to Mike --

23 SIR ROBIN AULD: That is Galmo Williams, is it?

24 A. Right. Gilly say to Mike: let's go home, man. So Mike

25 said to Gilly, he said: no, man, you go. Right, so

1 Gilly said to Mike: say, man, home in trouble. That is
2 when the flood, all the rain and stuff -- so Gilly said:
3 man, I am going home. He say: I am going home. And
4 Gilly made his reservation and left at 4 o'clock in the
5 morning. I wanted to go home to be honest with you.
6 I wanted to go home at that point because we was up
7 there, we wasn't doing anything, so I wanted to go home
8 and Gilly left at 4 o'clock in the morning and the next
9 day me and Mike took off and --

10 SIR ROBIN AULD: Still in the private plane or another
11 plane?

12 A. In another plane but a private plane, still on a private
13 plane. We was flying in a G4, G5.

14 SIR ROBIN AULD: Who provided that?

15 A. Mario. We fly it from Prague to Nice in a Citation.

16 SIR ROBIN AULD: It is a the name of the plane is it?

17 A. Yes, one of them a Citation jet and we spend
18 the night -- a night in Nice and we -- the next day we
19 leave from Nice and went to Monte Carlo. Drive from
20 Nice to Monte Carlo.

21 When we get to Monte Carlo he met with this one guy
22 and I always sit away from him when he have his stuff.
23 I sit away and stay out looking in. And the one guy,
24 he -- I was almost like a presentation, like, he said:
25 he used to box with Tyson. The guy get so excited when

1 I hear I used to box with Tyson, he said get him over
2 here. He say get over here. When he say get over here,
3 I get up from the chair and I went over there and he
4 start talking up. He say, oh, Tyson was here a couple
5 of weeks ago, so he started asking me some questions,
6 and me feeling out of place and in a little while I step
7 away again and later on we was moving out of there and
8 he, we was driving -- I think we was driving from here
9 say around -- from here to the Sands, from here to the
10 Sands and --

11 SIR ROBIN AULD: The Sands?

12 A. The Sands, right, and Mike tell me take a taxi.

13 SIR ROBIN AULD: You are back in Turks & Caicos?

14 MR MILNE: No, I think it is by comparison.

15 A. No, I am still in Monte Carlo.

16 MR MILNE: Just a short distance then.

17 A. Right, so he tell me take a cab. Him and the guy jump

18 in the car and he tell me to take a cab. So when we get

19 there, I just set off. And that part there, if you

20 going only around the corner, why should I take the cab?

21 I am the bodyguard. I got to keep an eye on him.

22 I leave it at that but I come back home.

23 SIR ROBIN AULD: So that was it, really, was it?

24 A. Yes, when I come back home, I just decided to -- said

25 I'm going on vacation.

1 SIR ROBIN AULD: How did you get home from Monte Carlo?
2 A. Well we fly back to -- we drive from Monte Carlo back to
3 Nice and fly from Nice to London --
4 SIR ROBIN AULD: These are commercial flights now, are they?
5 A. Right, fly from Nice to London and from London to Miami.
6 SIR ROBIN AULD: That was really it?
7 A. Then I come home and, when I come home this is like less
8 than a couple of days, then he gone again. He was
9 moving -- then he move with the other guy, the other
10 bodyguard and I apply -- I say I going on vacation.
11 I had enough. And I really quit but I say I go on
12 vacation.
13 MR MILNE: But from that point on, did you sever your ties
14 with --
15 A. Yes, I just completely severed my ties with everybody.
16 I just stopped going and around Christmas time they
17 bring Christmas presents and all that kind of stuff, and
18 I just never went and pick it up. I met him and he
19 said: man, I bring Christmas presents for you and you
20 won't even come and pick your Christmas present up; so
21 I just leave it at that.
22 MR MILNE: Mr Lightbourne, thank you very much. I am going
23 to leave it at that. There may be some more questions
24 from my learned friends.
25 (12.30 pm)

1 Cross-examination by MR FITZGERALD

2 MR FITZGERALD: If I can just make a start. I may have to
3 take instructions on one or two things.

4 Mr Lightbourne, just so we get the context, is this
5 right: that it was during the 2003 election that you
6 accompanied the Premier, is that right? 2003, the first
7 election which he won, you were accompanying him during
8 that time and I think also during the time of the court
9 cases that followed that?

10 A. Right, the court cases. As a matter of fact, I think
11 the court cases was for 19 days.

12 Q. Yes. You were really his companion during that time and
13 supporter if I can put it that way?

14 A. I was his supporter 100 per cent.

15 Q. Then after the election was won and the court cases
16 resulted in him becoming Premier, you were engaged, as
17 you say, his bodyguard, driver, assistant, if I can call
18 it that. All those things.

19 A. Yes, as a matter of fact, I got to say I was like -- me
20 and Mark was almost everything. Me and Mark and then
21 later -- during the course of the by-election, that is
22 when I bring Mills on, that is when I talk with Mills.

23 Q. Is this right, that you also were paid as a driver
24 because in fact after he became the Premier, he got
25 a police detail?

1 A. No. He didn't. As a matter of fact, he never get
2 a police detail until the day -- as a matter of fact
3 until 2005.

4 2005, the time when I

5 Q. Now, you have said that you left his service in 2005,

6 I think end of 2005, is that right?

7 A. Yes.

8 Q. Around the Christmas time?

9 A. December 3rd, because he went away and he was supposed

10 to come back December 14th.

11 He come back December 15th.

12 Q. Is it right that around that time, he had become engaged

13 to Lisa-Raye McCoy Misick who we have heard from?

14 A. He become engaged to Lisa-Raye after the BET thing in

15 August. That is the time he become engaged to

16 Lisa-Raye.

17 Q. So you knew her?

18 A. I know Lisa-Raye.

19 Q. Is this right, that she encouraged him to have

20 a professional trainer to get his body into shape, if

21 I can call it that?

22 A. You know what, that part I can't tell you because

23 when -- I can't tell you if she encouraged him.

24 Q. But he did do so?

25 A. I mean, as a matter of fact he did so after I leave.

1 Q. Is this right, you got upset because he engaged

2 a professional trainer rather than you?

3 A. No, I didn't. To be honest with you, I didn't get

4 upset, I was glad to get away. To be honest with you,

5 I was excited to get away.

6 Q. So you left his employment?

7 A. Yes.

8 Q. Is this right, you left him and you were on bad terms

9 with him then after that?

10 A. Well, I just cut him off.

11 Q. Is this right, you then, during the last election, gave

12 interviews and appeared on platforms for the opposition

13 against him?

14 A. You know what, leading up to that I was -- it was all

15 about the gym. I went out, set up an after-school

16 programme, it was after-school programme and was two

17 shows. I think it was -- it was two shows back then and

18 one was Dove Pinell's show and one was Shaun Malcolm

19 show.

20 I was supposed to go on Shaun Malcolm's show to talk

21 about the gym really, to help promote my gym, and then

22 he hear I was going on Shaun Malcolm's show, shortly

23 after that he was off the air. He was off the air.

24 Q. Can you just help me on this: is it right that you spoke

25 out publicly against him during the election, the last

1 election.

2 A. Yes.

3 Q. Did you appear on platforms for the opposition?

4 A. As a matter of fact I did, you know --

5 Q. And you spoke out and criticised him?

6 A. I did.

7 Q. So really you have become his bitter opponent, haven't

8 you?

9 A. No, I didn't become his bitter opponent. I was just --

10 I thought if you tell the truth, you don't have to tell

11 a lie.

12 Q. But you are his opponent, do you accept that?

13 A. Am I his opponent?

14 Q. Yes.

15 A. I would not say I am his opponent. I am just

16 a concerned citizen.

17 Q. A concerned citizen who was fed up at being replaced by

18 some other fitness trainer?

19 A. No, to be honest with you, I didn't want the dumb job in

20 the first place. Seriously I didn't even want the job

21 in the first place, because I had my own thing going,

22 believe me.

23 Q. Mr Lightbourne, I am not seeking to disrespect you in

24 any way. I am just trying to establish the facts.

25 In the matter, you felt slighted, you told

1 the Commissioner, because of being left out at the
2 Grammys and I think left out of the prayer breakfast?
3 A. I mean, if you travel -- my thing there when they start
4 doing that, I thought I was bigger than that, so I call
5 that disrespect. You know to get respect you got to
6 give respect.

7 Q. You have mentioned a trip to Prague. There was no
8 dispute that there was a trip to Prague. It is right
9 that he flew to London, I think you very fairly said, on
10 official business because there was a tourism market
11 show there?

12 A. Yes, sir.

13 Q. Of course tourism was his special area of development;
14 he was the tourism minister? You accept that?

15 A. Yes.

16 Q. He was in London and then flew with yourself and
17 Mr Hoffman to Prague, is that right?

18 A. Mr Hoffman and the pilot and Gilly.

19 Q. Is this right, that Mr Hoffman had a hotel business and
20 showed him some of the hotels that he had as well as
21 taking you, I think, to a football match?

22 A. You know, the football match we reached because we
23 reached there that night around -- we reached there in
24 the late afternoon time. Then we went to the football
25 game and then later on we fly from there to -- I forget

1 the other part of it.

2 Q. But Mr Hoffman was showing him that he was a serious

3 businessman who had hotel businesses. That was

4 the essence of what was going on?

5 A. Well --

6 Q. Would you accept that?

7 A. Well, with this part, right, I would say this, the part

8 in terms of Mr Hoffman showing him that, I would not --

9 because they leave me in the room and disappear.

10 So I can't comment on that. I would not comment on

11 that.

12 Q. The trip on to Nice, as I understand it, was yourself

13 and him and the PA, is that right?

14 A. No.

15 Q. It was yourself --

16 A. Just me and him.

17 Q. Then the return was by commercial flight through London

18 and then --

19 A. From Nice to London and from London to --

20 Q. Right. You have mentioned that there was some vague

21 talk about a casino being set up here with Mr Hoffman,

22 is that right?

23 A. Yes.

24 Q. Of course there had always been a casino in

25 the Turks & Caicos before that, hadn't there?

1 A. There has been one, but they demolish it, and then --

2 Q. That is where the Seven Stars is now, isn't it?

3 A. Yes, but they demolished that a while ago, a long time

4 ago. There was no casino at the time.

5 Q. All you can remember is some discussion about the idea

6 of having another casino here, is that right?

7 A. Based on what I heard, the conversation was initiated by

8 the Premier in terms of the casino.

9 Q. As far as you were concerned, that came to nothing.

10 There was no question of anything further being

11 discussed that you heard.

12 A. To that point there was no -- I didn't hear him say

13 anything else because at that time they just diss me.

14 Q. I don't know whether you can assist. In fact his

15 brother Washington then applied later for a licence from

16 the gaming board and did have a licence granted by

17 the gaming board. You are aware of that?

18 A. I am very aware of that.

19 Q. Sir, there are a number of matters which are mentioned

20 in the statement which the witness has not dealt with.

21 I don't know whether I can disregard them if they

22 have --

23 SIR ROBIN AULD: I do not think you can because as you know,

24 I receive evidence in all sorts of ways. I think

25 Mr Milne was trying to look to the essentials this

1 morning but if there is anything there that you feel you

2 need to challenge, I think you should do so.

3 MR FITZGERALD: Fine. In your statement, Mr Lightbourne, at

4 paragraphs 21 to 22, you talk about giving away

5 Belongerships to ensure they won the election. That is

6 to say the Premier and his party and his fellow

7 ministers were giving away Belongerships to ensure --

8 A. Yes, you know what because -- in terms of Belonger

9 status Mike met Mario 2005, 2005, and rumour has it that

10 Belonger status is being given away by the truck load.

11 And I have --

12 Q. You are not saying that the reason why people were given

13 Belonger status is so they would vote for the party and

14 they would win in that way? That is not what you are

15 saying?

16 A. No, I didn't -- I would not say they was given to vote

17 for the party, but I mean on the face of it, on the face

18 of it, there is the election, right? There is

19 the election and there is the years leading up to

20 the election and during that time this stuff wasn't

21 happening. Election time, and it is like running around

22 like your head cut off, trying to give this one, get

23 that one.

24 Q. We may have to look at the chronology of it, but you are

25 not saying anything particular about someone being given

1 a Belongership in order to vote for the party?

2 A. Look, no, I am not saying that.

3 Q. You are aware that in fact if you are given Belongership

4 status, you can't vote for 12 months after you have been

5 given that Belongership status.

6 A. I mean, at least that is what it is supposed to be. It

7 is supposed to be you can't vote for 12 months.

8 Q. You are saying that some of these people who were given

9 Belonger status then voted for the party before

10 the 12 months was up? That is it, is it? That is your

11 allegation?

12 A. Well, you know what, I would not say that is my

13 allegation.

14 SIR ROBIN AULD: You would or wouldn't?

15 A. I would not say. Rumour has it that it happened but

16 I can't say for --

17 MR FITZGERALD: So this is a rumour that you are repeating

18 in your statement.

19 A. Yes.

20 Q. Okay. In your statement you also refer to the fact that

21 Mr Hanchell replaced Mr Gilmore in 2006?

22 A. Yes, sir.

23 Q. Is this right, there was a reshuffle of ministerial

24 posts in 2006?

25 A. Well --

1 Q. Do you remember that?

2 A. Yes, I remember that very well.

3 Q. Mr Gilmore, I think, went to home affairs.

4 A. If you let me elaborate on that. Mike was in charge of

5 lands first. And the heat was on Mike about the land.

6 Mike passed it on to Gilly. After Gilly wasn't doing

7 what they wanted him to do with the land, then that is

8 how Piper get the land. Because I was there. And

9 I heard the conversation, even sometimes they might not

10 think I was paying attention but I paid attention.

11 Q. Is the truth of the matter that there was a re-shuffle

12 and that Mr Hanchell went to lands and Mr Gilmore went

13 to the home affairs?

14 A. Let me tell you what really happened. What really

15 happened, Gilly was in charge of land. Gilly wasn't

16 giving the land like they wanted him to. Mike and Piper

17 decide that they are going to take the land from Gilly.

18 Mike and Piper decide that they are going to take

19 the land from Gilly. They say Gilly acting like this

20 old Bob land, and old Bob is Gilly grandfather.

21 Q. You are just speaking out of spite now, are you not?

22 A. No, I am not speaking out of spite. I am speaking

23 because it is the truth. I told Gilly that. I told

24 Gilly that.

25 Q. The question of land, as I understand it, you are saying

1 that the first bit of land that you did get, is that
2 right, which was underwater, was given -- you are saying
3 it was given to you by the Premier?
4 A. Well, under his watch.
5 Q. Well, the truth is you made an application and you
6 received a small area of land, I think 0.62 acres of
7 land, is that right?
8 A. 0.62 acres, yes.
9 Q. So you made an application and your application was
10 successful and you got some land?
11 A. I made several applications, to be honest with you.
12 Q. I know, I appreciate that, Mr Lightbourne. But that
13 particular application, you got the land through
14 the normal process of applying for it and being awarded
15 it, is that right?
16 A. I got the land, I think, based on the application from
17 1999. I think the application that I applied for in
18 1999, I think --
19 Q. You made an application and you were granted that
20 application and you got the land, that is right?
21 A. I made the application and so they give me it ...
22 Q. Had you decided the bit of land you wanted to get?
23 A. When I applied for the land, you will see the plot
24 number there because every time -- when you apply,
25 I went through the normal process. When you apply for

1 a piece of land you have to put the plot number.

2 (12.45 pm)

3 Q. Had you put the plot number when you applied for it?

4 A. If you notice, you will see there is a plot number on

5 the application.

6 SIR ROBIN AULD: Just pause for a minute, just so

7 I understand this.

8 As I think I heard you say a moment ago, you made

9 an application in 1999.

10 A. Yes, that is the one that the land was -- and in 2004

11 come on there too.

12 SIR ROBIN AULD: That is what I want to -- related to or not

13 as the case may be. Is it as a result of the

14 application in 1999 that you say he gave you this plot

15 of land in 2004?

