

1 Monday, 19th January 2009
2 (10.30 am)
3 SIR ROBIN AULD: Good morning, ladies and gentlemen. Just
4 before Mr Milne begins his examination of the
5 Deputy Premier, the Honourable Floyd Hall, just one or
6 two matters of housekeeping.
7 Mr Gomez and Mr Edwards, you both appear today on
8 behalf of the Premier, is that right?
9 MR GOMEZ: Yes, my Lord.
10 SIR ROBIN AULD: You are both members of the firm of
11 Misick~& Stanbrook, are you?
12 MR GOMEZ: No, I am not.
13 MR EDWARDS: Mr Gomez is from the Bahamian bar and I am from
14 the London bar.
15 SIR ROBIN AULD: Who is the boss today?
16 MR EDWARDS: Mr Gomez.
17 SIR ROBIN AULD: Mr Gomez, in the course of the proceedings
18 last week, Mr Edward Fitzgerald QC, then appearing and
19 still appearing in due course for the Premier, put into
20 evidence a letter from Mr Mario Hoffman for
21 the assistance of the Commission and in support of
22 the Premier's evidence.
23 I don't know if you are aware of that?
24 MR EDWARDS: Sorry, Mr Gomez was not here last week. I was
25 here last week. I was just sat there.

1 SIR ROBIN AULD: So should I address these remarks to you,

2 Mr Edwards?

3 MR EDWARDS: Yes, please.

4 SIR ROBIN AULD: Do you remember the letter?

5 MR EDWARDS: I do remember the letter.

6 SIR ROBIN AULD: It was a letter which gave no indication of

7 Mr Mario Hoffman's address, although it was dated

8 12th January. I have now had an opportunity to see

9 the letter, which was addressed to Ms Akierra Missick,

10 and the Commission would like to request Mr Hoffman to

11 attend the Commission hearings and to give

12 the assistance that he volunteered at the end of his

13 letter, if there were any further enquiries he would be

14 happy to co-operate.

15 In the light of the evidence given by the Premier,

16 I consider that it would be only just that Mr Hoffman

17 comes to give evidence to the Commission. Now,

18 the trouble is we don't know where he is. His letter

19 doesn't indicate his address. Various attempts by

20 the authorities here to find him haven't identified him.

21 Do you know?

22 MR EDWARDS: He is not on the island. I believe he is in

23 Slovakia.

24 SIR ROBIN AULD: In where?

25 MR EDWARDS: Slovakia, where he is from. But we contacted

1 him via e-mail --

2 SIR ROBIN AULD: This letter of 12th January came from
3 Slovakia, did it?

4 MR EDWARDS: I believe so, sent via e-mail. He signed it
5 and scanned it on for us.

6 SIR ROBIN AULD: Do you know when he next intends to be
7 within the Territory?

8 MR EDWARDS: I don't know his personal movements but I will
9 make a phone call during the short adjournment to
10 Ms Akierra Missick and no doubt she will be in contact
11 with Mr Hoffman.

12 SIR ROBIN AULD: That would be very helpful. I think if
13 Ms Akierra Missick could indicate to him, wherever he
14 is, that the Commission is keen to accept his offer in
15 the last sentence of his letter to assist in any further
16 way he can, we would like to see him as soon as
17 possible.

18 MR EDWARDS: I will pass your remarks on.

19 SIR ROBIN AULD: Thank you very much. I shall also ask
20 the attorneys through Ms Williams-Glinton today to make
21 enquiries also as to his whereabouts, belt and braces.

22 Ms Williams-Glinton, I think you will have noted
23 what I have just said. It may be that
24 the Attorney General has no greater a hand on this than
25 anybody else, but if the attorney's chambers through

1 whatever offices or those it can command can identify
2 where Mr Hoffman is and make contact with him on behalf
3 of the Commission, I would be very grateful. Thank you.

4 Yes, Mr Milne.

5 MR MILNE: May it please you, sir. Good morning,
6 Mr Deputy Premier. I am going to be asking you a number
7 of questions and I am assisted today, can I make clear,
8 by my learned friend --

9 SIR ROBIN AULD: Mr Milne, I have missed a trick. Mr Floyd
10 Hall should be sworn or affirmed if he wishes before he
11 gives his evidence.

12 MR MILNE: Certainly.

13 HONOURABLE DEPUTY PREMIER FLOYD HALL (sworn)

14 Examination in chief by MR MILNE

15 MR MILNE: Sir, if I may do this through the Commission.

16 Before I begin questioning, I am assisted today by my
17 learned friend Ms Sarah Clark, junior counsel to
18 the Commission.

19 Mr Deputy Premier, you, I think, were not present
20 during last week's evidence, is that correct?

21 A. That is correct.

22 Q. You may have read something of the evidence and I may be

23 asking you about matters that arose during the course of
24 last week's evidence and invite your comment upon them.

25 One of the issues that arose was in relation to a code

1 of conduct?

2 A. Yes.

3 Q. Were you aware of a code of conduct for ministers?

4 A. Yes, I am aware.

5 Q. As far as you were aware, had that code of conduct come

6 into force?

7 A. To the best of my knowledge, it did not come into force

8 but I was fully aware of the code of conduct.

9 Q. What did you believe its status was?

10 A. Its status was to, I believe, get some amendments done,

11 because in reading the code of conduct, there were quite

12 a few references to the House of Parliament in the UK

13 and needed some amendments to that, and once those

14 amendments were attended to, it would come into force.

15 Q. According to the Cabinet minutes that were read out last

16 week, the ministerial code of conduct was approved. It

17 may help if you look at the minute of that meeting. If

18 you take, please, volume 6, which is one of the red

19 volumes to your left. In the first section of that

20 file, if you go to page 145.

21 This minute in fact comes from 6th February 2008, so

22 just under a year ago. That minute, following

23 the introduction of a paper by the Premier, led to the

24 Cabinet advising that it accepted a ministerial code of

25 conduct:

1 "... subject to the amendments as discussed and
2 agreed at the meeting and noted by the Cabinet Secretary
3 being incorporated into the said documents."

4 It would appear that, subject to the discussion that
5 took place, because of course this is only a minute of
6 the final decision, it had already been agreed. Do you
7 not recall that?

8 A. I do recall this and as I stated earlier, it was subject
9 to some amendments being attended to as it relates to
10 the code of conduct in the UK. Once those amendments
11 were addressed and it was signed by the Premier, then it
12 would come into effect.

13 Q. But the wording had been agreed?

14 A. Basically.

15 Q. And therefore the Premier had simply to sign it and have
16 it distributed as a final document?

17 A. Yes.

18 Q. Which is a purely --

19 A. With amendments.

20 Q. With the amendments, yes. It would be re-typed, no
21 doubt. It being 13 pages long, that is not a major
22 task, I would suggest. Did you never ask whatever
23 happened to that code of conduct?

24 A. I never asked.

25 Q. Did it never cross your mind that it was appropriate for

1 a code of conduct to be in place?

2 A. Yes, it is appropriate for a code of conduct to be in
3 place. As I stated, I am aware of it. I have a copy of
4 the code of conduct. We were fully abreast of the items
5 addressed in that code.

6 Q. Did you regard yourself as bound by that code of conduct
7 or at least the principles encompassed by it, even if it
8 hadn't been formally discussed by the Premier?

9 A. Yes.

10 Q. As regards declarations under
11 the Registration of Interests Ordinance, did you make
12 full and clear declarations each year?

13 A. I did. In the first year I made full and clear
14 declarations and the years following, there would have
15 been some omissions.

16 Q. Why would there have been omissions?

17 A. Because when you looked into the Register of Interests,
18 you would see there is a section that relates to gifts
19 and campaign contributions. No one filled out that
20 section. I guess it was a case of group thinking, in my
21 respect and that section wasn't filled out. Except for
22 that section, every other section of the declaration was
23 filled out by me.

24 Q. Why was that one section never filled out?

25 A. As I stated, it was not filled out because nobody else

1 seemed to have been doing it and there were no penalties
2 being enforced as a result of it. So it was a group
3 think situation, I think amongst all of us and resulted
4 in my not filling out that section.

5 In hindsight I do believe that it was inappropriate
6 to do that.

7 Q. How did you know that nobody else was filling it in?

8 A. Because you have a register of members and you can go
9 through the entire register of members of all the
10 members of the House of Assembly, both past and present,
11 and see who filled out which sections.

12 Q. You can do. Did you do that? Did you go through
13 the register each year?

14 A. The register was applied to each member each year.
15 I would assume that all members went through
16 the register. I certainly did.

17 Q. So when you put your returns in, the return is
18 a pro-standard format, isn't it?

19 A. Yes.

20 Q. It is essentially with a series of boxes to fill in and
21 from reading the dates that we have seen, it would seem
22 that it was done towards the end of the year?

23 A. Yes.

24 Q. In some cases, we will come back to this shortly, say
25 for 2007, I think your return was actually dated

1 31 December or something like that. So end of the year,
2 effectively a sort of housekeeping exercise, you would
3 declare what was necessary for the year just past?

4 A. Yes.

5 Q. In some cases it may have run a little longer. I don't
6 think there was any criticism but it would have been
7 around that time.

8 Once you had filled in your form you would have
9 submitted it to the Registrar. Again, from what
10 the Commission has been able to see, the Registrar in
11 fact compiled a register which he wrote out by hand and
12 then some other person, presumably a typist, typed it
13 out in neat format and it was a bound copy?

14 A. Yes.

15 Q. Would you have received a copy of that bound volume?

16 A. Yes, every year.

17 Q. To the best of your knowledge, did every other Cabinet
18 member get a similar copy?

19 A. Yes.

20 Q. So you would be able to see your own entries?

21 A. Yes.

22 Q. And indeed those of your colleagues?

23 A. Correct.

24 SIR ROBIN AULD: Pausing there, Mr Milne. The precise
25 heading that we are considering at the moment is number

1 4, is it, "Financial Sponsorships, Gifts", et cetera?

2 MR MILNE: Yes, sir.

3 SIR ROBIN AULD: That is what we are talking about?

4 A. Yes.

5 MR MILNE: Quite apart from when you first filled out

6 the form, you would subsequently see the finished

7 product, the official record of what you had declared

8 and you would be able to say, at that point, presumably,

9 if something were wrong, hang on a second, we need to

10 get this right?

11 A. Correct.

12 Q. You could send it back to the Registrar and ask him to

13 clarify matters?

14 A. Correct.

15 Q. With that one box, if I follow you correctly, nobody

16 ever filled it in?

17 A. To the best of my recollection, yes, nobody.

18 Q. Of all the boxes, why would that one attract this

19 consensus of silence?

20 A. I don't know. I guess it was a case of group think over

21 years, whereby nobody did it and the years passed and as

22 I stated, given that the declarations were not

23 rigorously enforced, led some people, including myself

24 in this particular case, to feel comfortable not filling

25 it in.

1 (10.45 am)

2 Q. Would you agree then that there was a cross-party
3 culture of disregard for this?

4 A. I don't know if I would call it cross-party culture, but
5 I would believe that it was inappropriate looking at it
6 in hindsight not to fill it in.

7 Q. But as far as the other boxes are concerned,
8 the directorships, shareholding, property owned, land
9 owned, matters of that nature, would you take care to
10 make sure that those were accurate and full?

11 A. Yes.

12 Q. To the best of your knowledge, would that be
13 the attitude of your colleagues?

14 A. I would hope so.

15 Q. Did you ever discuss it with them, how much detail do
16 you think the Registrar wants?

17 A. No.

18 Q. The Premier has told us that he routinely failed to fill
19 in full details and he has given explanations.

20 The Commission has heard them. Were you aware that he
21 were declaring less than the full amount?

22 A. I don't know the nature of the Premier's assets.

23 Q. You declared yourself throughout as obviously receiving
24 a salary from the Turks & Caicos Islands government,
25 which is perhaps obvious because that is why you were

1 filling in the form in the first place, because you were
2 an elected official. By way of occupation, I think
3 consistently you describe yourself by means of your
4 qualification. That is that you are, I think,
5 a certified public accountant, is that correct?

6 A. Correct.

7 Q. You didn't describe yourself in the forms as having any
8 of the form of employment as such. Did you receive any
9 salary from the PNP?

10 A. No, I didn't receive any salaries.

11 Q. Were you aware that the Premier received a salary?

12 A. I am aware that prior to the elections of 2003 that we
13 had an understanding in our party that the Premier would
14 be paid a salary as leader of the party then. At that
15 time he was not in the House of Assembly.

16 Q. When was that understanding?

17 A. That understanding would have been perhaps sometime in
18 2001/2002.

19 Q. But was it your understanding, as you describe it, that
20 that salary continued after he became an elected
21 official and started to receive a government salary for
22 being Premier?

23 A. I didn't take it to be that. What I can say is that
24 contributions were made to the party and the Premier
25 would have gotten contributions as a result of

1 contributors making contributions to the party after

2 that.