16 A. I think so.

17 MR FITZGERALD: Is it the lease parcel 60809/150? Is that

18 the land you got?

19 SIR ROBIN AULD: Can you remember the number?

20 A. I don't remember the number. I know the land is right

21 up here.

22 MR FITZGERALD: Just have a look at this, see if this is

23 what we are talking about. I understand it is in

24 Mr Hanchell's bundle at page 140.

25 SIR ROBIN AULD: That is the reference I have got for it.

1 MR FITZGERALD: Is that the land you are talking about?

2 A. Yes.

3 Q. Is this right, you applied for that plot of land --

4 A. You know what, I didn't apply for this plot of land.

5 I never applied for that. This land was underwater.

6 I never applied for that.

7 Q. You see what it says there, that you -- reference is

8 made to your application for a commercial conditional

9 purchase lease on parcel 60809/150:

10 "The Executive Council in its meeting considered

11 your application and advised that it approved your

12 request for 0.62 acres of parcel 60809/150."

13 A. As a matter of fact, that is the piece of land that

14 I drive Mike across to and I told him I didn't want it.

15 Q. But that was after you had been given it?

16 A. That is after they give me the thing. I drive him

17 there, me and him and Mark. I tell him, I say, because

18 the land was underwater.

19 Q. Can we just get this straight, you applied for a piece

20 of land, you got that piece of land and then you decided

21 you didn't want it? Is that right?

22 A. I did apply for the land and the result of that, that is

23 what I get.

24 SIR ROBIN AULD: Did you apply for this piece of land?

25 A. No, I didn't apply for that particular piece of land.

1 MR FITZGERALD: So you are saying that when they say
2 "reference is made to your application for a commercial
3 conditional purchase lease on parcel 60809/150", that
4 wasn't your application?

5 A. 6009?

6 Q. /150.

7 A. The piece of land where I get there?

8 Q. Yes.

9 A. The piece of land that they gave me, I told them

10 I didn't want it.

11 Q. You see, they refer to the fact that you have made

12 an application for that particular parcel of land and

13 that application is being granted. Do you accept that

14 you did make an application for that parcel of land?

15 A. I did not make an application for that particular parcel

16 of land.

17 SIR ROBIN AULD: There is no need for this. Surely

18 Mr Hanchell's department can produce the application if

19 it exists.

20 MR FITZGERALD: Okay. I hope so.

21 SIR ROBIN AULD: And Mr Ariel Misick who is sitting next to

22 you may be able to assist with that.

23 MR MILNE: Might I assist: we have a document at page 97

24 which is an application in April 2004. That is

25 an application for a CCPL on 60809/165.

1 SIR ROBIN AULD: This is not 150. What is the date of that,
2 Mr Milne?
3 MR MILNE: That, I believe, is 20th April 2004.
4 This allocation in July 2004 is for allocation
5 60809/150, which is a different parcel.
6 MR FITZGERALD: In any event, perhaps we can -- there seems
7 to be -- you made a number of applications around this
8 time.
9 A. I did. Because I mean, I just following up, after
10 I made one application, I never heard from it. I never
11 heard from the application, then I try again. Because
12 apparently like I will go to the land department and
13 I was working with Cecil very closely on this. So he
14 will let me know which piece of land is available.
15 Q. It is right you made a number of applications around
16 that time in 2004, is that right?
17 A. I am not aware that I made a number of applications.
18 Q. I can show them if you want to look at page 97 and
19 page 98 of the bundle, Mr Hanchell's bundle. Do you
20 have that there? It is in front of you.
21 SIR ROBIN AULD: We have looked at both of those.
22 MR FITZGERALD: You made those applications?
23 SIR ROBIN AULD: He has already said he made the one at
24 page 98.
25 MR FITZGERALD: Did you make the one at page 97 as well?

1 A. There is one that I didn't fill out. There was one
2 I fill out and one I didn't.
3 SIR ROBIN AULD: You did or did not make the one at 97?
4 MR FITZGERALD: Is it your signature at page 97?
5 Is that your signature there?
6 A. Yes.
7 Q. So you made both those applications?
8 A. I didn't fill this out.
9 SIR ROBIN AULD: You made both of them?
10 MR FITZGERALD: But did you sign it?
11 A. Yes, I signed it.
12 Q. If you look at page 114, did you sign that application
13 too? If you go on to page 114.
14 SIR ROBIN AULD: See what he says now.
15 MR FITZGERALD: Page 114.
16 A. This year --
17 SIR ROBIN AULD: Gym and sports complex.
18 MR FITZGERALD: Is that your signature there?
19 A. That is my signature but I didn't fill this out.
20 This -- that I didn't -- this, I didn't fill that out,
21 and I never asked for a gym in Chalk Sound because
22 Chalk Sound is a residential area and I never --
23 MR FITZGERALD: It doesn't say in Chalk Sound. It says
24 downtown. It applies for land in downtown. Is that
25 right? You signed that?

1 A. Right, in downtown, right.

2 Q. Did you make that application?

3 A. I applied for the (inaudible) in downtown.

4 SIR ROBIN AULD: I have already written on this, not your

5 application; you now, looking at it again, say it was,

6 do you?

7 A. Yes, this is the piece of land that I applied for

8 downtown. Sorry about that.

9 MR FITZGERALD: Is this what we can draw from that: your

10 memory is not too good about what you did and did not

11 apply for; is that right?

12 A. The downtown, because what I was looking at, where it

13 said Chalk Sound, that is why...

14 Q. But obviously your memory is not very good about what

15 you did or did not apply for, isn't it?

16 A. My memory is very clear. Very clear.

17 Q. Are you really saying that you are sure that you didn't

18 make any application for the parcel which you were

19 granted on 7th September, 2004?

20 A. On 7th September, this?

21 Q. That is at page 140?

22 SIR ROBIN AULD: The Grace Bay one. 0.62 underwater.

23 MR FITZGERALD: Turned out to be underwater. I am sure you

24 didn't ask for it to be underwater. Do you see

25 page 140? I showed you my copy of it.

1 A. Page 140?

2 Q. Yes, page 140 at the bottom. Do you see 7th September

3 2004. Chief Minister's office. Application granted.

4 Do you see that?

5 A. There is a letter here. What I am looking at is 140.

6 Q. Do you see a page 140?

7 A. Yes.

8 Q. Now, that is a letter dated 7th September 2004 saying

9 that your application for commercial --

10 A. Right. What I am saying -- what I am telling you with

11 this piece of land, right, this is the piece of land

12 that I drive the Chief Minister to --

13 Q. After you had got this letter?

14 A. After I get this letter.

15 Q. So not before, it was afterwards?

16 A. That is what I am saying after, I said that from --

17 Q. You went there afterwards and said --

18 SIR ROBIN AULD: Let him finish.

19 MR FITZGERALD: Sorry, sir.

20 A. That is what I said. After they gave me this letter,

21 I drive the Chief Minister there, me and him and Mark,

22 and I told him that -- he saw it was underwater because

23 we had to drive in the water to get there. Everything

24 was underwater. And that is why I told him, I told him

25 that, I said I didn't want it.

1 Q. So the reality was that the land that you were awarded

2 you found unsuitable? That is right?

3 A. Yes, sir, that is a fair assessment.

4 Q. It was not the case of the Chief Minister saying to you

5 beforehand: this is the land I have got for you. It is

6 a situation where you get awarded through the normal

7 process a piece of land and you don't like it?

8 A. I told that is exactly what I tell him when I -- I said

9 the piece of land is not suitable for a gym, the land is

10 underwater and I didn't want it.

11 SIR ROBIN AULD: Let's be clear. The evidence you gave

12 before, you have given the account you have now given

13 once or twice, but you say you never applied for this

14 plot. Is that the case?

15 A. Right, I never applied for this particular piece.

16 SIR ROBIN AULD: It may be that Mr Ariel Misick can help

17 about this. Mr Misick, if you apply for, is it like

18 applying for theatre tickets, if you apply for a plot of

19 land in a particular area and it turns out not to be

20 available, like as not you might be offered another one

21 like it or similar to it or near it? Is that

22 the system?

23 MR MISICK: That is correct. I think perhaps what he might

24 ask the witness is did he apply for a piece of land in

25 that area.

1 MR FITZGERALD: Mr Lightbourne, did you apply for a piece of

2 land in that area?

3 A. I applied for a piece of land up in that area, yes.

4 Q. You would not have gone and said: that is the bit

5 I want; you would have said: is there some land

6 available in that area, and then I --

7 A. What the plot number there, right, there was some land

8 on the corner, there was a lot of land vacant in that

9 area. In that area at the time.

10 Q. There may be some misunderstanding here. You may well

11 have applied for a plot of land in that area and been

12 awarded a plot of land which didn't suit you because it

13 was underwater; could that have happened?

14 A. It could very well have happened.

15 SIR ROBIN AULD: It sounds from what Mr Misick has just

16 confirmed that the practice then would be to allocate

17 you something as near as possible and refer to it in

18 this way on the letter as if you had made an application

19 for that particular plot.

20 MR MISICK: That is correct.

21 MR FITZGERALD: So really there is nothing out of the

22 ordinary in this at all, is there? You applied for

23 a piece of land, you get something nearby and you don't

24 like it. But that is all it is.

25 A. You could say I applied for the land in the area.

1 I applied for the land in the area, and I made it known
2 at the time when I received the letter,
3 the Chief Minister was in charge of land and I told him
4 I didn't want the land.

5 MR FITZGERALD: Sir, there is one more matter, but I need to
6 take instructions. Something new came up.

7 SIR ROBIN AULD: Why don't we break now and return at 2.05.
8 Before we do, Mr Misick, how long are you likely to
9 require?

10 MR MISICK: Probably no time at all.

11 SIR ROBIN AULD: Mr Smith?

12 MR SMITH: I just need to take instructions on one issue.

13 SIR ROBIN AULD: There is one small issue that you need to.
14 2.05.
15 (1.01 pm)
16 (The short adjournment)
17 (2.02 pm)

18 SIR ROBIN AULD: Mr Fitzgerald.

19 MR FITZGERALD: Yes, sir.

20 SIR ROBIN AULD: Have you any more questions?

21 MR FITZGERALD: Just this. Mr Lightbourne, you referred to
22 an incident in, I think it was December 2006, when you
23 say that you were at the airport getting a soda when
24 the Chief Minister drove up. Do you remember dealing
25 with that?

1 A. Yes.

2 Q. What you said was that he called you over, is that

3 right?

4 A. Yes.

5 Q. Then he gave you -- what did he give you?

6 A. He gave me the envelope.

7 Q. He gave you an envelope?

8 A. Yes, sir.

9 Q. Did he say anything apart from giving you the envelope?

10 A. He say: this is for you.

11 Q. You see, first the Premier has no recollection of giving

12 you an envelope in his jeep at any time.

13 A. Well, he never had no recall. He could say that but he

14 gave me --

15 Q. But he didn't say anything indicating he knew what the

16 contents were?

17 A. Well, what he said was a piece of land. He said it is

18 a piece of land for you.

19 Q. Hang on, we didn't hear anything about a piece of land?

20 A. No, I didn't say that, but when he gave me the envelope.

21 Q. I see, so now it is a piece of land?

22 A. I stuck the envelope in my pocket. He gave me

23 an envelope.

24 Q. He gave you an envelope, so -- at the airport?

25 A. At the airport.

1 Q. You stuck it in your pocket.

2 A. Right, I stuck it in my pocket.

3 Q. You are saying he said this is a piece of land?

4 A. He specifically said this is for you.

5 Q. So is all he said, this is for you?

6 A. Right. He gave me it and I stuck it in my pocket.

7 Q. He didn't say anything else other than this is for you?

8 A. Right.

9 Q. So he didn't say this is a piece of land?

10 A. No, he didn't say it was a piece of land.

11 Q. He didn't say that?

12 A. But when I open the envelope, that is --

13 Q. Well, I think all I can fairly put to you is that he has

14 no recollection of handing you an envelope at that time

15 at all?

16 A. Well, that is his recollection --

17 Q. And certainly that he never handed you knowingly

18 anything giving you an piece of land?

19 A. He did give me the envelope at the airport. I was at

20 the airport at the soda machine and getting a soda. He

21 say "Gary", and I -- without even looking behind I said,

22 "What's your problem besides me?" and he says, "Come

23 here, man", and he says, "Sit in the jeep", and he gave

24 me the envelope.

25 MR FITZGERALD: I have no further questions.

1 SIR ROBIN AULD: Mr Misick?

2 MR MISICK: None for me, sir.

3 SIR ROBIN AULD: That just leaves Mr Smith, doesn't it?

4 (Pause)

5 MS MISSICK: Sir, I will just pop out and see if I can

6 locate him myself.

7 SIR ROBIN AULD: I think an officer has gone to look just

8 now, but thank you for the offer, unless you think you

9 might be better informed.

10 MR FITZGERALD: Sir, there is actually one further question

11 I could ask while we are waiting. What did you do with

12 this letter?

13 A. I opened it.

14 Q. No, did you -- you talked about the other letter that

15 you handed to Derek Taylor --

16 A. I also gave Derek Taylor that letter too.

17 Q. Was that around that time?

18 A. It was around the same time when I give Derek

19 the letter.

20 Q. Thank you very much.

21 A. Because the two letters was just a couple of days apart.

22 SIR ROBIN AULD: We have to wait for Mr Oliver Smith who may

23 have some questions for you on behalf of

24 Ms Lillian Boyce, I imagine. (Pause)

25 I wonder if I can ask you to step aside for

1 a moment, Mr Lightbourne, and we will make a start with
2 the next witness but try to get you away as soon as
3 possible.

4 A. Thank you.

5 SIR ROBIN AULD: Yes, Mr Milne.

6 MR MILNE: May it please you, sir, the next witness is
7 the Honourable McAllister Hanchell.

8 HONOURABLE MINISTER MCALLISTER HANCHELL (recalled)

9 Direct-examination by MR MILNE

10 SIR ROBIN AULD: Thank you for returning, Mr Hanchell.

11 Mr Milne has a few more questions for you.

12 A. Yes, thank you.

13 MR MILNE: Obviously, Minister, you will be aware that you
14 are still under oath from the other day. This is simply
15 an extension of the questioning.

16 Two core points to deal with initially. We have
17 seen today a statement from you in which you say that
18 following evidence given by other witnesses to
19 the Tribunal, you now recall that you did pay \$40,000
20 for an investment in Windsor Investment Group?

21 A. Yes.

22 SIR ROBIN AULD: You say you have seen a statement from
23 Mr Hanchell?

24 MR MILNE: There is a short statement, sir, yes. I thought
25 you may have a copy of that.

1 SIR ROBIN AULD: I have not, but go ahead.

2 MR MISICK: There is an extra copy here if you like.

3 SIR ROBIN AULD: That is helpful. Thank you. You have

4 handed me a statement of Mr McAllister Hanchell dated

5 4th February.

6 MR MILNE: Yes, sir.

7 SIR ROBIN AULD: 2009. Supplemental statement.

8 MR MILNE: Supplemental statement.

9 Sir, the Commission will recall that the evidence of

10 Chalmers Misick on Monday, 26th January made reference

11 to Windsor Investment Group and when asked as to the

12 partnership within that, he stated that it was owned 10

13 per cent by each of the Premier, Deputy Premier and

14 the Honourable McAllister Hanchell, 70 per cent by

15 himself. To put this in context, Minister, we are aware

16 that the Windsor Investment Group has not issued formal

17 shares; that in fact the sole shares are held by

18 Chalmers Misick. Without being able to question him

19 further on this, we are assuming that he holds them

20 beneficially for the benefit of others.

21 When did you first provide him with money to take

22 part in this exercise in Windsor Investment Group?

23 A. 2004.

24 Q. Were you ever given any documentation?

25 A. No, sir.

- 1 Q. Have you had any correspondence with him about it?
- 2 A. No, sir.
- 3 Q. Did you ever inquire what had happened to your money,
4 the \$40,000?
- 5 A. No, sir.
- 6 Q. You knew that the money was designed to assist with the
7 purchase of the land which now holds the casino?
- 8 A. Yes.
- 9 Q. Presumably you knew also that the casino building has
10 been substantially rebuilt to serve its present purpose?
- 11 A. Yes.
- 12 Q. Were you aware that there had been borrowings in order
13 to fund that?
- 14 A. Yes.
- 15 Q. Did it ever concern you that you may have in some way
16 some liabilities for those borrowings?
- 17 A. No, sir.
- 18 Q. As far as you knew, who were your partners in this
19 venture, in Windsor Investment Group?
- 20 A. Chal -- the names that he just called.
- 21 Q. So you knew the Premier had a part in it?
- 22 A. I knew from 2004, yes, that we all get together to buy
23 the property.
- 24 Q. The Honourable Floyd Hall?
- 25 A. Yes.

1 Q. Did you ever discuss it with them?

2 A. No, sir.

3 Q. How did you become aware that they had a part in it, who

4 told you that?

5 A. The property was on the market and we wanted it to --

6 I can't remember which one of us came up with the idea,

7 when the property was on the market with the

8 dilapidated building, it used to be a nightclub, to buy

9 it and turn it into a nightclub, what it used to be,

10 that was my involvement. I thought it was a good

11 investment so I buy into it.

12 Q. When you say we thought that, you and the Honourable

13 Floyd Hall and the Premier all thought it would be

14 a good investment?

15 A. Yes.

16 SIR ROBIN AULD: I would not normally interrupt at this

17 stage, but a moment ago you said you never discussed it

18 with them. Did you mean to say that?

19 A. No, no, it is not what he asked. I think he asked if

20 I discussed any liability issues. I think that was his

21 question.

22 SIR ROBIN AULD: So you didn't discuss that but you

23 discussed the project as a whole, I take it?

24 A. The purchase of the property, yes, it was a good deal.

25 SIR ROBIN AULD: But not the loan.

1 MR MILNE: You agreed that you would each put similar
2 amounts of money in.

3 A. I can tell what I put in. I put in 40, I think it was.

4 Q. We have been told by the Honourable Floyd Hall that he
5 put in 40 as well?

6 A. I can tell you what I put in, I put in 40.

7 Q. You were not aware of how much the others put in, is
8 that what you are saying?

9 A. I am aware of what the others put in. I put in 40.
10 I believe the others may have put in somewhere around
11 that amount. I am not too certain of the proportions.

12 Q. Who is coordinating this project? Who was in charge?

13 A. I can't say categorically who was in charge. I believe
14 Chal was because I think he may have seen the sale or
15 the transaction of the purchase, sorry.

16 Q. Did the four of you ever meet together, just to talk
17 about putting the money up so that you could buy it?

18 A. Yes, there was an initial stage, I think it was
19 advertised and everybody else could go ahead and buy
20 the property on the market, and I can't remember which
21 one of us said that: this is a nice property, good
22 location, has plenty of future, da da da, it is a good
23 thing for a nightclub, would you be interested.

24 It didn't take me long to become interested and
25 I bought into it.

1 Q. But having put your money in, there was no formal
2 agreement as to how long your investment would stay in
3 it or when you would get some sort of profits back?

4 A. We all are friends. I can't recall there being a formal
5 agreement.

6 Q. Since then it is not a topic that has arisen, even when
7 you have been together privately as to: I wonder what
8 happened to the 40,000; or anything of that nature?

9 A. No, not at all. I am aware that now the casino
10 operations is on the property but I have not as of
11 lately done any checks as to where that is.

12 Q. Thank you. I am going to leave that topic. Another
13 topic which we came close to the other day, but we had
14 to leave because legal argument was outstanding on it --

15 SIR ROBIN AULD: If you are moving to an entirely different
16 topic, Mr Milne, I don't want to keep Mr Lightbourne
17 waiting for what might be quite a long time. Are you
18 going to be very long with Mr Lightbourne in
19 cross-examination?

20 MR SMITH: I have no questions at all.

21 MR MILNE: I would have no further questions, sir.

22 SIR ROBIN AULD: Mr Lightbourne, I can say to you now, thank
23 you very much for attending to give evidence. There are
24 no further questions of you.

25 MR MILNE: Thank you, sir.

1 A. Sir, with your indulgence I would like to apologise to
2 Mr Lightbourne for at the time, I made a statement
3 the last time of not winning a fight, but I had no
4 knowledge. That was only local rumour. I hope he will
5 accept that apology.

6 SIR ROBIN AULD: We have all made our respects since then,
7 Mr Hanchell.

8 (2.15 pm)

9 MR MILNE: Mr Hanchell, Minister, I should say, we have, and
10 I think you have with you now the bundles, and this is
11 the second of your bundles. We were looking at it.

12 A. Page?

13 Q. It is the section at the end. It is the final section,
14 the third section and within that it is page 53.

15 SIR ROBIN AULD: I call it tab 3.

16 A. Yes.

17 Q. What you have here is the ledger printout reflecting
18 a particular bank account, which you told us of, which
19 is the South Caicos 2007 PNP campaign?

20 A. Yes, sir.

21 SIR ROBIN AULD: Whose ledger account is this?

22 A. Pardon?

23 SIR ROBIN AULD: I am asking Mr Milne whose ledger account
24 this is.

25 MR MILNE: Sir, this was provided to us, I think, by

1 the Honourable McAllister Hanchell. It was a document

2 that was disclosed.

3 A. Yes, it says Mr Hanchell's document.

4 MR MILNE: I can ask, I suppose, who kept the books? Did

5 you have somebody whose job it was or did you do this

6 yourself?

7 A. I did this myself.

8 Q. It appears to be a standard accounting package that is

9 used for keeping records of this nature?

10 A. Yes.

11 Q. Simply one aspect, we have asked questions about this

12 before. But on that page, 53, there are a series of

13 payments in and I accept these are in the period leading

14 up to the election. The first two lines, we have

15 payments to you or payments to the campaign by

16 Arlington Musgrove?

17 A. Yes.

18 Q. Of 83,000?

19 A. Yes.

20 Q. On 28th November, 83,000 on 1st December?

21 A. Yes.

22 Q. Further down the page, on 10th January, a further 75,000

23 again from Arlington Musgrove?

24 A. Yes.

25 Q. On 17th January, which is about two-thirds of the way

1 down, again, another campaign contribution,
2 Arlington Musgrove once again \$75,000. In total, over
3 a period of six to seven weeks, he contributed \$316,000
4 to the campaign simply within South Caicos.

5 Do you have a particularly close relationship with
6 Mr Arlington Musgrove?

7 A. He is a friend of mine, has been a lifelong friend of
8 mine.

9 Q. Is there any particular reason why he would have given
10 so much money to this one aspect of the PNP campaign?

11 A. It is probably knowledge that Mr Arlington Musgrove is
12 a very ardent supporter of the PNP. I believe he was
13 there from when they had PNO. He believes in the
14 philosophy and idealisms of the party, and I believe
15 that is the reason for him being generous.

16 Q. Mr Musgrove has a company called, I think it is
17 pronounced "haka", is that right?

18 A. I think Mr Musgrove has interest in a company called
19 JACA.

20 Q. Which is spelt JACA?

21 A. Yes, sir.

22 Q. Does he have interest in other companies that you know
23 of in construction business?

24 A. Pioneer, I think.

25 Q. We understand JACA has done quite lot of work for

1 the government, is that right?

2 A. I believe they have done some work. I think that is

3 fair to say they have done some work, I can't say

4 categorically what.

5 Q. Can you understand there might be concern that his

6 contributions to your campaign might have some

7 connection to contracts received from the government?

8 A. I don't accept that.

9 Q. You don't think that that is a legitimate concern?

10 A. Not from my perspective, sir.

11 SIR ROBIN AULD: Can you give me some idea of the nature and

12 the volume of work that he has done for government?

13 A. I just said I don't know categorically, sir.

14 SIR ROBIN AULD: I didn't ask you categorically. I asked

15 you for some idea.

16 A. I don't know. I said I believe they are a major

17 construction company and I believe they may have done

18 some work for the government but, sir, I honestly cannot

19 tell you --

20 SIR ROBIN AULD: Is it roads, is it bridges, what is it?

21 A. I don't know. It would more than likely be vertical,

22 meaning buildings.

23 SIR ROBIN AULD: Buildings.

24 A. Yes.

25 SIR ROBIN AULD: Anything else?

1 A. That is all I can --

2 SIR ROBIN AULD: You are seriously saying you have no idea
3 what sort of work JACA has done for the government, are
4 you?

5 A. I am not saying I have no idea. I am saying I am sure
6 they would have done some work for government, and while
7 we are talking, I am trying to think. I remember they
8 did some work down to one of the high schools down --
9 I forgot the name of it. High school in Providenciales,
10 by the way.

11 SIR ROBIN AULD: Are there lots of high schools in
12 Providenciales, or is there a particular one you have in
13 mind?

14 A. It is a government school. It is called Clement Howell.

15 SIR ROBIN AULD: Thank you.

16 MR MILNE: Minister, I am going to leave that topic. There
17 is another area which has arisen --

18 SIR ROBIN AULD: I should, just before you do, how do you
19 spell JACA, please?

20 MR MILNE: JACA.

21 SIR ROBIN AULD: Yes.

22 MR MILNE: Apparently with a soft J.

23 SIR ROBIN AULD: I now recognise it. Thank you.

24 MR MILNE: Minister, you gave evidence on the previous
25 occasion in relation to the loan to you by the Premier

1 of \$1 million.

2 A. Yes.

3 Q. We have seen the documentation in relation to that?

4 A. Yes.

5 Q. Indeed you made clear at the time that the loan was

6 specifically intended to help pay off large credit card

7 debts that had been incurred?

8 A. Yes.

9 Q. Another element has come to light since then, which in

10 fact was less than clear. It seems to have been less

11 than clear to all parties. Sir, this relates to

12 drawings that were made by the Premier on a loan

13 agreement based in Liechtenstein from a company called

14 Arling Anstalt. Sir, I think it was yourself who

15 pointed out during the Premier's evidence, forgive me,

16 Mr Hanchell, I am having to put this into context, that

17 when the various drawdowns were made from

18 Arling Anstalt, the IBAN number changed on one occasion.

19 All the other payments from that appeared to be

20 reflected in the Premier's credit card. One of them did

21 not. We have since been informed by those representing

22 the Premier that having made enquiries, they have

23 established that that payment from Arling Anstalt was in

24 fact credited to your credit card.

25 Now, I can take you to the paper if you wish.

1 A. Please.

2 Q. But it is not in that volume. I am afraid I am going to
3 have to show you a different volume. If it is not
4 immediately to hand, sir, I can simply hand my single
5 sheets. It won't be in your current volume, sir,
6 because we did not originally think it was connected to
7 yourself.

8 A. Yes, go ahead.

9 Q. There may be nothing in the misfiling of this because it
10 came to us from the Premier in fact and it is page -- if
11 you have the right volume -- 402 in the Premier's volume
12 that you should have now. Do you have that?

13 A. Yes.

14 Q. Now, to assist you with this, if you turn back one page
15 to 401, it is a very similar document, a different
16 amount of money and you will see in the middle section
17 a series of entries: name of bank, account, then what is
18 called an IBAN. There is a very long number. On
19 page 401, that number ends 0587?

20 A. Yes.

21 Q. On page 402 it ends 3411, do you have that?

22 A. Yes.

23 Q. We have established and we accept the evidence that
24 the 0587 payments reflected the credit card of the
25 Premier. We are now being told on behalf of the Premier

1 that this particular payment, 3411, which is a payment
2 of \$300,000 plus, is a payment that was credited to your
3 credit card?

4 A. Yes.

5 Q. Were you aware of that?

6 A. Sir, yes, I became aware of this and I didn't declare
7 this in my statement. What I can say is that this
8 balance is an accumulative of the last monies that
9 I would have owed American Express. To this date
10 I can't use a card, they were chasing me down for it and
11 the Premier had mentioned to me that unfortunately he
12 may have to take out another loan in relation to his
13 credit card and what am I going to do about my credit
14 card because I told him about it and I tell him I can't
15 do anything about it. He says well, you know. If he
16 can -- will I authorise him to take out a loan and
17 I would owe him more money. I said, man, anything to
18 get me to take care of this debt that these people are
19 chasing me down with.

20 Q. Well, it may be that not a lot turns on it in any event,

21 Minister.

22 A. I didn't hear you, sir.

23 Q. So that you understand, this is a loan facility that
24 the Premier obtained as far back as August 2006, but he
25 drew down on the loan facility in a series of tranches,

1 and it would appear that the money was being transferred
2 from this credit facility to pay off his credit card,
3 but on this one occasion he used it to pay off your
4 credit card. Now this, so we are clear, must have been
5 in addition to the million dollars he had already lent,
6 is that correct?

7 A. I can't say. I can't say what he has drawn down on, but
8 what I am confirming to you, sir, is that yes, this
9 payment in 30th December 2008, the Premier has taken out
10 a loan to have this paid on my behalf.

11 Q. He has paid this on your behalf?

12 A. Yes, sir.

13 Q. The only reason I say it must be in addition is because
14 we have seen from the Premier's papers, and again I need
15 not trouble you with them, there is a clear round sum of
16 \$1 million coming out of his?

17 A. Yes, sir.

18 Q. Which he transferred, was it to your account or directly
19 to another account?

20 A. It was paid into my credit card on my behalf. It didn't
21 come to my account.

22 Q. We just need to clarify this from both sides. You can
23 put that volume aside because we will not need to come
24 back to it. That is that issue dealt with.

25 There are two other areas we are going to seek your

1 assistance with. These are slightly more substantial.

2 The first of them, you may be assisted if I remind
3 you of your evidence, it is now several days since this
4 evidence. It was the evidence you gave on the previous
5 occasion when you were asked about Crown land policy,
6 the allocation process?

7 A. Yes.

8 Q. Do you recall that?

9 A. Yes, sir.

10 Q. The question was asked of you, and I think this was in
11 fact questioning by Mr Misick on your behalf, about
12 the review process and you were asked who was involved.

13 "Question: Who is involved in that process?"

14 The answer you gave, page 29 of the transcript, is
15 that:

16 "The review process involves the Permanent
17 Secretary, the Commissioner of Lands, the Assistant
18 Commissioner of Lands, the Deputy Commissioner of Lands,
19 and it also involved me. I come in sometimes during the
20 overall discussion of the allocations, or I may come in
21 very late when the letter is already prepared as a
22 recommendation, and I simply sign them, and the persons
23 are successful in the Crown land application."

24 You were asked:

25 "So what is the review team looking for?"

1 You said:

2 "The review team, and especially when we came to
3 power there was an abundance of representation..."

4 You sought to make a point about the abundance of
5 representation and I think you were interrupted. Your
6 answer at page 30 was:

7 "... what is the purpose of the review team.

8 The review team tries to ensure that every Turks &
9 Caicos Islander has at least one opportunity for
10 a residential parcel of land."

11 You went on to say:

12 "We do have cases where individuals who have already
13 benefited from a parcel of land ... try to get a second
14 [one] ... we may not grant [them] ... Instead we would
15 grant to the new applicant."

16 So the review team looks in particular for first
17 time applicants and then they look to see if the
18 applicant is in compliance with the Crown land policy.

19 That was your evidence and indeed I think Sir Robin
20 asked one or two supplementary questions, particularly
21 in relation to how the system works.

22 Page 31, he asked:

23 "... you say you have a review team, does that meet
24 regularly?

25 "Answer: That's a daily basis. That is on a daily

1 basis."

2 Sir Robin asked:

3 "You mean it meets as and when required?"

4 "Answer: They meet in their own capacity on a daily
5 basis to review applications."

6 Asked, "Every day?" you said:

7 "Yes, not a set scheduled day."

8 You were asked:

9 "How often would you say you participate in such
10 meetings?"

11 "Answer: Well, very, very rare. I participate in
12 the review meetings. At most times I simply sign --
13 the recommendations come with the letters prepared and I
14 sign them."