3 Q. We will come back to that in a minute. I am more

4 concerned at the moment with the issue of salaries.

5 A. My impression of the salary was that it was not to

6 continue after the elections of 2003, if we had

7 succeeded in attaining the office of government, which

8 we did. So it was not my understanding that he would

9 continue to get a salary.

10 Q. Within the party, what is your role?

11 A. In the party, my role is Treasurer.

12 Q. Were you Treasurer in 2003?

13 A. Correct.

14 Q. You remain so to this day?

15 A. Yes.

16 Q. So essentially, you know where the money is or should be

17 within the PNP?

18 A. Correct.

19 Q. Are you aware of salary payments to the Premier since

20 2003?

21 A. I am aware of payments to the Premier but I cannot

22 categorise them as salary.

23 SIR ROBIN AULD: You say you cannot. Is that saying that

24 you don't regard them as salary or you don't know in

25 what form they were made?

1 A. I don't regard them as salary. I regard them as what
2 I would say subsistence, maybe not even subsistence,
3 I would regard them as contributions to the party and
4 assistance to the Premier and other members to assist
5 them with their political endeavours.

6 SIR ROBIN AULD: Aware of the payments but regarded them
7 rather as subsistence, is that right?

8 A. Yes.

9 MR MILNE: Subsistence on what sort of scale?

10 MR SMITH: I do not think he said subsistence. He said
11 specifically that he didn't regard them as subsistence
12 but as contributions. I just want to be clear on that.

13 MR MILNE: Contributions on what sort of scale?

14 A. It would range from as small as \$5,000 or as high as
15 perhaps \$100,000.

16 SIR ROBIN AULD: But for what sort of purpose?

17 A. For political -- for his political endeavours.

18 SIR ROBIN AULD: Thank you. 5,000 to 100,000 for political
19 work; so not subsistence.

20 A. No.

21 MR MILNE: I am sorry, what do you mean by political
22 endeavours?

23 A. Campaigns. We have political campaigns. We have
24 conventions, we have other activities during the course
25 of the year for which candidates would receive funds.

1 Q. You would, as Treasurer, disperse the funds of the PNP?

2 A. Yes.

3 Q. If, for the sake of argument, there were a convention,

4 let's say a meeting on one of the islands, it would be

5 no doubt organised by the staff of the PNP?

6 A. Correct.

7 Q. You have salaried staff in the PNP?

8 A. Perhaps the Chairman would get a salary and perhaps

9 a clerical worker but it all depends on the availability

10 of funds, in terms of how they get their payments.

11 Q. Can you tell us in 2003, roughly, what was the turnover

12 financially of the PNP?

13 A. In 2003, I think it would have been less than

14 \$1 million.

15 Q. Has that grown since 2003?

16 A. Yes, it has.

17 Q. Let's take a recent example. Let's say 2007. Can you

18 put a figure on the likely turnover of the PNP in that

19 year?

20 A. In 2007 it could have been as much as 3.5 million.

21 Q. So there has been a healthy growth in the turnover at

22 least of funds within the PNP?

23 A. Yes.

24 Q. Indeed 2007 was an election year. No doubt there would

25 have been a campaigning and indeed fundraising push in

1 the months leading up to that election?

2 A. Correct.

3 Q. So when you say that the Premier would have received
4 contributions, why would the Premier or indeed any other
5 individual minister need to be paid the money
6 personally? Why wouldn't it simply be paid out by
7 the PNP for meetings or halls or anything of that
8 nature, conventions?

9 A. The nature of our politics in the Turks & Caicos Islands
10 is that quite a bit of it has to do with personal
11 contact. Also, the party has responsibilities as well
12 for meeting expenditure during a campaign but also
13 the candidates have their peculiar sort of interests
14 that they need to pursue in order for them to get
15 elected on a personal basis. Unfortunately the nature
16 of the politics in the Turks & Caicos Islands is such
17 that the candidates have personal contact with just
18 about every constituent in his constituency, and so it
19 has been the practice over the years in that way and it
20 continues today, for the candidates to receive a certain
21 level of financial assistance directly from the party.
22 Certain candidates would probably, because of their
23 ability to raise funds, will get more than others. But
24 every single candidate benefits from campaign
25 contributions from the party.

1 SIR ROBIN AULD: Mr Hall, just to assist me, can you give me
2 a range of the size of the constituencies, those with
3 the right to vote. What's the smallest and what's
4 the largest?

5 A. I think Middle Caicos would probably be the smallest
6 constituency and would have approximately 200 voters.
7 I believe Blue Hills is probably the largest
8 constituency and that perhaps will have 600 to 700
9 voters.

10 SIR ROBIN AULD: So 200 to 600/700 are the two ranges?

11 A. Yes.

12 SIR ROBIN AULD: Thank you.

13 MR MILNE: What about contributions paid directly to
14 the candidates, would you expect them to account for
15 those to the party?

16 A. No.

17 Q. So if a particular politician, be it the Premier or
18 indeed any of your other colleagues who have been
19 elected, if they had received sums of money you may
20 never hear about it?

21 A. Correct.

22 Q. Do you not wish to keep some sort of tabs on where
23 the money is coming from, where it is going to?

24 A. Ideally yes. But as I stated the nature of our
25 politics -- there is a lot that needs to be improved in

1 the range of political contributions. Unfortunately,
2 the nature of our politics, which is a very young
3 democracy, is that it has not benefited from some of the
4 regimes or the systems that would have been put in place
5 in other maturer democracies. So, yes, I would have
6 liked to know which candidates received what, but it has
7 not been the practice or the habit for candidates to
8 come forward and say that they received funds from
9 particular individuals.

10 Q. Does the PNP prepare accounts?

11 A. Yes.

12 Q. And are those accounts publicly available?

13 A. No.

14 Q. So is there any form of audit carried out on them?

15 A. No.

16 Q. As far as payments out to candidates are concerned,

17 would you keep a record of the payments out?

18 A. That is correct.

19 Q. So you would have a payment record for, let's say,

20 the Premier of every penny that the PNP had paid out to

21 him?

22 A. Yes.

23 Q. Would you be able to provide that record to

24 the Commission?

25 A. Yes.

1 Q. Could you please do so?

2 A. Okay.

3 SIR ROBIN AULD: This is an annual record, is it?

4 MR SMITH: We can assist the Commission. We have it here.

5 It is just a matter of making copies.

6 MR MILNE: Thank you very much.

7 SIR ROBIN AULD: When you say it, do you mean for what

8 period or periods?

9 A. We probably have it from 2006 to 2008.

10 SIR ROBIN AULD: Now what are you asking for Mr Milne?

11 MR MILNE: I would ask that we go back a little further,

12 sir, if possible because the figures which we might be

13 concerned with go back as far as 2004. I don't know if

14 the Deputy Premier would have those available. I am not

15 suggesting today here and now, but reasonably close at

16 hand and maybe available in the next couple of days.

17 A. I don't have them here now, but I can generate that

18 record for you.

19 SIR ROBIN AULD: Can you do that by Wednesday, do you think,

20 Mr Floyd Hall?

21 A. Yes, I can do it by tomorrow.

22 MR SMITH: Just to be clear, we are generating from 2004 to

23 the present, is that correct?

24 SIR ROBIN AULD: What is the start date, is this

25 the financial year or the calendar year?

1 A. Calendar year.

2 SIR ROBIN AULD: Produced from 1st January 2004 to date, is

3 that what you are asking for, Mr Milne?

4 MR MILNE: Yes, please, sir. We have also heard during

5 the course of the evidence that the Premier received

6 various donations but from what you have said already,

7 may I take it that you were not aware of the detail of

8 any of those individual donations that he received from

9 others?

10 A. Unless it came to the party, I would not be aware of it.

11 Q. Do you yourself receive direct political contributions

12 from individuals?

13 A. Yes.

14 Q. Do you keep a record for yourself?

15 A. Yes.

16 Q. You don't declare it but you have your own record?

17 A. Yes I do.

18 Q. Would you be able to declare that record to this

19 Commission?

20 A. Yes, I would.

21 Q. Again, let's take one year as an example, 2007. Can you

22 put a rough figure on how many political contributions

23 you would have received that year?

24 A. Yes I think --

25 MR SMITH: He has those records and he can provide them if

1 you need them.

2 MR MILNE: Simply to put it in some sort of scale, are we

3 talking tens of thousands or hundreds of thousands?

4 A. It is less than 200,000.

5 Q. Less than 200,000. How did you regard your obligations

6 in relation to that money? What did you think you were

7 under an obligation to do with it?

8 A. I think I was under an obligation to use it for

9 political purposes.

10 Q. Did you keep a record of how you went about doing that?

11 A. No, but most of the funds were channelled through

12 a particular bank account.

13 Q. Which bank account would that be?

14 A. That would be my Grand Turk bank account at Bank

15 of Nova Scotia and it would be First Caribbean Bank

16 account in Providenciales, and on occasions I have had

17 need to put some political donations to my credit card

18 to facilitate purchases in the US for political

19 purposes.

20 Q. I see.

21 SIR ROBIN AULD: Have you asked for those or are you going

22 to Mr Milne?

23 MR MILNE: I would very much like to see those, if there is

24 a record, but as I understand what the Deputy Premier is

25 saying, there is no, as it were, stand-alone distinct

1 record. It is simply that he went to some of those

2 sources. But -- some of those bank accounts. Would you

3 be able to identify which those payments were?

4 A. Yes. I would be able to identify the credits going into

5 my account.

6 Q. Could you identify the sources of those credits?

7 A. Yes.

8 Q. Would you please do that for the Commission?

9 A. Okay, yes, I can do that.

10 SIR ROBIN AULD: What about the disbursement?

11 A. I have them here actually.

12 MR MILNE: You have a record of the disbursements as well?

13 A. No, I don't have a record of the disbursements.

14 Q. Let me understand what it is you have because it may be

15 that we have to take it further on from there. You have

16 a record of political contributions coming to you?

17 A. Correct.

18 Q. You can identify, maybe in whole, maybe in part, I don't

19 know, which of the payments into your bank account are

20 represented by political donations?

21 A. Correct.

22 (11.00 am)

23 Q. But you cannot or maybe you can say what that money was

24 spent on?

25 A. To some degree but not to any degree of specificity.

1 Q. Well, maybe in due course you will be able to take us to
2 the payments out on your credit card which represented
3 political expenditure?

4 A. And this is the area where it could get a bit muddy in
5 the sense that you would -- in my case, I have been
6 using personal funds for political endeavours as well,
7 including loan proceeds to enforce my political
8 endeavours throughout the Turks & Caicos Islands. So it
9 is quite conceivable that some of those political funds
10 would end up being commingled at the end of the day when
11 it reached my bank account or my credit card. For
12 example, let's say I received \$50,000 in political
13 contribution today. But prior to today I would have
14 spent, let's say, \$70,000 from my personal sources on
15 political activity. When that \$50,000 would have come
16 into my account or my credit card for that matter, it
17 doesn't necessarily imply that the proceeds of that
18 \$50,000 would then be used for political activity, as
19 some of that activity or some of that expenditure would
20 have already been incurred and it would result as
21 a reimbursement.

22 Q. Mr Deputy Premier, you are, by training, an accountant?

23 A. Correct.

24 Q. You are the finance minister for the Turks & Caicos
25 Islands. You are the Treasurer of your party. Did you

1 not regard it as being slightly messy that there would
2 be commingling of personal funds and political funds
3 when, in fact, from your description, it would be
4 a relatively simple exercise to separate and account for
5 those and avoid the possibility of misinterpretation
6 later on?

7 A. Yes, in hindsight certainly I do appreciate what you are
8 saying, but also I think you have to appreciate as well
9 that here in the Turks & Caicos Islands, we don't have
10 any campaign finance laws. So I didn't feel it
11 an obligation to treat the procedure or
12 the disbursements and the income of those funds in
13 the fashion in which you have just described.

14 SIR ROBIN AULD: It sounds to me as if you have given
15 an indication of how it could be done. You have
16 an account which shows what you receive and you say you
17 have, by reference to your bank accounts, how you
18 dispose of it. So you have it in and out and there is
19 a record there, which is a good start.

20 A. Yes.

21 SIR ROBIN AULD: So the only problem is where you are
22 commingling because of the muddle that one gets into in
23 dealing with personal matters and political perhaps on
24 the same day in the course of the same incident, that
25 occurs. But there is no difficulty, you say, in

1 identifying in a documentary form what comes in and what
2 goes out.

3 A. Yes.

4 SIR ROBIN AULD: That's the important thing.

5 A. I have no problem in identifying what comes in and what

6 goes out. As I say, the nature of our politics is such

7 that funds that can come in for political purposes can

8 be utilised in various fashions from either paying for

9 campaign rallies in your constituency, providing funds

10 to help the elderly or those in need in your

11 constituency and outright making loans to persons in

12 the constituency or throughout the country that end up

13 being outright gifts because you know you are not

14 getting it back. Unfortunately, that is the nature of

15 our politics but it is quite common for persons in our

16 country to approach politicians and ask for loans and at

17 the end of the day you never get those payments back.