15 I think you gave an example of having signed some
16 that morning.

17 Do you wish to add anything to the description of
18 that process, or are you happy with that as an analysis
19 of the review process as you saw it?

20 A. Yes.

21 Q. We have had some additional and extra papers which have
22 been provided to the Commission and if I could --

23 A. Which bundle are you in?

24 Q. These are actually bundle 3, but I think it has gone
25 beyond 3 for you, sir.

1 A. At the back?

2 SIR ROBIN AULD: Shall we call it bundle 4, Hanchell

3 bundle 4?

4 MR MILNE: I am very reluctant to do that, sir, because we

5 were provided with bundle 3 by my learned friend, which

6 is a discrete one. I have put mine in a folder, but it

7 was a ring binder bundle. We were then given

8 a bundle 4. This is not meant to be a complaint. But

9 we were given bundle 4 with multiple tabs in it. It

10 looks like that. Which again is ring bound.

11 This is a separate file of papers, which I trust my

12 learned friends have and I hope also that the Honourable

13 McAllister Hanchell has, which are 32 sheets of paper.

14 This is probably bundle 5. (Pause)

15 (2.30 pm)

16 A. Go ahead, sir. I am following you --

17 Q. I am anxious that we are looking at the same page. We

18 have quite a lot of paperwork in relation to your

19 disclosure.

20 A. What exactly are we referring to?

21 Q. It is headed up, first of all, a letter from

22 the Commission to the Permanent Secretary and then --

23 A. Got it. Dated 29th January?

24 Q. That is the one. That is two pages with some requests.

25 We are going to be dealing with page 3 of that section,

1 which is the response.

2 A. Okay. From Judith.

3 Q. It is. For clarity, that is Judith Garland-Campbell who
4 is the Permanent Secretary within your ministry, is that
5 correct?

6 A. Yes, that is proper, yes, sir.

7 Q. The Commission wrote to Ms Garland-Campbell seeking
8 documentation and a clarification of a number of
9 matters. The letter that has come backdated
10 31st January from Ms Garland-Campbell in response to
11 a request from the Commission is as follows. She refers
12 to the earlier letter and says as follows:

13 "As you may be aware, Cabinet at a meeting held on
14 3rd April 2008 approved a number of activities in
15 support of implementing the Crown land policy, including
16 the establishment of a Crown land unit, drafting
17 instructions for the proposed Crown land ordinance,
18 a consultancy or an inventory of Crown lands, and
19 training for staff of the Crown land unit."

20 She goes on:

21 "Cabinet, however, did not approve the manual of
22 Crown land administration and management procedures as
23 the official guide for the allocation regulation and
24 pricing of Crown lands. As such, the ministry is not in
25 possession of any formal procedures allocating land.

1 The Cabinet further granted the minister of natural
2 resources authority to allocate up to ten acres of
3 residential and commercial land within an approved
4 subdivision."

5 She makes reference to a Cabinet minute which indeed
6 is appended should anybody need it to page 5.

7 Do you agree with that as she has described it?

8 Does that tally with your understanding?

9 A. It refers to a Cabinet minute 06598. I assume that that
10 information is correct.

11 Q. We see 06598 is at page 5. It is put sideways. But it
12 is there?

13 A. Okay, fine. I accept.

14 Q. She carries on at page 3 to say as follows:

15 "In regard to Sir Robin's inquiry re the review
16 group, no such arrangement exists in the ministry of
17 natural resources. Since 2006, once Cabinet approves
18 a subdivision, the procedure for allocating land has
19 been handled in one of three ways. Firstly, on
20 instructions from the minister of natural resources,
21 the Honourable McAllister Hanchell, primarily to me but
22 also to the Commissioner and Deputy Commissioner of
23 lands. This would either be verbally or in the form of
24 an email."

25 She attaches copies at annex 2 of those. The second

1 method, she says, would be:
2 "... instructions and/or requests from other
3 ministers of government and elected members. This would
4 be either verbally or in writing. This exercise is more
5 prevalent when a subdivision is created in their
6 respective constituencies."

7 Again, she attaches as an annex a series of
8 examples:

9 "Finally, the Land Commissioners or I would compile
10 names of persons who have continuously called and lodged
11 applications with the ministry. These names would be
12 given to the minister for his approval. Pursuant to
13 either one of the above methods, the land Commissioners
14 would draft a provisional letter of offer of a CPL for
15 the minister's signature.

16 "It is at this stage that the person preparing
17 the letter would ensure that the applicant is in
18 compliance with Crown land policy or a 'review process'
19 occurs ie age, Belongership, number of parcels currently
20 in possession. This letter primarily commits
21 the particular survey lots to the applicant but omits
22 specific details of the parcel. Following the survey,
23 registration, evaluation of the subdivision, a final
24 letter of offer inclusive of the registered parcel
25 number, valuation, rent and freehold title, costs is

1 issued to the recipient. Regrettably much of the
2 instructions are informal and not systematically filed,
3 and this therefore requires time to search e-mails and
4 for staff to search their files. In this regard
5 the attached instructions by no means represent all
6 subdivisions over the past two years. However,
7 I believe it demonstrates the methods outlined above."

8 Before I ask any questions, we should look briefly
9 at these examples that are given. Page 6, annex 2.

10 These are instructions coming from yourself.

11 We see an email, page 6:

12 "Dear Judith, please see the attached land
13 applications. Sincerely..."

14 Then your initials. Attached to it we have a fairly
15 lengthy list running over some four pages of
16 allocations, five pages, all of these being lots within
17 a particular division.

18 That division is West Caicos, 70300. There appear
19 to be many, many names attached to this. The list
20 against the numbers is complete right the way down to
21 number 77. There are then some gaps in it but there are
22 further names further on. Indeed specific names
23 attached to West Caicos, 70100/44 at page 11.

24 Did you send those names to the Permanent Secretary?

25 A. This spreadsheet would have been a list that would

1 sometimes go back and forth, but to answer you
2 categorically, I have sent this e-mail and it can very
3 well have involvement from representations that people
4 make for land and so on. But the answer is yes.
5 The e-mail at page 6 comes from me.

6 Q. One query I have at page 7 is simply this: there are
7 a number of names in this which are familiar. A number
8 of names that have cropped up in other contexts.

9 A. Yes.

10 Q. It is not to say that people might not be entitled to
11 a parcel of land. But one of them at 25 is a gentleman
12 called Marvin Misick. Somebody, you can tell me if it
13 was you or not, thought it appropriate to put against
14 that name "Premier brother". Why would that be
15 relevant?

16 A. I tell you why, believe it or not, we have a number of
17 people here on the islands with the same name
18 and Marvin Misick continued to make representations, why
19 I can't get a piece of land. I remember clearly
20 speaking to him and telling him we gave you land, and it
21 was discovered that Marvin never received his letter and
22 the reason why, I didn't know his middle name, we single
23 out the Premier brother, so hopefully that goes on the
24 envelope and the wrong person doesn't get his land.
25 This has happened many times with people with the same

1 name. That is a matter for identification.

2 Q. So there are so many Marvin Misicks?

3 A. There are more than one Marvin Misicks in this country.

4 Q. I am sure there are, but surely you should have a file

5 on the individual, as you would presumably with all

6 the rest of these. Is this not a case where

7 the Premier's brother is -- whether or not he is aware

8 of it, and I make no allegation against him because he

9 may be totally unaware of it -- but it would appear this

10 is preference being given to a relative of a senior

11 member of government?

12 A. Sir, that is totally unacceptable.

13 Q. Over the page, 42, this is page 8, here we see in fact

14 Gary Lightbourne's name appearing. This is the parcel

15 of land that he has told us he never applied for. Do

16 you still dispute that?

17 A. That Gary never applied for the land?

18 Q. Yes.

19 A. Sir, if you remember in my evidence when I was up here

20 several days ago, I made it very clear and I thought it

21 was brought up this morning, that sometimes people apply

22 for a particular parcel of land, rather than going back

23 and saying this particular parcel isn't available, in

24 that case people would never get land because you can't

25 control who applies for what. It is possible that Gary

1 Lightbourne received his parcel of land in trying to

2 satisfy his various applications.

3 Q. He has made clear that his interest at one stage was for

4 a commercial parcel, and indeed he was offered an area

5 that he was dissatisfied with?

6 A. Correct.

7 Q. The striking aspect about this is that every application

8 on your file, every application we have been shown for

9 Mr Lightbourne, whether it be residential or commercial,

10 is quite clearly an application for land on

11 Providenciales, which is still, despite a lot of

12 allocation, available. There are parcels on

13 Providenciales. This is an allocation on West Caicos,

14 totally different island. Why would his name crop up

15 here since he tells us and the paperwork bears it out,

16 he never applied for West Caicos?

17 A. Sir, I think your comment may very well not be factual,

18 and you said that you are sure that there are land

19 available on Providenciales. You are not sure. I am

20 certain you cannot be sure at the time of allocation

21 whether land was available on Providenciales. All I am

22 simply saying to you, what I have said before is if

23 Mr Lightbourne's claim that he has never put

24 an application for that. That is what Mr Lightbourne is

25 saying.

1 What I am saying to you is that it is possible that
2 Mr Lightbourne would have been granted a commercial
3 parcel of land and you know the history, the facts are
4 there. There is a history of trying to satisfy
5 Mr Lightbourne and his reasons may very well be
6 legitimate, those are his reasons. I am only trying to
7 give you the possibilities of why Mr Lightbourne, if it
8 is proven to be correct, if there is no application,
9 that he would have been given something rather than not
10 given anything, that is all I am saying.

11 Q. Minister, with respect, it is your ministry. We don't
12 have every application said to have been made, but you
13 produced through your attorneys on the last occasion
14 a series of documents which clearly do show earlier
15 applications by Mr Lightbourne. But would you accept
16 that the papers you have provided to us, all the papers
17 reflect applications for Providenciales?

18 A. Sir, what I do accept is that after I left here that
19 day, I telephoned the ministry and I asked if there was
20 a file for Gary Lightbourne, can you please send me
21 the file. That is what I accept.

22 Now if, and you are absolutely right, there is no
23 application in this bundle from that file, and that file
24 came from Grand Turk on West Caicos, more than likely
25 that file would have been in Providenciales. I don't

1 take away the fact that that application is not in this
2 bundle, but you are refusing to accept my explanation of
3 how it work, that we tried to satisfy people if they are
4 not given precisely what they ask for. I am just giving
5 you the possibilities, sir.

6 Q. I understand that you are giving possibilities, but
7 the documents that we have been shown and the evidence
8 we heard from Mr Lightbourne, we can be fairly
9 definitive about this, there is no application by
10 Mr Lightbourne on our papers or on your documents for
11 a residential parcel later than the year 2000, July of
12 that year, when he was offered a residential CPL.

13 Indeed, he had not made any application since 1999.
14 Now, the evidence we have heard, and I know you have
15 been in the Tribunal this morning, you have heard his
16 evidence that his concern throughout the early part of
17 this decade, this last decade, was to get a parcel for
18 commercial purposes to set up a gym and there has been
19 to-ing and fro-ing. It probably matters not a great
20 deal because what we have here, this list, is a list
21 quite evidently of residential plots that are being
22 allocated in West Caicos. Not commercial plots. There
23 are names of individuals and families, not companies.

24 Am I to understand your evidence, that because there
25 had been an application for a residential plot as far

1 back as 1999, that on this occasion, which is far more
2 recent, he was being given the possibility of
3 a residential plot on a totally different island. Is
4 that the policy, to offer other islands?

5 A. Sir, you mentioned something, I don't think it's
6 factually correct, that his last application was in
7 1999. I believe he himself this morning said that he
8 had earlier applications.

9 Q. I can hear muttering off to my right. There are
10 subsequent commercial applications.

11 A. Okay.

12 Q. The last residential application, so there is no
13 misunderstanding, the last residential application was
14 in 1999.

15 [Pause in proceedings due to technical problems]

16 SIR ROBIN AULD: Do you want to finish that question?

17 MR MILNE: It's a point I may have to return to because I
18 have further papers, so I can come back to that in due
19 course.

20 (2.45 pm)

21 (A short break)

22 (2.55 pm)

23 [No audio recording. Draft section]

24 MR MILNE: Minister, before we had the technical problem
25 with the recording equipment we were dealing with quite

1 a discrete point and the issue I had put to you, and you
2 should have the opportunity to deal with it, is simply
3 this, that on the papers that we have, including all
4 the papers that your department and you have provided to
5 us, there is no residential application on the part of
6 Mr Lightbourne since 1999 and none at any stage for
7 West Caicos.

8 So the simple question is, why would there be
9 a grant when he had made no application and when
10 technically he had made no application at all for this
11 island?

12 A. Sir, again I said that it is possible that if at the
13 time when the subdivision is available an individual
14 knowingly have outstanding matters, we may very well
15 offer them a parcel of land in the existing subdivision.

16 If I refer you to page 4 of the
17 Permanent Secretary's letter, she does support that and
18 she says at the last paragraph:

19 "Regrettably much of the instructions are informal
20 and not systematically filed."

21 Because no application is on file for Mr Lightbourne
22 and I very well hear his evidence and I hear what you
23 say, that (inaudible words) heard myself, it does not
24 necessarily mean given his application is on file that
25 there is a misrepresentation.

1 Let me go back to my first answer, which is
2 the answer, sir. West Caicos is next to Providenciales
3 even though it is a different island. It is almost
4 (inaudible) in the same proximity and it could be very
5 well that Mr Lightbourne, in particular, was offered
6 a parcel of land because he had among others
7 an outstanding application.

8 Q. Looking at the documents we have at page 6, this is
9 an email from you to Ms Judith Garland-Campbell. It is
10 dated 12th May 2006. It has a lot list attached to it.

11 A. Yes.

12 Q. At page 12 we have an email from you to Ms Judith
13 Campbell. This one 8 October 2006. Again, a list of
14 allocations attached to it?

15 A. Yes.

16 Q. Page 13, another list, the date is cut off to some
17 extent on that one. Page 15 we have to Judith
18 Garland-Campbell, again from you, November 30, 2006,
19 directing that allocations be made.

20 A further e-mail at pages 16, 17, 18 and a list at
21 page 19, running over to page 22; a further e-mail
22 appears to be on 17 January on the right-hand side.

23 A. Sorry, what about 17 January?

24 Q. This is page 23. The date again is partly chopped off,
25 again this is land on Proggins Bay; another long list of

1 allocations.

2 This, with respect, is not a review process, this is
3 you directing, as Judith Garland-Campbell describes it,
4 who gets what. There is no review process at all here,
5 is there?

6 A. I don't agree with you.

7 (3.00 pm)

8 Q. Where is the review? You are simply saying these people
9 get this land?

10 A. If I may refer you to page 4 of Judith Campbell, (ii),
11 she says:

12 "Instructions and/or requests from other Ministers
13 of Government and elected members."

14 Q. We will come to those in a minute.

15 A. Are you going to allow me to answer you?

16 Q. Sir, we need to read this in context. (i) says on
17 instructions from you, the minister, not requests from
18 you but instructions from you. Those are the documents
19 we have just been looking at --

20 A. Yes, are you going to allow me to answer you?

21 Q. [Overtalking]

22 SIR ROBIN AULD: [Overtalking].

23 A. I am trying to but he is not allowing me to --

24 SIR ROBIN AULD: He has asked you to about

25 (i)~[overtalking].

1 MR MILNE: Are they not instructions?

2 A. No, they are not.

3 Q. What are they if they are not instructions?

4 A. Let me point you to page 12. Page 12, you tell me,

5 I guess in this case, says:

6 "Dear Ms Campbell, please find the following

7 applicants for the above subdivision."

8 I don't know if you regard those as instructions.

9 Let me go to page 6 --

10 Q. With respect sir, yes.

11 A. "Dear Judith, please see the attached Land

12 Applications."

13 You can help me to see something that says: Dear

14 Judith, please be advised to grant this land

15 immediately... Are those to be regarded as

16 instructions?

17 Q. If you read her letter, minister, she clearly does

18 regard them as instructions and she cites them as

19 instructions.