18 So all of that would contribute to political activity.

19 Q. So you regard it as reasonable and indeed common

20 practice to give financial gifts to the electors?

21 A. Obviously not at the time of elections, but certainly

22 during the course of governance, it is quite common, if

23 you can check with any individual throughout this

24 country, for persons to come and ask politicians,

25 regardless of which side of the isle that they are on,

1 to assist them.

2 Q. Forgive me, sir. You say obviously not at the time of
3 elections. Why not at the time of elections?

4 A. Because it would be inappropriate to do so during
5 the time of the elections.

6 Q. So when is the cut-off point when it ceases to be
7 inappropriate?

8 A. I would say after one is elected. But obviously if it
9 is ten days before elections, you certainly don't want
10 to be in the habit of giving someone a loan because it
11 could be construed as an incentive to buy a vote.

12 Q. It could be construed as precisely that, I would
13 suggest. But if the voter thinks: I will vote for him
14 now, and in a month's time he will give me a loan once
15 he has been elected, is that very different?

16 A. It is different in the sense that if I am a voter,
17 I don't -- I wouldn't necessarily want to trust
18 a politician to give me something after the fact.
19 I would certainly want it before.

20 Q. Is that because politicians cannot be trusted after
21 the election?

22 A. I won't say that.

23 Q. To the best of your knowledge, do all your colleagues
24 follow the same practice? That they will be giving out
25 loans that are never going to be returned?

1 A. Let me put it to you this way: a person can conceivably
2 come to a politician and say, "I want to borrow \$500
3 from you", and at the end of the day in our culture here
4 in the Turks & Caicos Islands, you know quite well that
5 you are not going to get that money back but that person
6 may very much be in need of those funds and you would
7 therefore assist them. I believe that my colleagues as
8 well may have had many occasions under which they would
9 have had to deal with them in that fashion.

10 Q. Why would it be a politician whom they would approach?

11 A. Well, to tell you the truth --

12 MR SMITH: Objection. I do not think he could speak to the
13 reason why an electorate or a potential electorate would
14 approach a politician as against another person. I do
15 not think that is a question he can answer.

16 MR MILNE: Are you aware of other persons in public life
17 being approached?

18 A. I am sure of it.

19 Q. Do you not feel that politicians are in a peculiar
20 position, though, because any day of the week, any day
21 of the year one is approaching an election, it may be
22 six months down the road, two years, three or four years
23 down the road, but there will be another election
24 coming, won't there?

25 A. Of course.

1 Q. Forgive me. Unless you have in advance said: I am
2 elected now but I will never run again; and I am not
3 aware of anybody who is saying that in the recent
4 election?

5 A. No.

6 Q. You will one day be a candidate?

7 A. I agree. That is why I preface my statements by stating
8 that I do believe that this area presents a serious
9 avenue for serious reform.

10 That has the practice of our politics here in the
11 Turks & Caicos Islands. Regrettably, that is
12 the situation, but that is what obtains at present.

13 Q. Again, this is a cross-party culture?

14 A. I don't like to use that term.

15 Q. We use it because it was adopted last week, not by
16 ourselves, but by the Premier?

17 A. That does not necessarily imply that I will adopt it.

18 Q. No. You are an experienced man, sir, you have been in
19 politics now in the Turks & Caicos Islands for certainly
20 longer than the period of the present administration.

21 I take it your elected role goes back to the 1990s, is
22 that right?

23 A. No, 2003.

24 Q. 2003 was the first time you had been elected?

25 A. Yes.

1 Q. Forgive me. But you were aware of public life. You
2 will have seen elections, no doubt voted in elections,
3 no doubt spoken to and mixed with politicians and
4 electors. Do you say that this is the common practice,
5 this is the normal way of doing things?

6 A. Yes.

7 Q. Whether or not that is a good thing?

8 A. Yes.

9 Q. I will be corrected if I am wrong about this, but in
10 the returns that you provided to the Commission, I have
11 no recollection of political contributions being spelt
12 out as a distinct category.

13 A. Correct.

14 Q. Because as far as the Commission is concerned, it is
15 a form of income, isn't it?

16 A. Yes.

17 Q. It may be income held on trust for others, but it is
18 income nonetheless?

19 A. Yes.

20 Q. Why was that not spelt out before?

21 MR SMITH: I don't think he can answer that. He is not
22 the drafter of this piece of legislation.

23 SIR ROBIN AULD: He is asking why he didn't spell it out
24 before.

25 MR SMITH: Well, I will take that back --

1 SIR ROBIN AULD: At least that is how I understood it.

2 A. I understood it as I am --

3 MR SMITH: I understood that he is saying why it was not
4 spelt on the legislation -- that this should be
5 specifically implied in the legislation.

6 MR MILNE: The question, forgive me, I will clarify it. In
7 your declarations made to the Commission, there is no
8 clear indication, I would suggest, that you had received
9 considerable sums by way of political contributions and
10 that when we read your bank account statements, that is
11 what they would reflect. Political funds coming in.

12 A. Correct.

13 Q. Why was that not spelt out, why was it not made clear?

14 A. Why didn't I spell it out in my declaration?

15 Q. Yes, to us?

16 A. I told you earlier that in reviewing the declarations in
17 the register, no one did it and so I just followed
18 the practice.

19 Q. Right. The declaration that was sought from you, and it
20 has been touched on before, but I should make it clear
21 again, the Commission sought details of the declarations
22 you had made over the years under
23 the Registration of Interests Ordinance. The Commission
24 also sought a declaration made effectively as of
25 August/September 2008, as if you were doing it afresh,

1 providing a fresh declaration. We sought details
2 through a series of letters addressed to your attorneys
3 of the sources of income and indeed we have received
4 considerable documentation. We will go through it in
5 more detail in a few minutes. But you have provided
6 details of companies, you have provided details of land
7 held and of income, TCIG salary and one or two other
8 forms of income. But you didn't say anything about:
9 I am getting political contributions as well?
10 A. In one of the correspondence, I reference a political
11 contribution of \$150,000.
12 Q. Is that the extent of your political contributions?
13 A. That is the extent of it. Apart from funds that I would
14 have gotten directly from the party.
15 Q. I am not going to run through every letter now, but no
16 doubt I can be directed later to where the 150,000 is
17 mentioned. Do you happen to know when it was when that
18 was first said to us?
19 A. I will look into it.
20 SIR ROBIN AULD: We will stumble upon it, I expect.
21 Mr Milne, before we go any further, we must not look
22 a gift horse in the mouth. The Deputy Premier said that
23 he kept a record of personal contributions. I think he
24 ventured a figure of about 200,000 per annum in a recent
25 year, but not of disbursements save by reference to bank

1 accounts. Now he has offered to produce both of those.

2 MR MILNE: If that record can be produced, then I would

3 invite the Deputy Premier to do so.

4 SIR ROBIN AULD: Is that something you have here or you

5 would like to have time?

6 A. I have a record of the income here. I do not have

7 a record of the expenditure. I would probably have to

8 go back through my records and compile that.

9 SIR ROBIN AULD: I didn't want to put you to -- if it is

10 something that you can do by reference to your bank

11 accounts, that is fine, but I thought that you had at

12 least the bank accounts indicating how you dispersed

13 the --

14 A. I have the bank accounts that shows monies being

15 dispersed. I have cancelled cheques. Not cancelled

16 cheques, the cheque stubs for some of my bank accounts

17 that probably could be of benefit where you would see

18 payments being dispersed to individuals on the basis in

19 which I describe.

20 SIR ROBIN AULD: Would this be a marathon task for you?

21 A big task?

22 A. If I had to do it in great detail, it would be

23 an enormous task but if I can show a sample of

24 the situation, I can do that very --

25 SIR ROBIN AULD: Why not produce the relevant bank accounts,

1 say, for the last two years and attempt a broad brush
2 exercise of the sort you describe for that period.
3 Would that be feasible?
4 A. That would be feasible but he has the bank accounts for
5 the last two years. All my bank accounts showing
6 details of expenditure. However, those bank accounts
7 would not show the -- reveal the payees.
8 SIR ROBIN AULD: I understand that but you say that you
9 would be able to make some fist of doing that.
10 A. I could.
11 SIR ROBIN AULD: I am asking you this not so much to chase
12 you, but it shows a way in which it can be done. Where
13 there are documents, one can, perhaps not precisely
14 always, but get a broad picture of how the money flows.
15 If your accounts are a way of doing that, it might be
16 a useful example.
17 A. I can try to reconstruct it.
18 SIR ROBIN AULD: Were you going to say something, Mr Simons?
19 I thought I heard you saying something --
20 MR SMITH: My client indicated that the Commission already
21 has the bank accounts.
22 SIR ROBIN AULD: Sorry?
23 MR SMITH: I was only repeating that my client indicated
24 that the Commission already has the bank accounts.
25 SIR ROBIN AULD: Thank you very much. Shall we say the last

1 two calendar years, is that how you do it?

2 A. Yes.

3 SIR ROBIN AULD: Roughly how long do you think it might
4 take?

5 A. Give me about a week.

6 SIR ROBIN AULD: So a week today?

7 A. Thank you.

8 (11.15 am)

9 MR EDWARDS: I have just been informed by my lay client,
10 the Premier, that the PNP will be represented at
11 2 o'clock by an attorney, because they object to
12 the witness handing over their financial accounts.

13 SIR ROBIN AULD: They object to that, do they?

14 MR EDWARDS: They do object.

15 SIR ROBIN AULD: Then of course we will be glad to see him
16 or her at 2.00 pm. Subject to what happens then, we
17 have a conditional agreement from the Deputy Premier to
18 do it.

19 MR EDWARDS: I think from what I understand and from my
20 client's instructions, he needs permission from
21 the trustees of the party. So if we could hold tight on
22 the holding over of any PNP documents or financial
23 documents, I would be grateful.

24 SIR ROBIN AULD: Certainly. We won't move towards them
25 until we have heard from him, but at the moment we have

1 a conditional promise to produce the documentation to

2 which Mr Floyd Hall was referred.

3 MR EDWARDS: Thank you.

4 SIR ROBIN AULD: Thank you for mentioning that.

5 MR MILNE: The documents that we are discussing, that is

6 the PNP documents, would it be normal to obtain

7 receipts?

8 A. No.

9 Q. You would not have receipts for money paid out?

10 A. In some cases but in the form that I described with

11 respect to campaign activity, in terms of loans,

12 assistance to individuals and various constituencies,

13 no, we would not have receipts for that.

14 Q. Would it be normal practice for the PNP to make payments

15 to people who had very little to do with the political

16 process as a quid pro quo for their politicians

17 involved? Let me give you an example. We highlighted

18 last week that the PNP appear to have made something

19 approaching \$100,000 worth of contributions or payments

20 to a lady called Youlanda Scott in California; were you

21 aware of those payments?

22 A. No.

23 Q. Those payments appear to be in relation to services

24 provided by Youlanda Scott to the wife of the Premier.

25 A. I am not aware of that.

1 Q. Would you have to authorise large-scale payments out of

2 PNP funds?

3 A. It will be common for joint signatories to be on

4 disbursements from the account.

5 Q. What level would joint signatories be required?

6 A. On any disbursement.

7 Q. Well, one assumes that the office keeps a petty cash

8 till going. So if somebody needs \$10 worth of

9 paperclips, they can go out and buy them.

10 A. Yes.

11 Q. You would not need two signatures for that?

12 A. I would say \$500 petty cash would be the norm.

13 Q. Would there be a level where one signature was required

14 or would it always be two signatures?

15 A. It would always be two signatories.

16 Q. That presumably would be for cheques physically written

17 out and handed over to people?

18 A. Yes.

19 Q. Or indeed bank transfers from bank to bank?

20 A. Correct.

21 Q. Would you please look into those transactions for us in

22 your role as Treasurer? We will be able to provide you

23 with the precise details but they appear to be three

24 payments, I think, to Youlanda Scott and we will provide

25 full details of when those monies went from the PNP?

1 A. Okay.

2 Q. But on the broader aspect, would you regard it as normal
3 practice, in circumstances such as that that if
4 the Premier's wife had incurred a bill with her stylist
5 in California, the PNP would pick up the bill --

6 A. That would not be normal practice.

7 Q. Apart from yourself, you said two signatures. Who else
8 would be signatories on PNP accounts?

9 A. There is one other signatory, Arabella Smith.

10 Q. So any major payment out should come through yourself
11 and Arabella Smith?

12 A. Correct.

13 Q. Forgive me, sir, how would that operate, say, one of you
14 was ill or out of the country? Would there be a delay
15 in payment as a result?