20 A. The fact of the matter is that -- and this is a general

21 letter that she is writing to try to describe a process,

22 which she says in paragraph 4, the last paragraph on

23 page 4 of her letter, that it is an informal and not

24 systematically filed process.

25 The truth of the matter is that people make

1 representations even while this Commission of Inquiry is
2 going on -- even when I take a break people are asking:
3 when can I get my land? What do you do from time to
4 time? You would perhaps pick up the telephone
5 immediately -- it is a small community we live in -- or
6 you go to the office and you ask for a specific request
7 that someone -- they say they have been here for
8 20 years, they have not had a parcel of land. In that
9 case I would very well give instructions and say: can't
10 we find a parcel of land for this person?
11 SIR ROBIN AULD: You are asking?
12 A. Or find it, is what I am saying, sir.
13 SIR ROBIN AULD: [overtalking] for whole lists of persons
14 here. These directions are not coming up to you, they
15 are going down from you.
16 A. I am getting to that, sir. I am sorry.
17 SIR ROBIN AULD: It is all right. Deal with the point.
18 A. The e-mail that is attached, in my view, they are not
19 instructions. If the Permanent Secretary --
20 representations is made to her, made to her or any other
21 member and they decide to e-mail me or tell it to me in
22 a telephone or verbally, I don't take that as
23 instructions. They are bringing me up to speed in
24 making a recommendation that this person should be
25 looked at in so and so forth.

1 I don't accept that these are instructions: give
2 these people these parcels -- these parcels of land.
3 I don't accept it, how you are putting it.
4 Q. The evidence you gave the Tribunal the other day is
5 essentially that this was a bottom up process, people
6 would apply, it would be reviewed by a team, you may or
7 may not be there but they would then pass them on to you
8 for final approval and signing off the applications?
9 A. I sign all the letters.
10 Q. What we see here is instead a series of letters and
11 e-mails from you going down to your Permanent Secretary
12 saying, essentially, note these applications and she
13 quite reasonably has taken that, in each case, to be
14 a direction from you that you expect these names to
15 appear on the list.
16 And since we have dealt with Mr Lightbourne, lo and
17 behold, that is a perfect example of what happens. That
18 you hand over a list with his name on, this is not
19 coming up from something being trawled out of the
20 archives where he applied nine years ago, you put his
21 name on a list, give it to her and she sends the letter
22 out, which you sign. So it is a complete reversal, with
23 respect, sir.
24 There is no review group as she describes it. It is
25 simply a process of you telling her what to do and she

1 has no choice but to do it?

2 A. I don't accept that at all.

3 Q. Similarly, if we move on to annex B, if you are not
4 telling her what to do, your colleagues are telling her
5 what to do.

6 A. Let me follow you, sir.

7 Q. Annex 3, my mistake. Page 27.

8 A. Same bundle?

9 Q. Same bundle. We are simply following on with the pages.
10 Annex 3 at the top right-hand corner, page 27 at the
11 bottom.

12 Page 27 is an e-mail from Floyd B Hall. These
13 documents -- you were not present of course -- but these
14 documents were shown to Mr Floyd Hall when he has sent
15 an email to your Permanent Secretary, not his own,
16 saying:

17 "Dear Judith, Further to my phone conversation with
18 you this afternoon, I should be grateful if you
19 [something] issuing the plots of land in accordance with
20 the attachments I am sending with this email."

21 So essentially he is bringing pressure to bear on
22 your Permanent Secretary to issue plots of land that he
23 wants issued.

24 We see over the page, 29, the recipients. This in
25 fact a letter to yourself of 16th April 2007, which

1 appears to be the same date as the e-mail.

2 "Below is the list of companies with attached
3 shareholders that I would like to have the following
4 parcels on West Caicos issued to."

5 It is not simply making an application. He is
6 cutting through the process and coming straight to you
7 with the companies which he appears to be connected
8 with -- with the companies and the lot numbers and
9 the acreage.

10 Is that a proper application of Crown land policy?

11 A. Sir, the Crown land policy -- I don't have it here in
12 front of me -- the Crown land policy speaks clearly that
13 Belongers can amalgamate, for a better word, parcels of
14 land. It provides for that, number 1.

15 Number 2, here are a group of Belongers who are
16 obviously amalgamating their land. In relation to that
17 instructions are given. The Permanent Secretary, again
18 on page 4, speaks about instructions and/or requests for
19 ministers of government and elected members. It
20 actually goes further. This exercise is more prevalent
21 when a subdivision is created in respect of
22 constituencies.

23 This is not in any constituency but it is not
24 unusual for an elected official. And I can tell you,
25 you may think it is ministers but it is also the small

1 opposition who make legitimate requests, whether it is
2 in writing or whether it is verbally, on behalf of
3 persons trying to seek Crown land.

4 I don't take this as instructions here. This list
5 shows a number of persons behind some companies here,
6 that is very transparent in my mind in declaring who
7 they are.

8 Q. Minister, let me draw a distinction so that we are
9 dealing with exactly the same problem because I think
10 the danger is that you will say to the Commission time
11 and again: Crown land policy is for people to get land,
12 people are entitled to land. That we would not dispute.
13 Clearly individuals are allowed to apply, even companies
14 are allowed to apply.

15 We don't have a problem with that. What we see here
16 is not the application of the proper process however.
17 This is ministers pushing their way to the front of the
18 queue. This is ministers seeking to influence another
19 department improperly in order to make sure that their
20 favourite projects and in this case a project from which
21 they subsequently gained financially in person, get
22 preference.

23 That is not right, is it?

24 A. Sir, what I see here is, in this particular case,
25 the e-mails come from the minister, who is making

1 representations on these individuals that are listed
2 here for land on the island of West Caicos.
3 Q. Why do they need a minister to fight their corner if
4 their application is a valid one?

5 A. They don't need anyone to fight their corner. It is
6 a culture here that people go to elected officials.
7 People go to elected officials to fill out forms. It is
8 the culture that elected officials would sometimes give
9 advice or would follow up on things. It is not unusual
10 on matters like that.

11 Q. Minister, clearly if somebody is living in a quiet rural
12 area, who may be of limited confidence, who may be of
13 limited education, one could understand that they would
14 turn to their elected official for assistance, and may
15 say: can you help me fill out a form or tell me who to
16 contact, please give me some sort of direction.

17 But what we see here is the Honourable Floyd Hall
18 putting in an application on behalf of a series of
19 companies, which presumably can afford people who can
20 read and write, people who can make legal applications,
21 people who know how to stand up for themselves and he is
22 pushing them to the front of the queue. He is using his
23 personal influence and his personal connection and, with
24 respect, sir, you are letting him by accepting this sort
25 of application direct from another minister, are you

1 not?

2 A. Sir, I accept this is a representation from

3 the Honourable Floyd Hall in this particular case on

4 behalf of these applicants.

5 SIR ROBIN AULD: So what did you do with it when you got it?

6 A. They were granted.

7 SIR ROBIN AULD: They were granted?

8 A. Yes, sir.

9 SIR ROBIN AULD: By whom?

10 A. By me.

11 SIR ROBIN AULD: No review process there?

12 A. Yes. The due diligence of the companies --

13 SIR ROBIN AULD: No review process as to allocation

14 alongside others?

15 A. Yes. The review process --

16 SIR ROBIN AULD: It is not here. It is no good waving your

17 hand at the bundle, it is not there Mr Hanchell.

18 A. What do you mean when you say it is not there?

19 SIR ROBIN AULD: There is no review process demonstrated in

20 that bundle, there are a series of directions either

21 coming from you or from other ministers through you and

22 they are all going down, none are coming up.

23 A. Maybe there is nothing that you see here that would say

24 that there is a review process but after this comes in

25 there is a lot of work to do. They have to ensure that

1 these persons are Belongers, that is a part of the
2 review process. They have to ensure that people in the
3 office are entitled to the land, that is a part of the
4 review process. They have to ensure the normal
5 corporate documents behind the company.

6 Sir, with the greatest respect, that is part of the
7 review process.

8 MR MILNE: Should we take it then when you make
9 recommendations of this nature and your colleague
10 the Deputy Premier makes recommendations of this nature,
11 that in some cases they are going to be turned down?

12 A. If the policy doesn't allow the individual to have
13 the successful applicant, then it should be turned down.

14 Q. Are we not going to see a situation rather like that
15 accepted by Mr Clyde Robinson this morning where, if
16 somebody tried to turn these down, the response from
17 government would be: how dare you turn down a minister's
18 recommendation? Would that not be the response?

19 A. Sir, that is totally unfair. I don't see how they fit
20 into this -- that suggestion fits into this scenario.

21 Q. Well, lest anybody think that the Honourable Floyd Hall
22 is the only person seeking to advance individual's
23 names, we have at page 34 --

24 A. Same thing right?

25 Q. A letter from the Honourable Lillian Boyce. Another one

1 at page 35, a list of names. Page 36, she attaches
2 a list of quite a number of names including her own
3 brother; people who need to be removed from the low land
4 in Five Cays it says. Another letter at page 38 with
5 a list attached, a very lengthy and extensive list.

6 "I trust you will do whatever is necessary to assist
7 these persons in keeping with our promise to bring
8 affordable housing to the people of the Turks & Caicos."

9 So putting forward quite a long list of names, in
10 this case running to two and a bit pages. Over
11 the page, at page 42, a similar thing. This time Royal
12 Robinson putting forward a list:

13 "Here are some of the names that should benefit from
14 these 12-three acre commercial lots."

15 He (inaudible words) at the top. So Royal Robinson
16 is effectively saying these are the people I want to see
17 get these commercial plots.

18 Is that how the Crown land policy works?

19 A. Sir, the Crown land policy does not prohibit anyone from
20 making representations on behalf of anybody, or another
21 person, I am sorry. Whether you call it by telephone,
22 whether you send an email or come to the office. In
23 the case of the recommendations from Five Cays,
24 Five Cays is the most problematic area when it comes to
25 land. It has most of the illegal developments, meaning

1 squatting. I am sure you are familiar with the term.
2 It is not unusual to have the Honourable Lillian Boyce
3 or someone from her office try to make specific
4 recommendations so Belongers can get a parcel of land.

5 Individuals who squat in Five Cays are
6 non-Belongers. You have to take into context some of
7 the issues we have that allow persons to try to make
8 representations on behalf of others.

9 (3.15 pm)

10 Q. Page 46.

11 A. Yes, sir.

12 Q. This appears to be an email exchange between yourself
13 and Judith Campbell. Again, giving a list of names. It
14 is hard to say -- this appears to be from her to you.

15 "Otti found six additional lots during the survey,
16 here are names below, some people have to be
17 eliminated."

18 It sounds slightly sinister but I think it means
19 eliminated from the list. Again names being knocked
20 back and forth between you.

21 Essentially, minister, these are the people who get
22 preference, are they not? When we come to the list at
23 the end, this is page 47 onwards, what we have here,
24 I would submit, are poor individuals who follow
25 the system as it should be applied and if they don't

1 have a minister batting for them, if they don't have
2 a minister pushing their case, then essentially they are
3 going to drop through to the bottom, aren't they?

4 A. That is not true, sir.

5 Q. So everybody gets an equal shot, even if they haven't
6 got a minister pushing their case forward?

7 A. Sir, the record will show and the people in this gallery
8 can tell you that since we came to power just about
9 every Turks & Caicos Islander has had an opportunity for
10 Crown land.

11 One of the first things we do when it is limited and
12 for the sake of the public -- she says:

13 "Otti found six additional lots during the survey,
14 here are names below, some people have to be
15 eliminated."

16 She already sets the basis. The first thing we
17 would try to do is to facilitate persons who has never
18 had a parcel of Crown land. Some persons will get their
19 land out of the six in this particular case or they will
20 be referred to another subdivision with another
21 subdivision company. There is nothing sinister about
22 that. It is the reality. You can only get 6 out of 6.

23 Q. I am suggesting to you, minister, that the truth and
24 the true situation as we see it from this letter sent by
25 Ms Judith Garland-Campbell is that there is no proper

1 review procedure whatsoever. It is simply a case of you
2 exercising your executive power granted by Cabinet to
3 say who you want or who your colleagues and friends want
4 to have parcels of land?

5 A. That is not the case at all. Mrs Judith Campbell
6 clearly sets out in her letter to the Commission that
7 there is no systematic filing.

8 Looking at it I think those are the words which she
9 used. I am not -- and I made it very clear, I am not
10 involved in every part of any kind of a review process.

11 The Land Commission is Sir Rodney (inaudible words)
12 particularly in Grand Turk and Provo may deal with cases
13 themselves. I go to the office on occasions. I read
14 a file that is ready for signature. I sign it assuming
15 everything is in good order. I am not involved in every
16 transaction. It is impossible for me to be involved in
17 every transaction.

18 If representations are made to me or if I move them
19 forward, then, yes, I am involved in those transactions.

20 I don't think that it is fair to say that that is
21 the system, you have to have personal connections,
22 otherwise it would be impossible for one man to give so
23 many people land in this country. I do not accept that.

24 Q. Sir, I propose to leave this topic.

25 SIR ROBIN AULD: I just want to ask one question or two

1 arising out of this.

2 When you gave evidence last about this you described
3 a review process, you described and identified a review
4 group and you said that your only involvement was at the
5 most mechanical level and late in the day. That
6 prompted the Commission to write making the enquiries
7 you have seen of your civil servants and your
8 Permanent Secretary has replied, as you have seen, on
9 the first page of the letter saying there was and there
10 is no such review process and there is no such review
11 group.

12 MR MISICK: I am not sure that is accurate actually. She
13 says there is no review team.

14 SIR ROBIN AULD: She says there is no group and there is no
15 process because she describes what remains of any sort
16 of process on page 2. That is nothing like
17 the description given by Mr Hanchell in his evidence on
18 oath a few days ago.

19 MR MISICK: It may not be, sir, but she does refer to
20 a review process.

21 SIR ROBIN AULD: Quite different from the one to which he
22 referred. But if you want to intervene to argue
23 the matter you can do so in your speech.

24 MR MISICK: I am not going to give a speech, I will ask him
25 questions in due course.

1 MR MILNE: Sir, we turn to one further topic and for this
2 I am going to invite the minister to take core volume 6,
3 which is the red volume to your right-hand side. It
4 would probably be easier, minister, if with the other
5 volumes you have already open you put those to one side.
6 We are not going to be using them.
7 Within volume 6 there are several sections and this
8 is a section we have not looked at before but it is
9 behind tab 9.
10 These were a series of additional documents in
11 relation to Joe Grant's Cay. The first four pages --
12 A. Tab 6?
13 Q. Behind tab 9 in volume 6.
14 A. Thank you.
15 Q. The first four pages, they are not numbered, some of the
16 documents have internal numbering. The fifth page
17 within tab 9 has a heading, it is a memo from
18 the valuation department, ministry of natural resources?
19 A. Yes.
20 Q. If everybody has that, this is a slightly old document
21 but I am simply using it to trace a history in relation
22 to Joe Grant's Cay.
23 On 7th November, 2006, the valuation department,
24 which is headed by Mr Hoza was requested I think at the
25 time by TC Invest -- Mr Conrad Higgs certainly is

1 the person to whom it is addressed -- the request was to
2 do a preliminary appraisal. That is a preliminary
3 evaluation of some sort on Joe Grant's Cay.

4 A. Yes.

5 Q. In order to do that appraisal Mr Hoza says that in
6 the correspondence he received -- it is the first large
7 paragraph:

8 "You have asked me to carry out a valuation of all
9 land on Joe Grant's Cay."

10 A. This is page 1?

11 Q. This is page 1 on the first page.

12 "In your last correspondence you further inform me
13 ..."

14 He is saying that basically an investor group has
15 expressed an interest in undertaking "an ultra high-end
16 development", as it is termed.

17 He has given some brief details but it seems no more
18 than that. At the bottom in his appraisal he comments:

19 "This appraisal has been carried out without any
20 meaningful input from the developers apart from saying
21 it is an ultra high-end development."