16 A. No, if one of us were out of the country, it is quite
17 conceivable that several cheques could be left already
18 signed and left in the possession of either myself as
19 Treasurer, if the Premier or Arabella Smith was out of
20 the country, or if I or Arabella was out of the country,
21 then some cheques would be left signed and it would be
22 left in the possession of the Premier.

23 Q. So it would be left in the possession of?

24 A. The Premier.

25 Q. The Premier?

1 A. Yes.

2 Q. So you would sign blank cheques and leave them with the
3 Premier?

4 A. Yes, that would be a normal practice to facilitate
5 emergency expenditure.

6 Q. Right. As far as you know, would payments to a stylist
7 be categorised as emergency expenditure?

8 A. Not to my knowledge.

9 Q. Could we turn, please, to --

10 SIR ROBIN AULD: When are you going to provide those
11 documents to Mr Floyd Hall, today?

12 MR MILNE: They can be provided, all being well, at
13 lunchtime, sir.

14 SIR ROBIN AULD: Thank you.

15 MR MILNE: Would you please take the black volume, which is
16 your personal documentation. We are finished for
17 the moment with the red one. That should perhaps go
18 back in the box.

19 I am going to ask you, sir, to turn virtually to the
20 back. It is in fact one page from the back, page 1024.
21 It is the last but one page in the bundle. The document
22 is a spreadsheet, a schedule. It is in landscape
23 format. It may be easier to turn it sideways. This
24 is a document that has been derived from the disclosure
25 that you provided to the Commission and essentially what

1 we have done is sought to combine two documents. You
2 told us about companies and you told us about
3 properties.

4 But in quite a few cases the properties were owned
5 by the companies, which in turn are owned by yourself.

6 Would you agree that is a fair assessment?

7 A. That is a fair assessment.

8 Q. You have either a directorship, a shareholding or

9 I think what is termed a beneficial interest,
10 a beneficial ownership in quite a number of companies.

11 But the larger number of them, if I followed
12 the evidence correctly, are holding companies which are
13 set up in order to hold a piece of property and we see
14 a list of the names in the second column in.

15 In some cases property is owned by yourself
16 personally in your own name, or indeed in your joint
17 names with your wife, Mrs Lisa Hall.

18 The first part of that schedule is essentially those
19 holding companies. Then we have the property held by
20 you. Then we have -- this is my expression so forgive
21 me if you think it inaccurate -- I have described them
22 as trading companies. That is companies not
23 specifically to hold property, but in fact to do
24 business of one sort or another which may be active or
25 inactive.

1 I will seek to summarise without going through every
2 line of this, but essentially, over recent years, you
3 have bought a number of properties and they are for, in
4 most cases, long-term at least commercial development.
5 The majority of them are awaiting development. Are not
6 complete. I think one of those, which is in fact
7 the first entry at the top, is a property and I have
8 marked that as in development, 60804/30, which is held
9 by GBL Holdings Limited, a company which I believe you
10 have a 50 per cent stake in, is that right?

11 A. Correct.

12 Q. That, if I am correct, sir, is a piece of land upon
13 which some development has already taken place and can
14 you tell us, commercial development, is that offices,
15 shops?

16 A. It is a condominium development complex.

17 SIR ROBIN AULD: Is there a separate company that has been
18 formed for the purpose?

19 A. Yes.

20 SIR ROBIN AULD: Condominium development company?

21 A. No, it is being developed under GBL Holdings Limited.

22 SIR ROBIN AULD: Under the name we have?

23 A. Yes.

24 SIR ROBIN AULD: But it is condominium development.

25 A. It is for condominium activity.

1 MR MILNE: I need not trouble you with how close. It is

2 very close to completion.

3 A. No, regrettably it is not close to completion. We have

4 had difficulty throughout the whole process with this.

5 It is not close to completion.

6 Q. I think I understood, and again I will be corrected if

7 I am wrong, you had it in mind to sell your interest in

8 that?

9 A. Yes.

10 Q. But maybe, as it were, the part completed stage, but as

11 we stand here today, it has not been sold, it is still

12 in your possession?

13 A. It is presently under contract to be sold.

14 SIR ROBIN AULD: Presently under?

15 A. Under contract.

16 MR MILNE: You are hoping to achieve a sale of that in

17 the relatively near future.

18 A. Yes.

19 Q. The others as we go down are largely undeveloped

20 properties, perhaps, I know not, raw land or projects

21 where they are at the very early stages, is that a fair

22 assessment?

23 A. Correct.

24 Q. We have a variety of company names. I am not going to

25 trouble the Commission with them at present. They can

1 be read from the form. One of the entries, there are
2 some question marks and that is simply a point of
3 clarification you may be able to help me with. You own
4 what is referred to as a golf course lot on
5 Providenciales. That is not a condominium. That is
6 just a lot, a piece of land?
7 A. Yes.
8 Q. It was not stated in terms but is that in fact in your
9 own personal name?
10 A. It is my name and my wife's names.
11 Q. That is joint names?
12 A. Joint names.
13 Q. That aside, in your personal name, there is a plot at
14 Leeward Breakthrough, a further plot in the
15 Cheshire Hall area, and indeed some land in South Caicos
16 which again is undeveloped, is that right?
17 A. The land in South Caicos is developed.
18 Q. That is my error in that case and I will correct that.
19 You also have a home obviously. You have
20 residential property, which is at the plot that is in
21 joint names with you and your wife, and in fact I have
22 marked the right-hand side, "rental", as a column,
23 \$1,200 per calendar month because I understand that
24 there's a flat -- apartment attached to the house which
25 you rent out commercially and that achieves \$1,200

1 a month in rental.

2 A. Correct.

3 Q. The South Caicos, you remind me and I am grateful for

4 the clarification on that, property I think is rented

5 for a relatively modest \$400 per calendar month?

6 A. Correct.

7 Q. So that is developed and rented. As far as those

8 properties are concerned though, other than the 1,200

9 for the apartment, and the 400 for the property in

10 South Caicos, they are not generating income streams for

11 you at present?

12 A. No.

13 Q. So they may be a good capital investment. They may hold

14 the promise of good returns in years to come, but as

15 matters stand today, you are not getting any cash out of

16 them?

17 A. Correct.

18 Q. Turning to the trading companies, you identify in total

19 four trading companies, although this, I should make it

20 clear, to some extent incorporates both your declaration

21 and a declaration on behalf of your wife, because

22 the Registration of Interests Ordinance requires that

23 you hand over any information in relation to close

24 relatives, dependent children or spouses?

25 A. Correct.

1 Q. You mentioned Gems and Pearls Jewellers; which I think

2 in fact is in the name of your wife?

3 A. Correct.

4 Q. I am going to jump a line over to Elite TLC, which again

5 is a company where your wife is one of the shareholders

6 and indeed one of the directors?

7 A. Correct.

8 Q. Is that right? You are not, if I follow the evidence

9 correctly, a director or a shareholder, but you declare

10 those as being your spouse's property?

11 A. Correct.

12 Q. In relation to you personally, there are two further

13 companies. I am going to take them in reverse order.

14 Platinum Realty Limited, as the name would suggest,

15 a real estate agency, held jointly between yourself and

16 Clayton Green?

17 A. Correct.

18 Q. Who I think, apart from being an attorney, is your

19 cousin, is that right?

20 A. Correct.

21 Q. In the course of your declarations you have indicated

22 that in fact that company is effectively being supported

23 by yourself. It is not generating an income stream. It

24 is not making you any money?

25 A. Correct.

1 Q. Paradigm Corporate Management. What is called
2 Paradigm Corporate Management?
3 A. Prior to getting involved in politics, I operate
4 a company called -- corporate management company, and
5 the name is Paradigm Corporate Management Limited. We
6 provide corporate management services, which included
7 company information, business proposals and the like.
8 After I got elected, I transferred all that business to
9 the firm of Morris Cottingham. So this company,
10 although active to some degree, does not engage in any
11 meaningful corporate work. It is basically a company
12 that I continue to have and I do pass some of my
13 business transactions through this company and I will
14 continue to hold it for when I leave politics, I will go
15 back to my corporate management business.

16 (11.30 am)

17 Q. But as matters stand, it doesn't provide services to
18 anybody?

19 A. No.

20 Q. So, although I have put it within the category of
21 trading companies, in the true sense it is a holding
22 company?

23 A. Correct.

24 SIR ROBIN AULD: When you transferred it over in a formal
25 way to Mr Cottingham, did you say?

1 A. Yes.

2 SIR ROBIN AULD: Did you receive any consideration for that
3 transfer?

4 A. No.

5 MR MILNE: I am going to ask, sir, if you would look at some
6 of the original declarations that were made and we have
7 a small bundle to go at the back which will go in after
8 those papers. I wonder if you can be handed those to go
9 into the bundle.

10 SIR ROBIN AULD: Might this be a convenient moment to break
11 for about ten minutes?

12 MR MILNE: We could, to distribute them.

13 SIR ROBIN AULD: Shall we break for five or so minutes while
14 this is organised.

15 (11.30 am)

16 (A short break)

17 (11.40 am)

18 MR MILNE: Mr Deputy Premier, if you would turn to the back
19 of the bundle that we were at a few moments ago. You
20 will find some new documents have been inserted there.
21 For the record, what these comprise of are as follows:
22 we have taken the declarations made over the years from
23 2003 onwards. In each case the papers you have comprise
24 the copy of the register put together by the Registrar,
25 at least the second page of the register, which is what

1 we are concerned with. The first page is in fact simply
2 confirming that you are employed by the TCIG and that
3 you are a public accountant.

4 As you have readily accepted, they would also
5 include declarations of political contributions but none
6 are declared throughout those. What we then have in
7 each case is the cover sheet from the original form that
8 you signed with your name on it and one of the pages
9 from within the actual declaration. You will find that
10 it should include in each case details of shareholdings.
11 I think the first one in fact is from 2004 onwards. In
12 fact the 2004 form has April 2005 on it.

13 We see there as an example -- I am looking here at
14 page 1029, 2004 register, land and property you list
15 a series of items. Declarable shareholdings,
16 GBL Holdings which we have already touched upon, 50
17 per cent.

18 It then says ownership Mangrove Springs. That may
19 be slightly ambiguous but you own 100 per cent of
20 Mangrove Springs. I take it that means complete
21 ownership?

22 A. Correct.

23 Q. And indeed Paradigm Corporate Management referred to,
24 and then a third column, liabilities.

25 These, with respect, appear to be relatively full

1 declarations and relatively detailed. You have told us
2 that you took care in making sure that they were
3 correctly declared. You have told the Commission -- I
4 am just going to two points on this -- Elite TCI Limited
5 is a -- in fact it is one of your spouse's declarations.
6 It is a real estate agency. I think it operates under
7 the title of Remax Elite, is that correct?

8 A. Correct.

9 (11.45 am)

10 Q. But the company in fact is Elite TCI Limited.

11 You have told us that your wife has one-third share
12 in that business, yes?

13 A. Correct.

14 Q. She in fact works within the business, I am not going to
15 say works for it because she works purely on commission?

16 A. Correct.

17 Q. It is quite clear that there is one-third in her name
18 which you have provided supporting documents for.

19 Could you please have a look towards the end of
20 these papers there and I particularly invite you to look
21 at page 1037. Do you have that?

22 A. Yes.

23 Q. Under the declarable shareholdings, Remax Elite, 49
24 per cent interest?

25 A. Correct.

1 Q. Indeed, if you go -- that is 2006. If we go to the 2007
2 declaration, which is at page 1040, it is the very final
3 page in the bundle. Again Remax Elite 49 per cent
4 interest. So the same declaration made twice?

5 A. Yes.

6 Q. That she owns just shy of half of the business. Why
7 would you declare that?

8 A. Because I was of the impression that it was 49 per cent.

9 As you correctly stated, this is her operation. I was
10 not involved with the negotiations of it and as a result
11 in checking the documentation, this is the first time
12 I had cause to check the physical documentation,
13 I realised that it was one-third interest and hence
14 the reason for declaring the one-third interest later
15 on.

16 Q. Because in fact the typed, the printed version of it, in
17 the case of both 2006, which is page 1035, and indeed
18 2007 at page 1038, it has appeared on the printed
19 version, hasn't it, that it is 49 per cent?

20 A. Correct.

21 Q. You were not aware that she only owned one-third?

22 A. I was not aware.

23 Q. In the case of Remax Elite, the other two-thirds are
24 owned by -- as is probably well known, Mr Simon Padgett,
25 who is the manager of the business, and indeed by his

1 father, Richard Padgett, who I think are both Belongers
2 and both have been on the island for some time?
3 A. I don't think both are Belongers.
4 Q. I may be wrong about that. I will be quite happy to be
5 corrected, but in any event they are both -- Simon
6 Padgett works full-time in the business. I think his
7 father does not work in the business, but owns a third
8 of it?
9 A. Correct. Well, I don't know exactly what his interest
10 is. As I stated, I only know what my wife's interest
11 is.
12 Q. Why is it that your wife has one-third of that business?
13 How did that come about?
14 A. It came about because Mr Padgett had invited me to start
15 a real estate operation with him and I told him that
16 I could not be involved with any real estate business
17 with him because I am in government, I don't have
18 the time to dedicate to that and I also had a real
19 estate company at the time, Platinum Realty, that wasn't
20 getting my attention and needed my attention. I told
21 him that I know that my wife is interested in the real
22 estate activity and he could very well approach her
23 concerning it and he did.
24 Q. So it was his approach to her to become involved?
25 A. Yes.

1 Q. But she didn't contribute any money upfront, did she?
2 A. No, she did not.
3 Q. Essentially, she was given a third share with a view to
4 her paying back her co-shareholders from profits made in
5 the company?
6 A. Correct.
7 Q. But that is going to be a long-term project, given
8 the downturn in the real estate market at present?
9 A. But at the time that arrangement was entered into,
10 the economy was very buoyant. So it is very subjective
11 in terms of stating whether it is going to be for
12 a long-term or for a short-term. The economies operate
13 in cycles as you know.
14 Q. I think it is a very fair point, sir. It might have
15 looked rather more -- better back in the time when it
16 was set up. But the point remains the same, maybe you
17 can help me with this, why approach her? They were
18 putting the initial funds in. They were in a position
19 to proceed. Certainly Mr Richard Padgett is a Belonger,
20 so it was not for want of a Belonger status.
21 Forgive the impression, what did she bring to the
22 party? What was her contribution to the party?
23 A. The situation in the Turks & Caicos is such that
24 the prevailing atmosphere is that most Turks & Caicos
25 Islanders, in fact, I think I can speak for Turks &

1 Caicos Islanders when I say that they believe that they
2 are not getting a fair share of the pie in the Turks &
3 Caicos Islands and that certain activity ought to be
4 reserved for indigenous Turks & Caicos Islanders.
5 Mr Padgett was quite aware of that and wanted to have
6 an indigenous Turks & Caicos Islander involved in his
7 operation.

8 He and I are friends. He knows my wife and he felt
9 comfortable having her involved with his business. He
10 also thought that she brought to the table
11 the personality that was needed for the operation, and
12 also the real estate activity in the Turks & Caicos
13 Islands requires Turks & Caicos Islanders to function as
14 agents and in some cases to function as -- to function
15 in the capacity of ownership as you stated.

16 Q. Is there --

17 A. Agents and brokers, that is what I was looking for.

18 Q. Was there a requirement at that stage that there be
19 Turks & Caicos Islanders involved in a project?

20 A. Yes, but as you correctly stated as well, Mr Padgett
21 didn't have to satisfy that requirement because he at
22 the time was a Belonger. But he was desirous of having
23 a Turks & Caicos Islander, an indigenous Turks & Caicos
24 Islander involved in the business and hence the reason
25 why Lisa was brought to the table. In fact it was

1 expected of him that Turks & Caicos Islanders should be

2 seen to be evident in his operation.

3 SIR ROBIN AULD: So it was at his request. It was not

4 a statutory requirement?

5 A. No, it was not a statutory requirement.

6 MR MILNE: Presumably there are a number of people working

7 in Remax Elite.

8 A. Yes.

9 Q. And a number of those will be Turks & Caicos Islanders?

10 A. Correct.

11 Q. So simply by opening the doors and recruiting, he would

12 be able to recruit people who had come in, work for

13 a salary or better still on commission only and

14 effectively fulfil any requirements that way. Why does

15 he need to give a third of the business to your wife?

16 A. I indicated to you he didn't need to do it. If he

17 requested it, by all means at the end of the day my wife

18 was willing to participate in the ownership structure of

19 the operation.

20 MR SMITH: I think Mr Milne needs to clarify the fact that

21 it was not a straight ownership for free. It was in

22 fact a cost to that ownership that was going to be

23 repaid by dividends.

24 SIR ROBIN AULD: Sorry, I can't hear what you are saying.

25 MR SMITH: There is a cost for the ownership. It is not as

1 if she walked into ownership.

2 SIR ROBIN AULD: That point has emerged. She was giving
3 good value for it in the way of repaying it over
4 the years in her work there.

5 MR SMITH: Yes, but I think the tone and approach of
6 Mr Milne's question seems to imply to my client that
7 the ownership was just a free ownership; she just walked
8 in and I just want the Commission to be clear on that.

9 MR MILNE: I think I made clear, and if it was not clear
10 I seek to make clear, we know that the deal, because
11 your documentation makes it evident, the deal was that
12 she would from the proceeds of the business, her
13 one-third proceeds of the business, make payments to her
14 co-shareholders so that effectively she would be buying
15 her way into the business over a period of time.

16 A. Yes, that is correct. And it is potentially
17 considerable income being foregone for work that she
18 would be doing over the period of time while she
19 satisfied the debt.

20 SIR ROBIN AULD: Could we just have a reference to the
21 documentation, the contract between Mr Padgett and
22 Mrs Hall?

23 MR MILNE: That document can be found at -- I think in fact
24 the letter evidencing it is at page 79.

25 SIR ROBIN AULD: In the personal black bundle?

1 MR MILNE: In the personal black bundle. The original
2 agreement starts from page 63 through to page 77. There
3 is an account rendered, effectively an internal account,
4 where Remax write to Mrs Hall setting out, as it were,
5 the present state of affairs as credits and debits are
6 applied. That is at page 78, the covering letter
7 page 79.

8 SIR ROBIN AULD: Just so that I understand it, Mr Floyd
9 Hall, is she paid for the time she spends or is she paid
10 for the sales she achieves?

11 A. She is paid for the sales she achieves.

12 SIR ROBIN AULD: She is paid effectively a commission which
13 builds up into a regular payment of some sort.

14 A. Correct.

15 MR MILNE: We should be clear, sir, and I in no way wish to
16 disparage your wife, it may be a reflection of the state
17 of the market, but your submissions to us were she has
18 in fact not made any sales since she started work for
19 Remax Elite.

20 A. Correct.

21 Q. Therefore she has generated no income, being purely on
22 commission basis?

23 A. Correct.

24 Q. I think she has an income from another source,
25 TT Holdings, which renders her a monthly salary?

1 A. Correct.

2 Q. We were informed that was \$7,000 a month?

3 A. Correct.

4 SIR ROBIN AULD: So no commission income at all but a salary

5 from elsewhere.

6 A. Yes.

7 MR SMITH: I don't think that is exactly true though.

8 I think there is a dividend income.

9 SIR ROBIN AULD: Then Mr Floyd Hall can tell us about it.

10 A. Yes, I was about to state --

11 MR SMITH: It is detailed in a letter at page 79.

12 SIR ROBIN AULD: Thank you.

13 A. In fact, my attorney is correct. There is a dividend

14 income of 7,500 that she receives. She pays for her

15 interest by way of either commissions or dividends that

16 are declared and paid by the company.

17 MR MILNE: Yes, I think we are probably not really at

18 cross-purposes, but maybe we have not expressed it in

19 quite the same way. The dividend that she generates by

20 virtue of being a director is credited towards, as it

21 were, buying her way into the business, is that right?

22 A. The dividends as a result of her being a shareholder.

23 Q. Right.

24 A. Yes, as a result of her being a shareholder, she

25 generates and pays for the business.

1 SIR ROBIN AULD: That is credited back to the purchase of
2 the interest. Thank you.

3 MR MILNE: Let me put it another way. She is not taking
4 money out of the business, but the business is, as it
5 were, replenishing itself.

6 A. Correct.

7 Q. Can we go back to the declarations that were made to the
8 Register of Interests. Again, one of the declarations
9 that you have made to us is that Gems and Pearls is
10 a business that your wife owns to the tune of
11 100 per cent, that it is her business?

12 A. 50 per cent, sir.

13 Q. So that --

14 A. Initially it was owned 100 per cent, but after she was
15 able to set up the operation, she did it with a joint
16 shareholder. She now owns it 50/50.

17 Q. Who is the joint shareholder in that business?

18 A. The joint shareholder is Canchun Talani(?).

19 Q. Is that person on the island?

20 A. Correct. She is on the island.

21 Q. So it is a Ms Talani?

22 A. Correct.

23 Q. Might I ask, did Ms Talani buy a share of the business
24 or was she given a share of the business?

25 A. The business got started after Ms Talani got invited in,

1 and my wife and Ms Talani invested equally in setting up

2 the business.

3 Q. The name is a bit of a give away but can we take it this

4 is a jewellery business of some sort?

5 A. Correct.

6 Q. Does it have premises?

7 A. It has premises at the cruise ship port in Grand Turk.

8 Q. Can I ask you about one other declaration that you made.

9 For this we need to go to page 1032 of the bundle. Do

10 you have that, sir?

11 A. Correct.

12 Q. Your declarable shareholdings on this occasion, GBL

13 Holdings, Mangrove Springs, Gems and Pearls Jewellers,

14 at that stage at least 100 per cent interest.

15 SIR ROBIN AULD: Can we just identify this. This is

16 the return for December 2005.

17 MR MILNE: This is 2005, sir, I beg your pardon. Page 1032.

18 You refer to Platinum Realty company, which previously

19 had been called Business Consultancy Services and

20 I think the name was changed formally, and then

21 Whale Watchers Limited, 30 per cent interest.

22 In fairness, before I ask you about that, we should

23 turn over the page, two pages to page 1034. You had

24 written in as part of the declarable shareholdings

25 Whale Watchers Limited, 30 per cent interest, and then

1 you or somebody has put a line through it, but
2 the Registrar, it is clearly legible still, has included
3 that; and clearly when the form came round as you
4 described it doing, it bore the description of
5 Whale Watchers Limited and no alteration was made on the
6 formal register?

7 A. Right.

8 (12 noon)

9 Q. Did you own 30 per cent of Whale Watchers?

10 A. At that time, initially, I did. But it was a decision
11 that I made not to proceed with the venture, and
12 I explained that to the Registrar of Interests.
13 I notified him of it. He stated at the time that
14 the register had already been published and that
15 I should simple correct it on the new form that came
16 out. I never actually drew down the shares, the 30
17 per cent shares in my name, because it was a business
18 venture that I decided not to proceed with.

19 Q. You say you had shares in your name?

20 A. No, I never actually had shares in my name. It was
21 the intention to proceed on that basis and I changed my
22 mind about it.

23 Q. Could we please look at volume 4. If you take the red
24 volumes next to you, sir. Within volume 4 if we look at
25 page 49. This is the -- we remind ourselves -- 2005

1 declaration that you were making with which we have been
2 concerned a moment ago. Whale Watchers Limited was
3 a company formed in fact on 29th November 2005. We see
4 that at the top left-hand corner, one line down, under
5 systems reference number, it says "article", that is
6 the formation date. Registered date a couple of days
7 later, 1st December 2005.

8 This is -- company related persons, I do not think
9 are relevant for our purposes. The directors are
10 Clayton Green, who is your cousin as you told us, and
11 an attorney, Delroy Howell, and Quinton Hall.

12 Am I right in thinking Quinton Hall is your brother,
13 sir?

14 A. Correct.

15 Q. Clayton Green became a director on 1 December, at the
16 outset, Delroy Howell on the same day. Somebody else
17 became a director, a gentleman called Francesco Morello
18 but later stepped down as director and Quinton Hall on
19 3 March 2008. So a matter of only a few months ago.

20 The secretary was Clayton Green. The shareholders, over
21 the page, originally a nominee company,
22 Taino Nominees Limited. The shares, at least when this
23 form was printed, appear to be 50 in the name of
24 Delroy Howell, 50 in the name of Quinton Hall.

25 Your name doesn't appear. You never were

1 a shareholder, clearly.

2 A. Sorry?

3 Q. On the record you don't appear to have been

4 a shareholder?

5 A. No, I was never a shareholder.

6 Q. Clearly, from a very early stage, Mr Delroy Howell and

7 your brother were shareholders in this. Neither of them

8 30 per cent, though. Why did you think 30 per cent was

9 going to be your share in this?

10 A. I can explain. The directors -- the present

11 shareholders of the company, Quinton and Delroy Howell,

12 they now have 50 per cent interest in the company

13 because they have struck an arrangement to purchase out

14 or buy the shares of Francesco Morello who had, at that

15 time, 40 per cent shares, so hence the reason for

16 the adjustment.

17 Q. But as of the end of December 2005, you thought you

18 either were or were about to become a 30 per cent

19 shareholder?