22 He comments, I don't know if it is a complaint, that
23 he would have been assisted had he had more information.

24 Be that as it may, Mr Hoza soldiers on and seeks to
25 provide some sort of assessment.

1 We can go to the third page of that report, bearing
2 in mind this is November 2006. He has made a series of
3 assumptions based upon the fact that it is to be
4 developed commercially and based upon his information
5 about similar islands in similar situations.

6 His valuation for the whole of the island, which is
7 a little over 700-acres, is that he valued it at this
8 time as something between \$230,000 per acre to \$330,000
9 per acre, which means that the total value of
10 Joe Grant's Cay for commercial purposes, as he is being
11 asked, falls in the bracket between \$145 million and
12 \$208 million. That is the whole of the island.

13 What he actually says on page 3 is that, whilst it
14 could be between 145 and 208 million, that there is
15 essentially room for negotiation. The government can
16 negotiate with the investor up to \$330,000 per acre.

17 He gives us a ballpark figure, sir. I am not going
18 to ask you any questions about that and the reason is
19 this, that with all of the valuations done, there is
20 effectively a shelf life, you are probably familiar with
21 this.

22 He specifies that that shelf life should only be
23 taken as being valid for about six months because
24 matters move on, circumstances change.

25 This was an initial valuation he did in 2006.

1 Clearly it is now historic, no more than that.

2 Two pages over we get to a far more recent
3 evaluation, whether or not it is the same project
4 substantially or in essence, we can't say. But in
5 June of 2008 Mr Hoza was asked to do another valuation
6 and he makes reference to correspondence.

7 It is clearly a request for Joe Grant's Cay to be
8 looked at again. The correspondence this time again
9 from Conrad Higgs and Mr Hoza says:

10 "In your correspondence you have indicated that
11 Cabinet approval has been granted for the development of
12 a mixed-use resort project on Joe Grant's Cay."

13 So it is not being termed as a high-end development
14 but mixed-use resort:

15 "Elements of Joe Grant's Cay project include a five
16 star hotel, luxury villas and condominiums as well as
17 a golf course and marina. The land earmarked for
18 the project star villas and marina villas covers some
19 300 acres in extent."

20 He makes reference back:

21 "I inspected this Cay sometime earlier in 2003 and
22 I now want to advise as follows..."

23 He goes on to deal with the way that he prepared his
24 valuation. He says at the bottom of that first page:

25 "The basis of this valuation is the market value

1 [that is] the estimated amount for which a property
2 should exchange on the date of valuation between
3 a willing buyer and a willing seller in an arm's-length
4 transaction after proper marketing wherein each party
5 acted knowledgeably, prudently and without compulsion."

6 Which sounds, we would submit, fairly reasonable.
7 The assessment he does is specifically in relation to
8 300-acres because that is what is being considered for
9 development.

10 On the fourth page of this his opinion of the market
11 value, on this occasion of the 300 acres intended for
12 star villas and marine villas at Joe Grant's Cay, he put
13 at \$75 million as a broad figure. There is a breakdown
14 on the previous page as to how he came to those figures
15 but \$75 million is his overall assessment.

16 (3.30 pm)

17 The dates are important here. That is
18 10th June 2008.

19 [End of draft section]

20 (3.30 pm)

21 (A short break)

22 (3.39 pm)

23 SIR ROBIN AULD: Yes, Mr Milne.

24 MR MILNE: May it please you, sir. Minister, before we had
25 the short break, essentially we had been looking at the

1 report, the memorandum of valuation of the department,
2 of 10th June 2008 which valued the 300 acres at
3 \$75 million. On 13th June 2008, this is the next
4 document in sequence, there is a memo again from
5 the valuation department, again from Mr Hoza but this
6 time addressed to yourself.

7 The heading again is "Valuation of Crown land
8 Joe Grant's Cay". He says:

9 "I acknowledge receipt of your correspondence dated
10 June 12th and June 13th 2008."

11 We don't have that correspondence. But it is clear
12 that following his report of 10th June, you had been in
13 touch with him, at least twice. He outlines what had
14 been said earlier in his report and it appears from
15 the fact that he carries on in this fashion that he has
16 been asked by yourself to look again at his valuation.

17 If we go down to the bottom of that page, he
18 describes what he calls planning assumptions. He says
19 this:

20 "In this valuation report, I have assumed that
21 planning consent to develop the land for agricultural
22 purposes will be forthcoming from the local planning
23 authority, without necessarily imposing any harsh
24 conditions."

25 As we go on through the report, it becomes clear at

1 page 3 that he has been asked to look at market evidence

2 and indicators and he says:

3 "While I have assumed that the land will be utilised
4 for agricultural purposes (in order to comply with your
5 guidance that 'the valuation should be based on the
6 market value of the raw land in its presence state')..."

7 A. Where is that again?

8 Q. This is the bottom of page 3 of this report:

9 "I looked at other remote islands to see what land
10 values are currently being achieved in the market,
11 although of course these are non-agricultural users."

12 Essentially, over the page, he then gives his
13 opinion of the value for various parcels of land, those
14 totalling 700 acres, or to be precise, 712.53 acres and
15 the figures he gives for four parcels making up
16 the 712 acres show a valuation for agricultural purposes
17 of 26.766 million.

18 So \$26,766,000.

19 Now, two things have changed here. Firstly, he is
20 not being asked to give a quote for the 300 acres. He
21 is actually quoting for what is essentially the majority
22 of the island. Whilst the 300 acres for commercial
23 development were worth 75 million, the whole of the
24 island for agricultural purposes was 26.75 million.

25 There is yet another report over the page, again

1 June 13th, again acknowledging your correspondence and
2 addressed to you. Again dealing with the four parcels
3 which total 712 acres.

4 (3.45 pm)

5 This is a valuation based on the premise that it
6 will be for a hotel site and tourism-related villas.

7 Let me cut to the chase because at the end of that
8 report, page 4, he says that:

9 "It would be worth on a commercial basis combined
10 market value of the freehold interest in the land
11 assuming commercial user is \$89,068,000."

12 Mr Hoza's figures vary but they vary for clear
13 reasons.

14 A valuation put on 300 acres came to 75 million.
15 You then asked him to do two further valuations on two
16 different bases, correct? One on the basis of what you
17 called raw land and he interpreted that as agriculture
18 and one on the basis of a commercial development.

19 In each case you were asking him to value four
20 parcels, totalling about 712 acres.

21 The two values you got were, if this is agriculture,
22 it is about 26.75 million. If it is commercial, as has
23 been described, it is about 89 million. It is a big
24 difference.

25 Being minister of lands, would you agree that

1 the value of land depends entirely on what one intends

2 to do with it, or is able to do with it?

3 A. I believe that the value of land is what it is in its

4 present state.

5 Q. So all land is equal until somebody does something with

6 it?

7 A. You asked me what I believe. I tell you I believe land

8 is valued what it is in its present state.

9 Q. You have requested two separate valuations from Mr Hoza.

10 Both of those valuations you have in report form. Both

11 of them are dated 13th June 2008.

12 Mr Hoza, who is the chief valuation officer for

13 the Turks & Caicos Islands, is clearly somebody who

14 knows the Turks & Caicos Islands, and he has had

15 the benefit, albeit a little removed, of having visited

16 Joe Grant's Cay and having been round it, yes?

17 A. Right.

18 Q. Mr Hoza, I think, is still in his job, isn't he?

19 A. Yes.

20 Q. Still employed by the government. Mr Hoza, of course,

21 knew perfectly well what it was that was being proposed,

22 because he was being told by you what it was that was

23 going to be done on the island, and clearly, when he was

24 making his assessments, he also had the benefit of

25 having seen a number of equivalent and appropriate

1 developments on other islands.

2 Your government, as we have been told many times,
3 has been eager to promote development. Joe Grant's Cay
4 is the latest in a series of developments. Yes?

5 A. Yes.

6 Q. Having received those two valuations, we now turn to
7 a different volume. It is volume 7 in the red bundles.

8 A. Yes. Page?

9 Q. Page 78. I beg your pardon. It is the second tab.

10 A. I got it.

11 Q. It is within the Joe Grant section, which is the second
12 section of that volume.

13 Because you sought a third opinion or a second
14 opinion, whichever way one looks at it. You sought
15 a third valuation. Would you agree?

16 A. Yes. Can you allow me to elaborate?

17 Q. Let me outline it and you can tell me if this is
18 correct. The valuation that we see at page 78 is
19 a valuation from a surveyor to a firm of surveyors
20 called BCQS?

21 A. I am on the wrong page.

22 Q. 78 in the second section?

23 A. Tab 2? Yes.

24 Q. Page 78.

25 A. I got it.

1 Q. BCQS, I believe, and tell me if I am correct in this, is

2 in fact based in London. Is that right?

3 A. They have headquarters throughout the Caribbean. I do

4 not know where they are based.

5 Q. The office that you approached, was it in the Caribbean?

6 A. Yes, in Providenciales.

7 Q. This is a valuation summary, and the basis upon which

8 they did their valuation is best seen from page 81

9 onwards. They say at page 81, it is their

10 paragraph 2.1:

11 "This valuation is prepared following emailed

12 instructions received on 13th June 2008 from

13 the Honourable Minister Hanchell on behalf of the

14 government of the Turks & Caicos Islands. The property

15 comprised in its valuation is the island of

16 Joe Grant's Cay divided into four parcels. Due to the

17 urgent nature of the request for the publication of this

18 report, we have not been afforded the time to inspect

19 the subject property. The client has therefore approved

20 a desktop study which in turn cannot be relied upon for

21 secured lending."

22 Essentially they didn't get a chance to even go and

23 see the island. Reading through this report, they do

24 not at any point mention that approval has been granted

25 for commercial use.

1 They do comparisons with other islands, such
2 information as is available to them. They come out with
3 a valuation for the same four parcels of \$7.7 million.

4 A. Yes.

5 Q. So 700 acres at Joe Grant's Cay, 712, is \$7.7 million.

6 Mr Hoza's valuations, in case we have forgotten
7 them, were 26 million or 89 million. What I am going to
8 hand out now is simply for ease of comparison, sir. It
9 is just those figures put on to a spreadsheet for easy
10 comparison. If I can hand these over.

11 They are just the same figures but they have been
12 put into one sheet so you have it all together.

13 Do you agree?

14 A. Yes.

15 Q. So you are faced with three choices. You have got
16 Mr Hoza's valuation based upon agriculture and that, we
17 are told, is raw land and you have told us that raw land
18 is what you think is appropriate.

19 But his figure for raw land is 26 million. You have
20 Mr Hoza's valuation for commercial development, and
21 Mr Hoza clearly is of the view that commercial
22 development affects the value of the land and he puts it
23 much, much higher. Close on 90 million, yes?

24 A. Yes, sir.

25 Q. A valuer who has not been given time to even look at it,

1 who has not been told it is for commercial development,
2 says 7.7 million. Which of those three valuations did
3 you pick when you sold Joe Grant's Cay?

4 A. Sir, Sir Robin, if you would allow me to elaborate so
5 I can put this into context.

6 SIR ROBIN AULD: Well, answer the question first and then
7 put it into context.

8 A. I didn't pick any evaluation.

9 MR MILNE: Allow me to re-phrase: which of those three did
10 the Cabinet in which you were sitting and upon your
11 advice --

12 A. BCQS valuation.

13 Q. So you picked the 7.7 million valuation to sell
14 Joe Grant's Cay?

15 A. Yes, Cabinet.

16 Q. Do you wish to elaborate on why you did that?

17 A. Yes. Let me refer to bundle 6 and let's go to the
18 beginning of Mr Hoza's evaluation, dated November 7th
19 2006. We got it?

20 SIR ROBIN AULD: Not immediately. November 7th?

21 A. Yes, the very first letter that he talks about.

22 SIR ROBIN AULD: Yes.

23 A. Mr Hoza writes to Mr Higgs on 7th November 2006.

24 The first paragraph, in the essence of time, speaks
25 about Joe Grant's Cay, "informed that investor group had

1 expressed an interest".

2 We know at page 3 of that same evaluation, it says:

3 "The validity of opinion of value should not exceed
4 six months."

5 Q. That is right.

6 A. That is right. Now we go over to Mr Hoza's second
7 evaluation. But we need to go a few pages down. I am
8 going to tell you what we get to a few pages down as
9 soon as I find it. We need to go a few pages down and
10 look at a Cabinet minute of May 30th 2007. From
11 the beginning of Mr Hoza's evaluation, let's call it
12 page --

13 SIR ROBIN AULD: I have it.

14 A. That Cabinet minute speaks about an earlier decision of
15 May 30th of which an evaluation is done in June 10th
16 2008. This is now invalid. You follow me?

17 MR MILNE: No, sorry. Which reference in Mr Hoza's document
18 are you talking of?

19 A. I am talking about Mr Hoza's first evaluation of
20 June 10th 2008. The one that he valued for \$75 million
21 is now invalid. I just want to establish that.

22 What happens from time to time, when valuations are
23 communicated, persons challenge those valuations,
24 challenge those valuations by writing in to either
25 Mr Hoza, myself, the ministry; in most cases they say

1 that valuations are too high. To give you a prime
2 example, there is land around the dump site in
3 Providenciales. No one has taken it up because he has
4 valued land around the dump for half a million dollars.
5 They feel it is too high. Just one example.

6 In this particular case, when the valuation would
7 have been communicated to the developers, at some point
8 in time developers will have challenged the evaluation,
9 saying that they thought it was too high.

10 My instructions would have come from Cabinet to ask
11 Mr Hoza to kindly review his evaluations. Now, it is
12 unfortunate that this bundle does not have my e-mail
13 letters of instruction dated June 12th 2008 and
14 June 13th 2008 but I have them.

15 SIR ROBIN AULD: You have them in front of you, do you?

16 A. I don't have them in front of me. I brought them late
17 this morning and I have them here.

18 SIR ROBIN AULD: Your attorney has them?

19 A. Yes, sir.

20 SIR ROBIN AULD: If you think we should know about them,
21 read them to us.

22 MR MISICK: I just got those this morning. I have --

23 SIR ROBIN AULD: But he -- if he has the documents here --

24 MR MISICK: We can certainly have them copied. I just got
25 them this morning as I was coming in here.

1 SIR ROBIN AULD: Are they here in this room?

2 MR MISICK: Yes, they are.

3 SIR ROBIN AULD: Is there any reason why you can't let Mr --

4 MR MISICK: Certainly not. I just didn't want to spring

5 them on Mr Milne.

6 SIR ROBIN AULD: We don't mind being sprung on at this

7 stage. If Mr Hanchell wants to refer to memoranda that

8 he sent, let him read them if they are not too long.

9 A. I can remember them. Can I continue while he is

10 bringing them to me?

11 SIR ROBIN AULD: No, let's get the letters and let's

12 identify them. (Handed)

13 The first one in date order, Mr Hanchell, is what?

14 (4.00 pm)

15 A. I write to Mr Hoza on June 12th 2008. I copied Mr Leroy

16 Charles, who is the director of survey and mapping.

17 I say:

18 "Dear Mr Hoza, please provide me with the valuation

19 report done to date for Joe Grant's Cay."

20 Then Mr Hoza writes me back on June 13th 2008:

21 "Honourable McAllister Hanchell, as requested,

22 please find attached herewith the valuation report for

23 villa sites in Joe Grant's Cay."

24 SIR ROBIN AULD: That is one we have seen dated the very

25 same day, 13th June, isn't it?

1 A. Yes.

2 I write back to Mr Hoza:

3 "Dear Hoza" --

4 SIR ROBIN AULD: Same day?

5 A. June 13th 2008.

6 "Dear Hoza, I am in receipt of your valuation report
7 and make reference of the non-publication clause whereby
8 government should use this document as a guide to
9 negotiate. We respectfully request the actual market
10 value of the raw land in its present state."