20 A. Yes.

21 Q. Mr Delroy Howell is a friend of yours?

22 A. He is a personal friend of mine.

23 Q. Do you do business with Mr Delroy Howell?

24 A. I do not do any business with him.

25 Q. What is Whale Watchers Limited?

1 A. Whale Watchers Limited is a company that owns
2 the building that is in Grand Turk, popularly known as
3 Harbour House.
4 Q. That is Grand Turk?
5 A. That is Grand Turk.
6 Q. That is a building that is rented out to the government?
7 A. The government does not have space in that building.
8 Q. It does not.
9 A. No.
10 Q. Clearly --
11 SIR ROBIN AULD: Is that an answer to the question?
12 The question was, it was rented out to the government.
13 A. No, it is not rented out to government.
14 MR MILNE: It would appear that Whale Watchers Limited was
15 simply bought as an off the shelf company in order to
16 hold property. Did it intend to trade in any other way
17 at all?
18 MR SMITH: I don't think he could answer in any specific
19 detail as to the workings of Whale Watchers. He already
20 gave to the Commission that at one point in time he
21 intended to take some shares, decided not to. Unless
22 Mr Milne is able to lay some kind of foundation as to
23 why my client would have intimate knowledge and details
24 of workings, I think that is an unfair question.
25 SIR ROBIN AULD: He can say whether or not he knows,

1 Mr Smith. Why don't you leave it to Mr Floyd Hall.

2 A. What is the question again?

3 MR MILNE: Was Whale Watchers only intended to be a shelf

4 company to hold property or was it intended to trade in

5 some form?

6 A. Harbour House is a commercial business. If

7 the Harbour House structure, the real estate was

8 actually held by Whale Watchers Limited then obviously

9 it will be a trading entity, because rents for

10 the various commercial space that is rented would

11 obviously go through the account and would be trading

12 and indeed is trading today.

13 Q. Apart from Harbour House, does it hold any other

14 property?

15 A. No.

16 Q. So the nature of its trading is that it operates

17 presumably, manages that building, collects the rent,

18 pays --

19 A. That is the only activity.

20 SIR ROBIN AULD: So it is a landlord to traders, is that it?

21 A. Correct.

22 MR MILNE: As far as Mr Howell is concerned, how long have

23 you known him?

24 A. I have known Mr Howell for many years, the late 1990s.

25 Q. Mr Howell does business with the government, doesn't he?

1 A. He does.

2 Q. Indeed Mr Howell, as we understand it, is the gentleman
3 behind Southern Health Network?

4 A. Correct.

5 Q. Which was the single point of contact, effectively
6 the arranger for health care up until a few months ago?

7 A. He is still the arranger for health care. We still
8 utilise his services.

9 Q. Pending other arrangements, does Southern Health Network
10 still have an arrangement with the government?

11 A. Correct. They still have an arrangement with
12 government.

13 Q. Mr Deputy Premier, were you not party to the negotiation
14 of the Southern Health Network contract?

15 A. I would not say that I was party to the negotiations of
16 the contract because the contract was actually
17 negotiated with the Attorney General's office. I am
18 aware of the contract.

19 Q. I mean, you ultimately are the minister for finance, so
20 you hold the purse strings, as it were?

21 A. At that time the contract was negotiated, I was also
22 the minister of health.

23 Q. The minister of health?

24 A. Health and finance.

25 Q. So you had a direct input into the selection of Southern

1 Health Network?

2 A. Only by way of Cabinet.

3 Q. Well, Cabinet would have to be involved at some point?

4 A. Right.

5 Q. And ultimately no doubt Cabinet sees most things,
6 particularly most major contracts. Was there any
7 tendering done when Southern Health Network got this
8 contract?

9 A. It was at least from my recollection about three
10 entities that were submitted for selection or for
11 consideration of the contract.

12 SIR ROBIN AULD: I do not know that that answers
13 the question.

14 A. I am not aware of any tendering that took place.

15 SIR ROBIN AULD: No formal tendering.

16 A. No formal tendering.

17 SIR ROBIN AULD: But three entities were in some way
18 considered?

19 A. Correct.

20 MR MILNE: Who ultimately made the selection of Southern
21 Health Network.

22 A. Cabinet.

23 Q. Cabinet?

24 A. Yes.

25 Q. What was the recommendation, that Southern Health

1 Network be selected?

2 A. The recommendation was that Southern Health Network be
3 selected and that the ministry of health with
4 the director of health services, as well as
5 the permanent secretary of health services and
6 the Attorney General Chambers negotiate a contract with
7 Southern Health Network.

8 Q. From what we have seen through the Commission's work,
9 the Attorney General's chambers obviously has a role in
10 the wording of any contract because they would provide
11 legal advice on drafting, no doubt provide advice on
12 liabilities created by contracts. But the actual choice
13 would have been made within your department?

14 A. No, the choice would not be made in my department.
15 The choice would have been made by Cabinet.

16 Q. The choice would have been endorsed by Cabinet?

17 A. No.

18 Q. Were Cabinet given three options and told to choose one
19 of three?

20 A. Of course. Cabinet was given three options to choose
21 one of the three.

22 Q. Did they have three presentations placed before them?

23 A. To the best of my knowledge, I think they would have had
24 information on all three presented. The Cabinet paper
25 would have been structured in such a way that would

1 discuss the three options that were before us.

2 SIR ROBIN AULD: Do we have the Cabinet paper or its
3 reference?

4 MR MILNE: We don't have the paper.

5 SIR ROBIN AULD: What roughly was the date of Cabinet
6 meeting you are referring to here?

7 A. Probably would have been late 2006.

8 SIR ROBIN AULD: Do we have the minutes for that? We can
9 find it.

10 It would have been a paper prepared by your
11 ministerial department?

12 A. It would have been a paper that would have been prepared
13 by the director of health services and the PS of health.

14 SIR ROBIN AULD: And presented by you in Cabinet?

15 A. It would have been presented by me in Cabinet.

16 MR MILNE: We are drifting slightly from the topic, and I
17 want to come back to the topic we were dealing with
18 a minute ago, which is that of your declarations.

19 A point of clarification. It may be we have seen this
20 and simply not appreciated the significance of it.

21 If you go to the very back page of the declarations,
22 pages 1040, the last page in the bundle now.

23 You make reference, and it is pretty much the final
24 line, there is a request for liabilities. That is
25 loans, mortgages, overdrafts, that sort of thing. You

1 make reference to, for the first time in this year,
2 2007, Bank of Nova Scotia. Can you just clarify for me,
3 which loan was that?
4 A. Bank of Nova Scotia would be the loan of \$99,000. That
5 loan was taken out to purchase my grandmother's house in
6 South Caicos.
7 Q. That is the South Caicos loan we are dealing with?
8 A. Yes.
9 Q. Thank you. Perhaps we can -- working from there, move
10 on to the declarations that you have made to the
11 Commission.
12 You have discussed, we have already touched upon
13 this, forgive me if I seek to summarise very quickly
14 what we understand. You have discussed your various
15 sources of income. Obviously you are Deputy Premier.
16 You receive a salary from government. And that is
17 effectively -- I think a distinction is drawn and I will
18 follow the distinction. The salary is \$11,250 a month?
19 A. At that time.
20 Q. Certainly the last time of declaration?
21 A. Yes.
22 Q. I have seen press reports, it may be that they have been
23 followed through with action since then, that there
24 would be a reduction in salaries to ministers. Has that
25 been acted upon yet?

1 A. I am not aware of it. I would have to check my next
2 month's salary.

3 SIR ROBIN AULD: But presumably you would be the master of
4 this, wouldn't you, as minister of finance?

5 A. The PS finance.

6 SIR ROBIN AULD: When you said at that time, did it go up
7 a bit and is it now about to go down?

8 A. Yes.

9 MR MILNE: When did it go up just as a matter of interest,
10 can you put a date on that?

11 A. I cannot. Maybe over a year ago.

12 Q. We understood the figures were good to about
13 August/September last year. The figures we have and
14 tell me if they are wildly different, were 11,250 for
15 salary and you received a housing allowance of some
16 \$6,000 a month, making 17,250, which would -- it is paid
17 into your account. It is clearly a bank transfer each
18 month which is identifiable. And to put a global
19 figure, that is \$207,000 per year?

20 A. Correct.

21 Q. Your wife, as we have said, works for Remax Elite. She
22 works on the basis of commission but hasn't made any
23 sales. Salary you have told us, for TT Holdings is
24 \$7,000 a month, which obviously works out as \$84,000
25 a year?

1 A. I think her correct salary probably is 6,700 per month.

2 Q. We did wonder about that and I was going to raise

3 the issue with you. There are no payments, identifiable

4 payments for 7,000 a month, but there is clearly

5 a monthly payment of 6,700. That we can take it then is

6 your wife's TT salary?

7 A. Correct.

8 Q. Thank you.

9 That resolves an issue for us. Your evidence in

10 your submissions was that you had no money from any of

11 the directorships. You do not draw a director's salary,

12 stipend, whatever?

13 A. No.

14 (12.15 pm)

15 Q. So we can set that to one side.

16 Gems and Pearls, as we understand it, has not

17 generated any profit so far?

18 A. No.

19 Q. Elite TCI, as we have already discussed, any profit is

20 ploughed back into purchasing the share of the business.

21 So neither of those is providing a household income as

22 matters stand?

23 A. No.

24 Q. Of your companies, the two that you have mentioned,

25 Platinum Realty Limited does not of itself generate

1 a profit, does it?

2 A. No, it doesn't.

3 Q. Any money that is made is being ploughed back in and

4 indeed you said you had to subsidise it yourself?

5 A. Correct.

6 Q. So the income to your family is essentially this: your

7 government salary; your wife's salary of 6,700 a month,

8 which would make it, I think, some \$80,000 a year,

9 80,400; small levels of rental income, \$1,200 a month

10 from the apartments attached to your house and another

11 \$400 a month from the South Caicos property.

12 Some money seems to come in by

13 Paradigm Corporate Management. You have told us that is

14 not trading as such but you use it for various purposes

15 and will, as it were, regenerate it at some point in the

16 future?

17 A. Correct.

18 Q. So am I right in thinking I have summarised your sources

19 of income, leaving aside the sole issue of perhaps

20 political donations?

21 A. Political donations and bank loans.

22 Q. Of course, bank loans.

23 SIR ROBIN AULD: Have we got a global family income for

24 the year, Mr Milne?

25 MR MILNE: I think my learned friend is probably faster on

1 the numbers than I am, but it will be in the order of
2 \$300,000 a year, I would have thought.
3 A. It is safe to say it is around that figure.
4 Q. Give or take perhaps a couple of thousand dollars?
5 SIR ROBIN AULD: Thank you. Then there are political
6 contributions and loans, which aren't -- well, I suppose
7 if contributions are classifiable as income.
8 MR MILNE: You have taken out a number of loans and again
9 I hope I can summarise these correctly. What I would
10 welcome is a clear indication if I have missed anything
11 here because it is quite important.
12 At some point you took out a \$99,000 loan in order
13 to buy the South Caicos property?
14 A. Correct.
15 Q. In January of 2007 you borrowed \$350,000 from
16 the Belize Bank, in a formal arrangement, and that again
17 I think was for purchase of property?
18 A. Correct.
19 Q. In August of 2007 you borrowed from Mr Richard Padgett
20 200,000. It was a formal promissory note drawn up
21 between you?
22 A. Correct.
23 Q. In October of 2007 you were the guarantor to a loan.
24 Now, this does not appear to be money directly to you.
25 I mention it for completeness. But Palm Ridge, which is

1 one of the companies with which you hold property,
2 I think in conjunction with other companies, took out
3 a combined loan?
4 A. Correct.
5 Q. If I followed this correctly, the land that Palm Ridge
6 holds is in due course to be developed. Other companies
7 owned by other people around that same physical area
8 wish to make similar developments, and you are seeking
9 to work in conjunction with one another by taking out
10 an overall loan?
11 A. Correct.
12 Q. So, your neck may be on the line, if you will forgive
13 the expression. You have a liability, but in fact you
14 didn't receive funds from that?
15 A. Correct.
16 Q. Because the money went straight into the companies with
17 a view to subsequent development?
18 A. Correct.
19 SIR ROBIN AULD: This is a joint and several guarantee for
20 what?
21 MR MILNE: Several million dollars, I think.
22 A. In total, with all three companies combined, and
23 involving all 15 participants, the total loan is about
24 19.4 million.
25 MR MILNE: So the exposure long-term is very great but

1 the way that the loan appears to be configured is such
2 that there will be -- it is not as if they send you
3 a cheque for 19 million. There will be draw-downs over
4 a period of time reflecting the development, is that
5 correct?

6 A. No. Let me explain for your benefit. The land that is
7 involved is a parcel of land in West Caicos. It is not
8 beachfront land, it is back land because beachfront land
9 is a prime target in the Turks & Caicos, it is very
10 emotive, but it is as back land in West Caicos.

11 The dollar value of the land, I can't remember
12 the value of the land, but in any event government would
13 have gotten about \$8 million to pay for the freehold
14 interest in the property.

15 There was a further sum that would have been drawn
16 down to pay for commissions. There would have been
17 a provisional amount of about 6.5 million for
18 the interest payments, because it is a self-financing
19 loan over a period of three years and the lump sum
20 becomes due in a three-year period.

21 So how the loan is structured is that we have
22 a three-year window of which we would have to embark on
23 a development project on that property. The funds
24 generated from that development will then go towards
25 servicing the loan at Belize Bank.