11 SIR ROBIN AULD: He had valued it as agricultural land at
12 nearly 27 million.

13 A. Let me comment --

14 SIR ROBIN AULD: Just seeing, you wanted something less than
15 agricultural value.

16 A. Let me comment on the agricultural land.

17 SIR ROBIN AULD: Is that what you were after, something less
18 than agricultural value?

19 A. No, sir, I was not after anything specific. He in his
20 valuation report said that this is a guide to negotiate.

21 MR MILNE: Yes.

22 A. Our position is that we don't want to be in a position
23 to negotiate the government land. We want to be in
24 a position of the value of the market -- the value of
25 the land in its present state. Both of his report that

1 speaks about this agricultural land that you have for
2 \$26 million on your spreadsheet, I don't have an email
3 of that request for agricultural land. I would like to
4 see where that comes from.

5 MR MILNE: Can I suggest an explanation for this.

6 The expression "raw land", which you use, is not one
7 that surveyors use or valuers. There is no such thing,
8 I would submit to you, as raw land. The closest they
9 can get is agricultural land.

10 A. No, sir.

11 MR MISICK: Well, sir, I rise to dispute that. That is not
12 the way that "raw land" is understood in this country.

13 "raw land" simply means land which is undeveloped.

14 SIR ROBIN AULD: But raw land has potential and one looks at
15 the lowest possible potential value, and I suppose that
16 is agricultural, I don't know.

17 MR MISICK: No, sir --

18 SIR ROBIN AULD: Mr Hanchell has his valuation principle of
19 his own that you value land as it is now without regard
20 to its potential. I have never heard that notion
21 expressed by anybody familiar with the -- dealing in
22 land or valuation of land.

23 MR MISICK: I think we are now treading into areas of expert
24 and expertise. I think in a sense neither of us are
25 expert on that but all I am saying, sir, is that -- and

1 I do know a little about this. For example, if you look
2 at any development agreement which -- in the days before
3 they started disposing of Crown land by sale, when they
4 used to be leased, there used to be a clause which dealt
5 with the valuation of the land, and the valuation was
6 based on the -- the rental used to be based on the value
7 of the land in its undeveloped state, and there was
8 clearly a distinction made between land that was
9 developed and land that was undeveloped.

10 SIR ROBIN AULD: I entirely accept that and it may be
11 the word "raw", subject to what Mr Milne says, is used,
12 but one is always looking at potential. If land, which
13 is barren land, not even of an agricultural quality,
14 suddenly acquires planning permission, everybody knows
15 its value today with a view to its potential rockets.

16 MR MISICK: Yes, I accept that. That is the case but
17 the way things proceed is that if you are a developer,
18 and the example I give you about the leases, the reason
19 why they proceed on that basis is that if I am going to
20 spend \$100 million on land, or 50 million or whatever
21 the sum is, you can't value -- you can't wait until
22 I have made that investment, I have spent my 100 million
23 and then say: because you spent 100 million and because
24 you have improved the value of the land, I'm going to
25 look forward and charge you, based on what the land

1 might be worth after you have developed it.

2 SIR ROBIN AULD: There is a discounting for the input made
3 by the purchaser in the exercise of development clearly,
4 but Mr Hoza is not being asked to be so sophisticated as
5 that. He is asked to take a valuation and he has chosen
6 agricultural. I suppose he could have taken raw and
7 never to be developed, but this is what he has done.
8 For some reason or another, Mr Hanchell wants raw, never
9 to be developed.

10 MR MISICK: All I am saying, sir, at least in this
11 jurisdiction, the way valuers value land is really based
12 on a comparative basis. You compare what land is sold,
13 land of the same or similar quality.

14 SIR ROBIN AULD: That is the same the world over.

15 MR MISICK: The reference is purely to the price at which
16 the land was fetched when it was sold without reference
17 to what you might do with it in the future. All I am
18 saying is this is an area where there may be room for
19 differences in professional opinion. I don't want to
20 say anything more.

21 SIR ROBIN AULD: No, maybe Mr Milne put it too severely when
22 he said "raw" is not ever used in this sort of context.
23 Let's see.

24 MR MILNE: I want to --

25 A. Yes. I would like to continue if I am permitted, sir.

1 Q. Yes.

2 A. I am still acting under the instructions of the Cabinet
3 to request these valuations.

4 The reason why in his valuations he referred to
5 correspondence from me of June 12th and June 13th,
6 because on June 12th I was specific. On June 13th
7 I write to Mr Hoza:

8 "We respectfully request a valuation of
9 Joe Grant's Cay through 101/25, 27, 28 and 29 as per
10 the attached map. Joe Grant's Cay is located between
11 Middle Caicos and East Caicos as you are aware.
12 The valuation should be based on the market value of the
13 raw land in its present state. This is a matter of
14 urgency and I would appreciate receiving your report by
15 the end of business tomorrow."

16 Then there is just one more e-mail. This is
17 a continuation. Then he writes me back on June 13th:

18 "I have attached herewith the revised report on
19 Joe Grant's Cay as your instructions."

20 On June 18th I am writing to His Excellency
21 the Governor, reference Joe Grant's Cay independent
22 valuation 3010125, 27, 28, 29. "HE" meaning His
23 Excellency --

24 Q. The Governor?

25 A. The Governor.

1 "Please see Mr Hoza's revised valuation report as it
2 relates to Joe Grant's Cay. The Premier have asked me
3 to forward you this information."

4 Sir, this valuation report that speaks about this
5 agriculture, I would like to see the e-mail that made
6 a request to Mr Hoza, asking him to provide
7 an evaluation for agriculture. I don't recall sending
8 an email to Mr Hoza for agriculture.

9 MR MILNE: Well --

10 A. One moment, sir, please allow me to finish, it is very
11 important that I hold my train of thought.

12 I believe, because I am not aware of this
13 agriculture valuation, I believe it must be an error in
14 Mr Hoza's part. I tell you why I say that. Everything
15 in the June 13th, both valuation reports,
16 the agriculture one for 26 million and the commercial
17 one for 89 million, everything is the exact same except
18 he speaks about agriculture.

19 Now, part of the Cabinet instructions was that since
20 the developer has challenged the evaluation, you should
21 write -- may I have it, please? You should write to one
22 of the most reputable firms in the region, BCQS --

23 Q. Can I pause you a second?

24 A. Yes.

25 Q. Are you saying you were acting under Cabinet

1 instructions following Mr Hoza's valuation? Or before

2 that?

3 A. Mr Hoza's -- he has done a valuation.

4 Q. In 2006?

5 A. Yes. That evaluation is expired, using those for

6 the better words. Those numbers at some point in time

7 are communicated to the developer. The developer

8 challenges those numbers.

9 SIR ROBIN AULD: Did this developer challenge them?

10 A. Yes.

11 SIR ROBIN AULD: Do we have that?

12 A. I don't have it here, but I am talking what I remember,

13 sir.

14 SIR ROBIN AULD: Putting aside what precise instructions

15 were given, the end product of all this, as I understand

16 it, is either you or the Cabinet, or you acting through

17 the Cabinet, were anxious to get this credit valuation

18 of raw land instead of some other valuation.

19 A. I am going to get there right now, sir, if you allow me,

20 please.

21 So I am acting on the instructions of the Cabinet,

22 and this is not just for Joe Grant's Cay. This happens

23 in other cases. BCQS is the firm that Cabinet prefers

24 because of their reputation. It is communicated, and

25 I have the correspondence here, I am not going to go

1 into time to read that, the exact same thing asking them
2 to provide the valuations.

3 They provide the valuations to me, they send it to
4 me electronically, forward them on to the Governor
5 because the Governor wanted to see the valuations in
6 representation for the new Cabinet meeting.

7 The Cabinet of 18th June 2008, it is attached
8 a couple of pages down to Mr Hoza's evaluation, debates
9 the matter, it makes a decision and it chooses the BCQS
10 valuation. I have no knowledge of this agriculture
11 evaluation. With the greatest respect of Mr Hoza, it
12 must be a mistake. I have no --

13 SIR ROBIN AULD: Maybe he thought that he knew a thing or
14 two about valuation and you didn't ask him for
15 a valuation of raw land. Why on earth would Cabinet
16 want a valuation of raw land when they were selling land
17 to a developer?

18 A. Because Mr Hoza's report, in his valuation report and
19 I am not going to look at this one, I think it is in
20 there, but his report in specific talk about
21 negotiating, and very often it talks about the value of
22 the land in its future state. I am telling you that it
23 is my interpretation as a minister responsible for
24 natural resources that valuations are to be based on
25 land in its present state. These two evaluations in

1 Mr Hoza's report, when you get an opportunity to see my
2 e-mails, they go out simultaneously to both valuers.
3 The report comes in, it is forwarded on to the Governor,
4 so he does whatever he does in his review over the
5 weekend or whatever, and we go to Cabinet on Wednesday
6 morning likely, it is deliberated. The minute of 08468
7 Cabinet makes a decision. It goes with the BCQS
8 evaluation. That is my report, sir.

9 Q. We have that minute, 18th June. You adopt the BCQS
10 lowest figures wholesale.

11 A. Pardon?

12 Q. All of the BCQS figures are adopted straight off their
13 report. That is what you do. I think we are agreeing
14 on that. We don't seem to be at odds.

15 A. I am not going to go through the numbers. Let's assume
16 so.

17 Q. So it is your position you do not negotiate?

18 A. Sir, it is my position that the developer challenged
19 the evaluation. We asked Mr Hoza for a review. His
20 review came up with a higher number than 2006. We ask
21 BCQS, we ask them both the same things. That is what
22 they came up with. Unfortunately, the minute does not
23 talk about the discussions, but this is a Cabinet
24 decision. My role in this was following the Cabinet
25 instructions --

1 SIR ROBIN AULD: I think we have got the point that it is a

2 Cabinet decision. We want to know why.

3 MR MILNE: There is no Cabinet meeting between Mr Hoza's

4 June survey, 13th June, and five days later on 18th June

5 when Cabinet goes for the alternative. But Mr Hoza is

6 still in his job. Are you dissatisfied with Mr Hoza's

7 performance?

8 A. Not at all.

9 Q. So why is it that his advice is cast aside in favour of

10 another developer who has not even seen the site?

11 A. You are asking me to answer a collective decision.

12 I was taking instructions from Cabinet. I simply

13 request the evaluations. They came back. I forwarded

14 to His Excellency the Governor who was the president of

15 the Cabinet prior, prior to this being circulated to

16 other members because he wanted to have them to review.

17 Q. With respect, Minister, what we have heard in the past,

18 and what I suggest we are hearing now, is Cabinet

19 seeking to hide behind the skirts, figuratively, of the

20 Governor by saying the Governor agreed. This was

21 a decision of the Cabinet which was placed before

22 the Governor, I will submit, as a fait accompli?

23 A. I am not suggesting that. I don't accept that Cabinet

24 is hiding anything behind the Governor. The facts are

25 in my e-mail I forwarded to the Governor. I only raised

1 the Governor because he is in the e-mail and I want to

2 give you the full context of what the e-mail says.

3 I don't want to miss out anything.

4 Q. You don't accept that it is the job of government, of

5 the Cabinet, as trustees of the Crown land to get

6 the best possible value for the people of the Turks &

7 Caicos Islands when selling Crown land?

8 A. Sir, I believe that valuations, and this is my belief,

9 you may have yours, this is my belief, please,

10 valuations are done in its present state that the land

11 is in.

12 Q. And you are a trained surveyor, sir?

13 A. Me?

14 Q. Yes.

15 A. I have not finished high school. You know that.

16 I ain't trained in nothing.

17 Q. But you employ a trained surveyor as a planning officer?

18 A. I didn't employ a trained surveyor. You are wrong about

19 that.

20 Q. The government employs Mr Hoza as a professional

21 planning officer?

22 A. Yes, sir.

23 Q. But then you decline to take his advice on the value of

24 the land and you -- it is like a Dutch auction -- you

25 are going for the lowest possible bid?

1 A. Would you agree that valuations may be subjective?

2 SIR ROBIN AULD: Mr Milne, I think the point is clear enough

3 and the issue between you is absolutely clear and

4 I shall obviously have to take a view about it.

5 MR MILNE: Sir.

6 Sir, the point is made, and the sheet shows

7 the comparison and it is clear that the minister accepts

8 that the government accepted that price. In

9 the circumstances, sir, I have nothing further.

10 (4.15 pm)

11 SIR ROBIN AULD: And we have heard the reason why. Or

12 a reason why. Thank you. Mr Fitzgerald retailed do you

13 have any questions?

14 MR FITZGERALD: No, sir.

15 SIR ROBIN AULD: Mr Smith, you go ahead.

16 Cross-examination by MR SMITH

17 MR SMITH: Good afternoon, Mr Minister.

18 A. Good afternoon.

19 Q. You were shown a document in relation to some letter,

20 I think it was an email that was written by the

21 Deputy Premier in relation to some -- queries in

22 relation to the land, relating to certain individuals.

23 A. Yes, sir.

24 Q. You have seen that e-mail?

25 A. Yes, sir.

1 Q. Let me ask you this: those individuals that were
2 eventually granted that land on that letter, were they
3 qualified to those lands?

4 A. Yes, sir.

5 Q. And answer this, if they were not otherwise qualified,
6 what position would you have taken?

7 A. They would have been rejected.

8 Q. Is that the similar thing in relation to the letter
9 written by Honourable Boyce?

10 SIR ROBIN AULD: I think you ought to identify these letters
11 by date.

12 MR SMITH: I don't have them, never had them.

13 SIR ROBIN AULD: What are we talking about, for the purpose
14 of the record?

15 MR SMITH: These were the e-mails attached to
16 the correspondence from Ms Garland-Campbell, is that
17 correct?

18 A. Yes, sir.

19 SIR ROBIN AULD: What --

20 A. The e-mails he is talking about, I am familiar with
21 them.

22 SIR ROBIN AULD: With the lists attached to them?

23 A. Yes. That was the West Caicos land and the Five Cays
24 land. What was your question on that?

25 MR SMITH: In relation to Honourable Boyce, was

1 the situation similar, that were these persons
2 qualified?
3 A. Yes, sir.
4 Q. If they are not otherwise qualified, what position would
5 you have taken?
6 A. They would have been rejected.
7 Q. Let me ask you this: at that point in time when
8 the application, when the letter was sent by both
9 Honourable Boyce and Honourable Floyd Hall, was there
10 a policy, Crown land policy that prohibits members of
11 Parliament or ministers from making those
12 recommendations?
13 A. No, sir, there is no prohibition at all.
14 Q. Is there any illegality in them doing that?
15 A. No, sir, there was no illegality in them doing that.
16 Q. Now, in relation to both -- let's deal first with
17 the letter sent by Honourable Boyce. Are you able to
18 say if there were persons that were standing in line to
19 receive those lands and were unable to get those lands
20 as a result of Honourable Floyd Hall's letter?
21 A. Say that again.
22 Q. Were there previous applicants who made an application
23 for those said specific lands, and they were deprived of
24 those lands as a result of Honourable Floyd Hall's
25 letter?

1 A. No, sir, not to my knowledge.

2 Q. What about the situation in relation to

3 Honourable Boyce? Were there persons standing in line
4 who were deprived as a result of the Honourable Boyce's
5 letter?

6 A. No, sir. To the best of my knowledge, those were
7 persons who repeatedly -- the majority of them tried to
8 get land.

9 Q. Let me ask you specifically about Honourable Boyce's
10 letter. Would you agree with me that she represents
11 the Five Cays community?

12 A. She does.

13 Q. How would you describe the Five Cays community in terms
14 of economic wealth?

15 A. Five Cays is one of the poorest, if not some of the
16 poorest areas in the Turks & Caicos Islands, in
17 particular Providenciales. It has a history of illegal
18 development, mainly foreigners, and it is a constant
19 challenge with Belongers, even when you offer a Belonger
20 a parcel of land, for a better lack of the word, not to
21 be discriminatory, mostly our neighbours from the south,
22 especially Haiti, with no regard, continue to squat so
23 it is always a problematic area.