1 Q. There are a number of people involved in it. I think
2 one of them in fact is Mr Hartling, is that correct?
3 A. That is not correct.
4 Q. I beg your pardon. Who is the main developer in --
5 A. The main developer in that is Mr Harold Charles.
6 SIR ROBIN AULD: What is the date of this guarantee?
7 MR SMITH: It is October 9th 2007. I bring the Commission
8 to -- the breakdown of the loan is spelt out at page 6
9 of the loan agreement, page 150 in the black bundle.
10 SIR ROBIN AULD: You are going to have to move fast with
11 that.
12 A. At the time we got involved with it, the economy was
13 doing very well.
14 SIR ROBIN AULD: You really were going to have to move
15 pretty quickly to see this through financially, weren't
16 you?
17 A. Yes, we do. Or we have to look at the bank and see if
18 they can give us re-financing terms.
19 MR MILNE: Sir, going back to a point mentioned a few
20 moments ago, I am grateful to my learned friend.
21 I think the total household income on figures declared
22 is in fact \$303,600 a month. We were very close with
23 the 300,000.
24 SIR ROBIN AULD: Thank you.
25 MR MILNE: Are there any other loans that I have missed off

1 that list?

2 A. I have loans with -- we have -- my wife and I have
3 a joint loan with First Caribbean Bank for our dwelling
4 house. I also have a loan with Mangrove Springs, with
5 TCI Bank Limited for a parcel of land that was
6 purchased. I think that completes the list of loans.

7 Q. With the First Caribbean in relation to your house, this
8 is your dwelling house, your private house?

9 A. Yes.

10 Q. Can you tell us how much is outstanding on that at
11 present?

12 A. Roughly, probably in the region of 200,000.

13 Q. That is secured by way of mortgage?

14 A. Mortgage on the property.

15 Q. The Mangrove Springs sum, how much is that?

16 A. That is less than 200,000 as well and it is secured by
17 a mortgage on the property.

18 SIR ROBIN AULD: Is that a joint loan?

19 A. That is a joint loan.

20 SIR ROBIN AULD: Joint loan for another 200,000 about.

21 Mangrove Springs.

22 MR MILNE: One other source of income that I would like to
23 ask you about is this, on 26th April 2006, we are told
24 by the Premier that he was approached by you on behalf
25 of a company called Ashley Properties Limited.

1 A. That would have been 2006?

2 Q. That was the date that we were given. He confirmed this

3 because --

4 A. I am familiar with it.

5 Q. Forgive me, the approach may have been earlier but on

6 26th April 2006 he paid into a bank account \$325,000.

7 He tells us that that was commission from

8 Ashley Properties regarding a sale of land at Water Cay.

9 Does that --

10 A. It rings a bell.

11 Q. That reminds you?

12 A. Yes.

13 Q. Is it true that you approached him?

14 A. It is possible that I did approach him.

15 Q. Do you recall approaching him?

16 A. Yes, I do.

17 Q. So it is more than possible, it is definite?

18 A. I definitely approached him.

19 Q. At whose request was that?

20 A. At the request of Mr Alden Smith, who was a mutual

21 friend of ours.

22 Q. Mr Alden Smith has served in government in the past?

23 A. I believe he has.

24 Q. Is this the same Mr Alden Smith who has also served in a

25 federal penitentiary in the USA?

1 A. I don't believe that question was appropriate.

2 Q. I want to be sure we are talking about the same person,

3 sir?

4 A. I would assume so.

5 SIR ROBIN AULD: I do not think the appropriateness of it

6 necessarily overcomes its relevance.

7 A. I don't see the relevance.

8 SIR ROBIN AULD: Is it relevant?

9 MR MILNE: It is simply to clarify. The name Alden Smith is

10 unusual, sir, and we wanted to be sure we were talking

11 about the same man who had previously been in

12 government.

13 SIR ROBIN AULD: Previously been in government, did you say?

14 MR MILNE: He had, sir, I think as a junior minister.

15 SIR ROBIN AULD: Then you were going to put, and also in

16 a penitentiary.

17 MR MILNE: He was, I think, convicted at the same time as

18 the former Chief Minister was in relation to drugs

19 matters, is that correct?

20 A. Yes.

21 Q. Mr Alden Smith approached you and asked for your

22 assistance in relation to sale of land at Water Cay?

23 A. Correct.

24 Q. Do you know why it was that he approached you?

25 A. Okay, let me explain and I think it can help for

1 the benefit of the Commission for me to go into
2 a detailed explanation about this.

3 In 2003 we came to office, August. Prior to that
4 the PDM government was in office and they made offers of
5 land available to Mr Alden Smith as well as other
6 persons. Mr Smith had an offer of ten acres of land,
7 I believe, on the island of Water Cay.

8 The offer was for him to pay \$750,000 and he will
9 get outright freehold title to the property.

10 SIR ROBIN AULD: For \$750?

11 A. For \$750,000. After we got into office -- Alden
12 operates an office called Smokeys on the Beach. It is
13 a frequent spot for Turks & Caicos Islanders as well as
14 tourists. He has always been a long-term friend of
15 mine. He was discussing the situation with me, asking
16 me if I know of anyone who would be willing to purchase
17 the property from him, because at the time he was
18 encountering financial difficulties and needed
19 assistance.

20 I tried to secure a purchaser for him but I was not
21 able to do so, but in the process of doing so, he asked
22 me to assist him with a small loan. I did assist him
23 with a loan of \$25,000 initially, I recall, and several
24 months later, his financial difficulties continued and
25 he again asked me for assistance. At that stage, I had

1 taken out a bank loan around the same time and
2 I assisted him with a further 25,000. I think
3 the situation evolved to the point where I had loaned
4 him as much as \$75,000. Obviously at this time I became
5 very concerned about my exposure and the offer of the
6 land was in the name of Mr Alden Smith.

7 SIR ROBIN AULD: This was land that he already owned, was
8 it?

9 A. Land that he already owned.

10 SIR ROBIN AULD: Not that he had an option on.

11 A. Land that he had an option, I would say. So the offer
12 was available to him long before I came into government.

13 At my request, he requested that the offer be
14 transferred in the name of a company, so that I can take
15 some security over the shares of the company to get my
16 investment or my loans to him back.

17 He eventually got sale for the land after
18 the Premier contacted the substantive owner of land in
19 Water Cay, I think the gentleman's name is Mr Wehrli,
20 purchased the property from Mr Smith. When he purchased
21 the property from Mr Smith, I believe he paid
22 a commission to the Premier that he referred to of
23 \$325,000. He paid me back my money, together with
24 a bonus, I would say. So I received roughly about
25 \$200,000 from Mr Smith as a result of that transaction.

1 SIR ROBIN AULD: And discharged the loan --

2 A. And discharged the loan.

3 SIR ROBIN AULD: Or permitted the discharge of the loan.

4 A. Exactly.

5 SIR ROBIN AULD: You got \$125,000 out of it?

6 A. I got an additional sum. I must say that he offered me

7 more but I refused it.

8 MR MILNE: What was the property sold for? What was

9 the total price?

10 A. I believe the total price was about \$2 million, but he

11 had to pay government \$750,000 out of it, so he would

12 have been left with a balance of roughly about

13 1,250,000.

14 Q. He had to repay government because he was getting

15 Belonger discount, presumably?

16 A. I don't know. I don't think the offer had a Belonger

17 discount. I think the offer was made generally to

18 persons who would have had interests in properties there

19 at the time, and I think the offer was for \$750,000.

20 I would not know the details behind it because the offer

21 was made at the time I was not in government.

22 (12.30 pm)

23 Q. Did you ever say to Mr Alden Smith: we have an island

24 thronging with real estate agents, why don't you go to

25 one of the real estate agents and get the best possible

1 price?

2 A. I am sure he tried that avenue. Obviously if he came to
3 me about it, it was obvious that he could not have
4 gotten any sale otherwise.

5 Q. Because he ultimately, you say, made 1.25 million, but
6 ended up paying out on a quick tally some \$525,000 by
7 way of commission?

8 A. No. The entire -- he would not have paid 500,000 by way
9 of commission. I told you I had a loan made available
10 to Mr Smith.

11 Q. Well, if we take away the \$75,000 that was being repaid
12 to you. He still paid out \$450,000 by way of
13 commission?

14 A. Perhaps.

15 Q. Do you know what the normal rate of commission is for
16 real estate on the island?

17 A. I don't have any -- well, let me say, perhaps it is
18 around 6 per cent.

19 SIR ROBIN AULD: So the Premier got 300,000 plus and you got
20 100,000 plus?

21 A. Yes.

22 MR SMITH: I don't characterise what he got as commission.

23 I do not think my client is saying he got commission.

24 My client has indicated that he got his 75,000 back and

25 Mr Smith, maybe out of the goodness of his heart,

1 decided to offer --

2 SIR ROBIN AULD: Whatever you call it, the payments that
3 were made which were not for the land amounted to
4 300,000-odd, I can't remember the figure, to the Premier
5 and after you discharged or released Mr Alden Smith to
6 pay back the 75,000, 100 plus to you.

7 A. Yes.

8 MR SMITH: But the only reason I am getting up is because
9 commission is a term of art and it attracts certain
10 implications.

11 SIR ROBIN AULD: All I am interested in is amounts,
12 Mr Oliver Smith.

13 MR MILNE: Given that a normal approach would be in
14 the order of 6 per cent, 450,000 is close to 40
15 per cent, isn't it?

16 A. I cannot speak for the Premier's amount. All I can say
17 to you is that I received 125,000 from Mr Smith or
18 thereabouts. I did not exact that from him as a result
19 of a commission. In fact it was made as a gift to me
20 for my assistance for enabling him to have some funds
21 while he waited for his property to be sold.

22 Q. Were you not aware that the Premier took a commission of
23 \$325,000?

24 A. I was aware that the Premier got monies from
25 the property.

1 Q. Did you know how much?

2 A. I now know that it is 325,000, yes.

3 Q. Did you not know how much at the time?

4 A. I didn't know the exact amount.

5 Q. In fact the precise figure is 36 per cent of his profit

6 has gone in commission, between yourself and

7 the Premier?

8 A. As I stated, I didn't receive a commission from

9 Mr Smith. I never told him I needed a commission.

10 Q. It was just a gift?

11 A. Yes.

12 Q. The Premier was happy to take commission?

13 A. I cannot speak for the Premier.

14 Q. Forgive me, sir, but you must know a lot of people in

15 your role as Deputy Premier, and no doubt you would know

16 a lot of developers because the nature of your job would

17 bring you into contact with them. Was there any

18 particular reason why you needed to go via the Premier

19 to carry out this transaction?

20 A. I think the only reason why I would have done so is that

21 I tried probably -- I know I tried other avenues but

22 I also know that the Premier is a personal friend of

23 Mr Peter Wehrli and I figured that given that Mr Wehrli

24 had the larger portion of Water Cay, it probably would

25 be in his interest to acquire the other smaller parcel

1 that was there.

2 Q. You presumably could have contacted Mr Wehrli direct.

3 No doubt you would be happy to tell the Premier about

4 it, but did you need the Premier's involvement?

5 A. At the time I believed I needed it. The Premier had

6 personal contact with Mr Wehrli. I don't know Mr Wehrli

7 a personal basis.

8 Q. Because on the face of it, the gift, as you have

9 described it at \$125,000 to you, the Premier took some

10 two and a half times that. It is a lot of money, isn't

11 it?

12 A. I would say, but I guess it is relative.

13 Q. Did you ever discuss that with the Premier at any stage?

14 A. As I indicated earlier, I didn't know the exact amount

15 of money that the Premier got until these proceedings.

16 SIR ROBIN AULD: Sorry, I didn't catch the two or three

17 words.

18 A. I said I didn't know the exact amount of money that

19 the Premier got until these proceedings. Hence I would

20 not have any reason to discuss it with him.

21 MR MILNE: Back in 2006 at around that time, you clearly had

22 a number of projects on the go. A number of parcels of

23 land that you were thinking about and indeed in some

24 cases already acquired. No doubt, having paid out for

25 those parcels of land, when possible, you would have

1 wanted to either invest your own funds or obtain
2 borrowing in order to be able to develop the properties.
3 Would that be a fair assessment?
4 MR SMITH: I don't think that is a fair question.
5 The question has about ten parts and not only ten parts
6 but ten assumptions. Assuming that he paid out money
7 for these purchases of land, it assumes that he is in
8 the process of purchasing these lands for development.
9 It is my understanding that he took out loans on those
10 lands. I think it is best if he possibly tries to break
11 the question into parts so my client can give a true
12 answer.
13 SIR ROBIN AULD: Yes, do it in pieces, Mr Milne.
14 MR MILNE: Certainly, sir. Would you say in 2006 that you
15 were a very wealthy man, Mr Deputy Premier?
16 A. Very wealthy, in 2006? No.
17 Q. You loaned \$75,000 to Mr Smith, right?
18 A. I did.
19 Q. You were becoming concerned that you might not get that
20 money back?
21 A. Somewhat.
22 SIR ROBIN AULD: Somewhat?
23 A. Yes.
24 MR MILNE: Did you have 75,000, as it were, sitting around
25 in an account just looking for something to do? Did you

1 have money spare at the time?