24 Q. If I am wrong, correct me: would you agree with me that
25 the letter that came from Honourable Boyce, she was

1 trying to get an assistance for affordable housing for
2 those persons in Five Cays; is that correct?
3 A. Absolutely. Honourable Boyce has always been that type
4 of person, has this special need, this special place in
5 her heart, as it appeared to me, for the needy and
6 especially the poor. She constantly make
7 representations, trying to better the poor, not only in
8 Five Cays but throughout the country.
9 Q. Dealing specifically with the letter that she sent,
10 would you agree with me that those were requests in
11 relation to affordable housing?
12 A. Yes.
13 MR SMITH: I have nothing further.
14 SIR ROBIN AULD: Thank you, Mr Smith. Yes Mr Misick.
15 Cross-examination by MR MISICK
16 MR MISICK: Mr Hanchell, can I just ask you a couple of
17 questions on the land valuation first.
18 Now, this was not the first time that there had been
19 a disagreement between the Cabinet and Mr -- the chief
20 land evaluation officer?
21 A. When you say disagreement, I believe you meant --
22 Q. As to the value?
23 A. I believe you mean if valuations were challenged?
24 Q. Yes.
25 A. Yes, other valuations were challenged.

- 1 Q. It is right, isn't it, that there are two professional
2 firms of land valuers in this jurisdiction?
- 3 A. Yes, BCQS and Construction and Advisory Services.
- 4 Q. You have no interest in any of their business?
- 5 A. No, sir.
- 6 Q. You are not related to any of them?
- 7 A. No, they are not even from here. Neither one.
- 8 Q. In fact all of their personnel are expatriates?
- 9 A. Absolutely. On the last day I just hire someone
10 the other day.
- 11 Q. As far as you know, they are a professional firm of
12 valuers?
- 13 A. Yes, sir. They have a great reputation throughout
14 the region, I understand.
- 15 Q. Is it right that in relation to lending, including major
16 lending by all the financial institutions here, that
17 they are used for the purposes of valuation?
- 18 A. Yes, sir, one of the two.
- 19 Q. Now, Joe Grant's Cay is a completely uninhabited island,
20 is that correct?
- 21 A. Yes, sir.
- 22 Q. But you can only get there by boat?
- 23 A. Or by helicopter, yes, sir.
- 24 Q. It has no infrastructure?
- 25 A. No, sir, no infrastructure.

1 Q. I notice in the thrust of valuation -- if you want me to
2 refer to that, I can -- of Mr Hoza, he did a comparison
3 between the land on Joe Grant's Cay and another island,
4 I think it was Middle Caicos?

5 A. Ambergris Cay. It is page 2, market evidence and
6 indicators.

7 Q. Is there any comparison between Ambergris Cay and
8 Joe Grant's Cay?

9 A. Yes, absolutely no comparison. As a matter of fact,
10 there is no comparison between Ambergris Cay and Provo.

11 Q. When the government disposed of land -- if you as
12 an individual were selling a piece of land, would you
13 sell it for the value that you can get at the time, is
14 that correct?

15 A. Yes. Yes.

16 Q. In the case of Joe Grant's Cay, it is right, isn't it,
17 that the government was not simply selling a piece of
18 land, they were entering into an agreement?

19 A. A development agreement.

20 Q. For the sale and development of that land?

21 A. Yes, sir. A development agreement.

22 Q. It is right, isn't it -- it is not now, whether or not
23 that ought to be the policy is a different matter, but
24 it is not now and it has never been the policy of the
25 government to value Crown land based on what they think

1 the land might be as a consequence of the proposed

2 development?

3 A. It has never been.

4 Q. The purpose of entering into the development agreement

5 for the sale and development of Crown land is to bring

6 inward investment?

7 A. Yes, and employment.

8 Q. Now, it was put to you by Mr Milne that you as

9 government ministers, you are individually and

10 collectively trustees of a public asset; you accept

11 that?

12 A. Yes.

13 Q. Is it your position that in dealing with the disposition

14 of Joe Grant's Cay in the way you have dealt with it,

15 that you took into account your position as a trustee?

16 A. Yes.

17 Q. It was also suggested to you that -- I certainly had

18 heard it for the first time -- you and maybe other

19 ministers were hiding behind the Governor?

20 A. It was suggested, sir.

21 Q. Were you given any advice or was there any suggestion by

22 the Governor at the time that there was something

23 terribly wrong with the way Joe Grant's Cay was being

24 dealt with?

25 A. Not at all, sir.

1 Q. Had he put forward a view, would you have taken that

2 view into consideration?

3 A. Yes, sir.

4 Q. In fact we know that he did ask for the consultant to

5 review, was this to review the -- sorry, not in relation

6 to this project, but in relation to another project, he

7 did ask for the appointment of a consultant to review

8 the valuation?

9 A. Yes, sir.

10 Q. Did that consultation take place?

11 A. Yes, sir.

12 Q. As a result of that consultation, did the transaction

13 proceed at a somewhat higher valuation?

14 A. Yes, sir.

15 Q. If you can't remember --

16 A. Yes, sir, and no, in two different cases. There are

17 different cases. Yes and no. On different events.

18 Q. I would like to ask you just a few questions about

19 the land policy and the application of it. I would like

20 you to refer to the letter from Mrs Campbell to the

21 Commission dated 31st January. That is in our bundle --

22 bundle 5?

23 A. Which tab?

24 MS MISSICK: It is in the black bundle.

25 A. Page, please?

1 MR MISICK: Page 3. (Pause)

2 A. Yes, I have it now.

3 Q. Before I get on to this, you were challenged about
4 the evidence you gave last week or the week before now
5 about a review process that takes place when Crown land
6 is being awarded?

7 A. Yes.

8 Q. At the beginning of his cross-examination of you,
9 shortly after Mr Milne, my learned friend Mr Milne read
10 out your evidence, do you still recall that?

11 A. Yes.

12 (4.30 pm)

13 Q. In substance is that correct?

14 A. No, not how he put it.

15 Q. Sorry, not the way how he put it, the way how you put it
16 in your evidence two weeks ago?

17 A. Oh yes, my evidence two weeks ago is my evidence today.

18 Sorry, I didn't understand.

19 SIR ROBIN AULD: It was summarised in the letter to the
20 Permanent Secretary as well, I think, the letter of the
21 29th --

22 MR MISICK: Yes, I think that is a fair --

23 SIR ROBIN AULD: To which she was replying.

24 MR MISICK: So now did -- Ms Campbell did not discuss this
25 letter -- correspondence with you before she sent it to

1 the Commission?

2 A. No, sir, she didn't.

3 Q. First time you saw it was today?

4 A. Yes.

5 Q. Let's go through it. She says there are three methods

6 by which --

7 SIR ROBIN AULD: Sorry, you are starting on the second page

8 and you are missing the first page.

9 MR MISICK: I was just going through the three methods --

10 SIR ROBIN AULD: What was put in the letter was that there

11 was a description by Mr Hanchell of the review process

12 by a review group. Her answer on the first page is that

13 there was no such group and if there was no such group,

14 there could have been no such process. Then she goes on

15 on the second page to set out the three ways in which

16 allocations are made and we know what they are.

17 MR MISICK: Yes, I was not -- I was not -- that was not --

18 I was not going to deal with that. I was simply going

19 to the three methods, just ask him about the three

20 methods, how the applications come to the department.

21 So she says there are three methods by which

22 applications come to the department. Let's look at the

23 first of them.

24 It says:

25 "On instructions from the minister of natural

1 resources, the Honourable McAllister Hanchell, primarily
2 to me but also to the Commissioner and Deputy
3 Commissioners of lands."

4 Then she gave examples in annex 2 of various e-mails
5 with names attached. You saw some of those names and
6 there was some comment about those.

7 What I want to ask you about that is that if you
8 turn to page 7 of that document.

9 A. Yes.

10 Q. This is the first list which is in relation to
11 West Caicos that you were questioned about.

12 I think you do accept that this list came from you,
13 correct?

14 A. Yes.

15 Q. How would this list have been composed?

16 A. This list would have been composed of either
17 applications that would have perhaps been on my desk or
18 representations that I am aware that persons get made.

19 It is possible that this list may go back and forth on
20 the e-mail. Other names are added to it. That is how
21 it happened.

22 Q. Now this was not a demand by you that Mrs Campbell issue
23 land to every person on this list. This was not
24 a demand by you.

25 SIR ROBIN AULD: That really is a leading question, isn't

1 it?

2 MR MISICK: Sorry.

3 SIR ROBIN AULD: Given the point.

4 MR MISICK: I accept that.

5 SIR ROBIN AULD: I think he said that he regards this as

6 an instruction or a request, something less than a final

7 diktat. I think that was the burden of his evidence.

8 MR MISICK: Do you know or are you able to tell whether

9 every person on this list in fact got a piece of land?

10 A. I can't say for certain that every person got a piece of

11 land.

12 Q. The same thing is true of the other methods in number 2,

13 "instructions from other ministers of government and

14 elected members".

15 You can't say whether the request that came from

16 them resulted in every such person getting a piece of

17 land?

18 A. I can't say that every request resulted in persons

19 getting land, no, I can't.

20 Q. Before I move on to the third category, the people that

21 approached you and other ministers of government for

22 land, do they belong to any particular group?

23 A. Particular group, I am not certain. What do you mean by

24 particular group? (Inaudible) club?

25 Q. Do they come from all sectors, all walks of life in

1 the country?

2 A. Yes, sir, they come from all walks of life in our

3 society, throughout the Turks & Caicos Islands.

4 Q. People of different political persuasions?

5 A. Absolutely.

6 Q. People of different social classes?

7 A. Yes, sir, religion too.

8 Q. If you are approached by anyone about a piece of Crown

9 land, do you regard it as your obligation to assist?

10 A. Yes, sir.

11 Q. Wherever and whenever you can?

12 A. Yes, sir, I do believe I have an obligation to serve all

13 the people, regardless of what...

14 Q. Do you regard that as also one of your duties as

15 a public trustee?

16 A. Yes, sir, I do.

17 Q. Now, it was suggested to you that if someone in one of

18 the rural communities wanted access to a piece of Crown

19 land, all you need to do is give them a telephone number

20 for someone whom they can contact. In your experience,

21 would that be a workable solution?

22 A. No, sir.

23 Q. Tell us why. Where are the government departments that

24 deal with land, where are they located?

25 A. At the moment -- it used to be at South based. In

1 Grand Turk it is at the ministry; in Providenciales,
2 the ministry along with lands and survey; at
3 South Caicos it is at the District Commissioners'
4 office; at North Caicos, it is at the District
5 Commissioners' office, or office block that service
6 North and Middle Caicos.

7 Q. How long have those offices been in existence?

8 A. There have been a lands and survey department in Provo
9 for a number of years, which applications went to and
10 then applications went to the lands and survey
11 department in Grand Turk. Those were the only two
12 offices, but since the Crown land policy and
13 establishment of the land Commissioners' office, we have
14 opened offices in all of the islands. I would say
15 the last two years, maybe.

16 Q. The appointment of land Commissioners has only taken
17 place within the last two years?

18 A. Yes, sir, that is my recollection.

19 Q. Before that it was the case that if, for example, you
20 lived on North Caicos, and you wanted a piece of land
21 you have to --

22 A. Find your way to Grand Turk.

23 Q. Get on the plane and either go to Providenciales, where
24 you might fill an application form in and that
25 application form was then sent to Grand Turk?

1 A. It goes further than that. There was no Providenciales
2 back in the years. You had to go to Grand Turk. But
3 now Providenciales and then it is Providenciales and
4 Grand Turk, and now you don't have to go to just those
5 two islands.

6 Q. It is true, is it not, is that the tradition, and I hope
7 I am giving you a little bit of history here so that
8 this can be put in context, is that constituents would
9 ask their representatives to perform that task for them?

10 A. Yes, as a matter of fact that was and still is
11 the tradition, and they would ask you to do other things
12 for them, fill in forms and taking envelopes to various
13 departments.

14 Q. You performed that task for your constituents and for
15 other members of the -- for the Belongers, is that
16 correct?

17 A. Yes, sir.

18 Q. Just before I finish, it is also the case that you
19 always get complaints about applications being lost?

20 A. Yes, sir, that is a regular thing.

21 Q. Let's look at -- I am coming to your point, sir.

22 SIR ROBIN AULD: I do not want you to feel in any way
23 hurried Mr Misick, because we can resume on Monday
24 morning with this evidence if you feel more comfortable
25 with that, and we have a little bit of housekeeping to

1 do at the end of the day.

2 MR MISICK: Yes, I think that would be good.

3 SIR ROBIN AULD: It might be fairer to all concerned.

4 Perhaps I can put in a small shopping list for

5 the weekend; may I do it by way of these questions to

6 you, Mr Hanchell.

7 I think you said that the purchasers of

8 Joe Grant's Cay, then proposed purchasers, objected to

9 the valuation or valuations that had been prepared by

10 Mr Hoza.

11 I think you said that?

12 A. Yes, I said that.

13 SIR ROBIN AULD: Did they do so in writing?

14 A. I do not recall, but most likely.

15 SIR ROBIN AULD: Who objected?

16 A. I do not know exactly who objected.

17 SIR ROBIN AULD: I wonder if you could perhaps use

18 the weekend to see if there were objections in writing.

19 To whom would they have been addressed?

20 A. It could be addressed through TC Invest, because I see

21 the paper originally is from TC Invest, or they could

22 have written to the Premier's office or they could have

23 very well written to my office. I am not certain.

24 SIR ROBIN AULD: If you would perhaps just make a search and

25 produce any letters of objection to the valuation of

1 Mr Hoza or valuations for Joe Grant's Cay, I think that
2 would be of help. We for our part will make independent
3 enquiries of TC Invest, and I suppose your department as
4 well. Thank you.

5 I am sorry to ask you to come back on Monday but it
6 is unavoidable, I am afraid.

7 MR MILNE: Sir, might I suggest if the minister has e-mails
8 which he has been reading from, that those go in
9 the bundle and he leaves them with us and we can copy
10 them and have them inserted before Monday.

11 SIR ROBIN AULD: I will leave you to arrange that with
12 Mr Misick.

13 Housekeeping

14 SIR ROBIN AULD: May we turn to housekeeping, then. We have
15 sent to all parties, those here and those not here,
16 their representatives, a provisional programme for next
17 week.

18 It looks now as if we should be still taking
19 evidence up to the middle of Monday, but starting,
20 I hope, with speeches in the afternoon of Monday and
21 going on into Wednesday. You should feel perfectly free
22 either to submit a skeleton or not, submit speaking
23 notes or not as you choose, and if you feel that there
24 is anything you may want to reserve for written
25 submissions by way of elaboration or examples, then feel

1 free to do that as well.

2 I think the timetable will probably be within two
3 weeks after the close of the oral hearings.

4 Now, Mr Smith?

5 MR SMITH: There are some additional documents that my
6 client, Deputy Premier Floyd Hall, is in the process of
7 gathering in relation to the Southern Health Network
8 issue. As soon as he gets those -- I just wanted the
9 Commissioner to learn that those are coming.

10 SIR ROBIN AULD: That is very helpful. Thank you very much.

11 The provisional programme we have distributed, does
12 it seem manageable to each of you?

13 MR SMITH: Yes.

14 SIR ROBIN AULD: 10.30 on Monday morning.
15 (4.45 pm)

16 (The court adjourned until 10.30 am

17 on Monday, 9th February 2009)

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25

1	INDEX	
2		PAGE
3	MR CLYDE ROBINSON (continued)	1
4	Cross-examination by MR FITZGERALD	1
	(continued)	
5	Cross-examination by MR MISICK	18
6	Cross-examination by MR FITZGERALD	33
7	Re-direct by MR MILNE	33
8	MR GARY LIGHTBOURNE (sworn)	35
9	Direct-examination by MR MILNE	35
10	Cross-examination by MR FITZGERALD	69
11	HONOURABLE MINISTER	93
12	MCALLISTER HANCHELL (recalled)	
13	Direct-examination by MR MILNE	93
14	Cross-examination by MR SMITH	166
15	Cross-examination by MR MISICK	170
16	Housekeeping	183
17		
18		
19		
20		
21		
22		
23		
24		
25		