2 A. The \$75,000 was not provided to Mr Smith in one lump
3 sum. I told you it was provided over a period of time.

4 Actually, as time went by, Mr Smith was eager to
5 sell his property, and during the course of that time,
6 I had reason -- he had approached me and I assisted him
7 with some funds.

8 Q. When did you obtain the funds from that you loaned to
9 him?

10 A. It would either have been personal funds that I received
11 as a result of salary, or loans that I would have taken
12 out during that period.

13 Q. So apart from your salary, it may be that in fact you
14 had to borrow money, you may not have set out to do
15 that, in order to make that loan to him?

16 A. May have had to borrow money, not necessarily,
17 specifically, to make those funds available to him. But
18 at the time if I was considering an acquisition of
19 a property or what have you, I would have borrowed
20 sufficient to be able to assist him. Or I would have
21 even gotten an overdraft.

22 SIR ROBIN AULD: Forgive me for interrupting because it is
23 quite interesting to note, did you document each of
24 these loans to Mr Alden Smith?

25 A. I didn't document --

1 SIR ROBIN AULD: Was there interest payable?

2 A. No interest payable.

3 SIR ROBIN AULD: Any redemption period?

4 A. No.

5 SIR ROBIN AULD: Quite informal.

6 A. Very informal.

7 MR MILNE: Would this be a fair assessment: you are

8 a gentleman who obviously holds a senior position. You

9 receive a respectable salary and your household income

10 is perhaps 50 per cent again, we think in the order of

11 about 300,000. \$75,000 is not an impossible amount but

12 it is not insubstantial, is it?

13 A. It is not insubstantial.

14 Q. You would obviously have done this because you regarded

15 this gentleman as a friend who needed a bit of

16 assistance.

17 A. Correct.

18 Q. But this wasn't intended to be an open-ended loan?

19 A. No.

20 Q. It was not intended to be, as it were, a gift?

21 A. No.

22 Q. You were not about to waive \$75,000.

23 A. No, it was not intended to be a gift.

24 Q. So whilst it was not going to ruin you, you were putting

25 yourself out for him. It was --

1 A. Correct.

2 Q. -- quite an active friendship. And not something that

3 you would do every day of the week, I suspect?

4 A. I am not able to do that.

5 Q. We are told by the Premier that a matter of weeks after

6 that, in May of 2006, you loaned him, via your attorney,

7 Stanfield Greene, \$150,000, twice the figure that had

8 been loaned to Mr Smith. Did you make that loan?

9 A. I did not personally make that loan. That loan was made

10 to the Premier by my brother, Quinton Hall.

11 Q. Why would the Premier think that it was you who made

12 the loan?

13 A. Well, he had asked me to ask my brother for the funds.

14 Q. Well, then --

15 A. I told him at the time that it would be coming from my

16 brother.

17 Q. He knew it was from your brother?

18 A. He knew.

19 Q. So when he said that he got a loan from you, that was

20 not correct?

21 A. No, it would not be entirely correct.

22 Q. It wouldn't be correct at all, would it?

23 A. No, it wouldn't be correct.

24 SIR ROBIN AULD: How was the transfer made?

25 A. My brother had funds with an attorney and their attorney

1 wrote a cheque to the Premier.

2 SIR ROBIN AULD: Forgive me, Mr Milne, was this loan

3 documented to your knowledge?

4 A. Not documented, not formally.

5 SIR ROBIN AULD: Or the subject of interest, or the period

6 for repayment?

7 A. It didn't attract interest but I expected that it would

8 have been repaid. My brother expected that it would be

9 repaid.

10 SIR ROBIN AULD: But no repayment term?

11 A. No repayment term.

12 MR MILNE: Were you aware before today that the Premier had

13 said that he borrowed the money from you?

14 A. I read it in the transcript.

15 Q. Did that come as something of a surprise?

16 A. It did because he knew -- he should have known it was

17 from my brother. I told him it was from my brother.

18 Q. Because on the face of it, there is no reason for you to

19 be involved in this at all?

20 A. There was no need for me to be involved.

21 Q. Or your name even to be mentioned?

22 A. Correct.

23 Q. This is not your brother loaning money on your behalf,

24 is it?

25 A. No.

1 Q. Your brother had very recently, at that stage, come into
2 some money, hadn't he?
3 A. He did.
4 Q. Because a parcel of lands had been sold?
5 A. Correct.
6 Q. To a Canadian developer, I believe?
7 A. Correct.
8 Q. It is a topic we will come back to at some stage. Did
9 you have any part in that at all?
10 A. The only part I had in that is that my brother had
11 applied for a parcel of land in that area and he had
12 given me the application to submit for him.
13 SIR ROBIN AULD: He did what?
14 A. The application for the parcel of land.
15 MR MILNE: He had given you the application to submit?
16 A. For a parcel of Crown land in that area.
17 SIR ROBIN AULD: Who did, the Canadian buyer or your
18 brother?
19 A. My brother.
20 SIR ROBIN AULD: Gave you the Canadian purchaser's
21 application?
22 A. I am sorry, let me explain. My brother was applying for
23 a parcel of Crown land and he gave me the application to
24 take into the appropriate ministry.
25 SIR ROBIN AULD: This was with a view to its onward sale to

1 the Canadian purchaser.

2 A. At the time I don't think he had intended to sell it to

3 a Canadian purchaser at the time because the Canadian

4 purchaser was not on the table. He didn't know of that.

5 I didn't know of it.

6 SIR ROBIN AULD: But he gave you the application for him to

7 buy, what, a conditional residential lease or business

8 lease?

9 A. Commercial.

10 (12.45 pm)

11 SIR ROBIN AULD: Thank you.

12 MR MILNE: So did you simply hand the form in?

13 A. I submitted the form, yes.

14 Q. That is, you handed it in to the appropriate department?

15 A. Correct.

16 Q. Did you have any part in that purchase at all?

17 A. No.

18 Q. Were you aware of any of your colleagues having a part

19 in that purchase?

20 A. No. Part of the purchase of what? When you say any

21 part in the purchase --

22 Q. This was a series of parcels of land purchased --

23 A. You mean purchased by the Canadian?

24 Q. Ultimately, yes. But in each case a number of people

25 bought the land, that is they got the freehold option

1 and it would appear that before the freehold option was
2 granted, they had already done a deal to sell on to
3 the Canadian developer.

4 A. No, I was not aware of it.

5 SIR ROBIN AULD: Give us an idea of the timescale between
6 your putting in the application for your brother to buy
7 this plot and its onward sale by him to the Canadian
8 purchaser. What are we talking about?

9 A. We are talking about more than a year.

10 SIR ROBIN AULD: A year plus?

11 A. A year plus, yes.

12 SIR ROBIN AULD: He bought the whole parcel of land, which
13 was then subdivided, or just one of the parcels of land?

14 A. It was a five-acre parcel that my brother had.

15 MR MILNE: Did you ever meet a gentleman called David Wex at
16 any point?

17 A. I don't know the name.

18 Q. He is the Canadian developer, in fact.

19 A. I never met him.

20 Q. You are not familiar with that?

21 A. No.

22 Q. Did you have any dealings at any stage with a company
23 called Alliance Realty Limited?

24 A. No.

25 Q. Are you aware of Alliance Realty?

1 A. No.

2 Q. Have you ever seen Alliance Realty operating in any way
3 at all?

4 A. I may have seen the name around here, but I don't know
5 who owns it or any of the details about it.

6 Q. Not at all?

7 A. Not at all.

8 Q. If I were to tell you it is your cousin Jeffrey Hall who
9 sits in Cabinet with you who set it up?

10 A. I don't know every company that Jeffrey holds.

11 Q. So you have no knowledge of Alliance Realty or of any of
12 its work at all?

13 A. No, I know he has a real estate company but I didn't
14 know the name was Alliance Realty.

15 SIR ROBIN AULD: Put Alliance Realty in the context of all
16 this. Alliance Realty did what, are you suggesting,
17 Mr Milne?

18 MR MILNE: Alliance Realty was party to the onward sale of
19 various parcels of land, which went to Mr David Wex, and
20 in respect of which he paid we believe about \$7 million.

21 We would suggest that three people, who had the freehold
22 option, made very substantial profits, effectively
23 overnight by selling on immediately to Mr Wex.

24 A. Pardon me, I don't think that the property was sold
25 overnight. As I indicated, my brother to the best of my

1 knowledge had that lease for more than a year. He did
2 not sell that property overnight.

3 Q. It was a sale onwards, once the freehold had been
4 obtained?

5 A. Okay, that is a different matter.

6 Q. So from obtaining the freehold to onward sale was
7 effectively spinning it around?

8 A. Okay.

9 Q. Do you have any knowledge of that?

10 A. I don't have any knowledge of that.

11 SIR ROBIN AULD: Do you know how much money your brother
12 acquired from all this which enabled the Premier
13 confidently to ask you, could he approach your brother
14 for this loan?

15 A. I am aware of how much he received.

16 SIR ROBIN AULD: You are?

17 A. Yes.

18 SIR ROBIN AULD: How much?

19 A. \$1 million.

20 MR MILNE: Why would the Premier be aware of the fact that
21 your brother had made \$1 million?

22 A. It is a small island. I think probably the entire
23 country probably knows that.

24 MR MILNE: Is it one of those cases where everybody knows
25 everybody else's business?

1 A. It is somewhat that sort.

2 Q. This would have been common knowledge amongst yourself,
3 your family, your political colleagues?

4 A. Correct.

5 Q. Do you recall whether you were in Cabinet when
6 the freehold on that property had been approved for
7 sale?

8 A. I might have been.

9 Q. Might have been. You don't have a recollection?

10 A. I don't have specific recollection but I might have been
11 in Cabinet.

12 Q. I am going to turn now, Mr Deputy Premier, to
13 the question of bank accounts. Just in the few minutes
14 that are available before we break for lunch, I would
15 just like to clarify what we have been told and
16 the information that you have provided to
17 the Commission.

18 You have a series of bank accounts, would that be
19 fair?

20 A. Yes.

21 Q. You have, I think, two accounts which are held at
22 Washington Mutual Bank, one of which is a savings
23 account, the other, I think, a checking account.
24 The activity on those accounts largely appears,
25 certainly on the checking account, appears to be

1 involving a element of brokerage, no doubt stocks,
2 shares, invested on your behalf and brokerage, any
3 profits paid back into the account?

4 A. Correct.

5 Q. Is that what it is principally designed for?

6 A. That is what it is principally designed for.

7 Q. And Washington Mutual, one would assume, based in the
8 USA?

9 A. Yes.

10 SIR ROBIN AULD: This is share brokerage, is that what you
11 are putting, Mr Milne?

12 MR MILNE: It is, sir, yes.

13 Simply for the record, the account numbers, I don't
14 need to read them out, but they are four digits each.
15 We find those statements, sir, at pages 139 to 146 and
16 then 147 to 149 in the black bundle.

17 SIR ROBIN AULD: That is Mr Floyd Hall's black bundle?

18 A. Mr Hall's bundle of individual documents.

19 We have within the bundle, if it assists, I think
20 they are all grouped together, and they would all be
21 from page 139 onwards, which is divider 6 in the bundle.
22 If that makes it any easier.

23 SIR ROBIN AULD: Thank you.

24 MR MILNE: Sir, you have the Belize Bank account based in
25 the Turks & Caicos Islands and the pages we have in our

1 bundle are pages 151 through to 165. Sir, you have
2 provided us with statements that cover only the period
3 December 2006 up until fairly recently in 2008. Can
4 I point out that in fact they are missing the statement
5 for October 2007 and indeed missing altogether
6 the period from March to July 2008. They then come back
7 in briefly after July.

8 SIR ROBIN AULD: Give me that again, please, Mr Milne?
9 Missing statements from?

10 MR MILNE: This is from Belize Bank. We have statements
11 only from the end of 2006 until 2008.

12 SIR ROBIN AULD: So for the whole of 2007, is it?

13 MR MILNE: We have most of 2007. We are missing October,
14 which I fully accept may be an oversight. A sheet has
15 gone missing. We are then missing a further gap between
16 March and July 2008.

17 A. That is for my personal account?

18 MR MILNE: That is the Belize Bank. I won't give the full
19 account number but it ends 078.

20 A. Yes.

21 Q. That is our pages 151 to 165 which you see in the
22 bundle. We would invite you to provide further
23 statements for that account.

24 SIR ROBIN AULD: Why are they missing?

25 A. I know that a request was made for all of these

1 statements. The fact that they are missing could simply
2 be that the bank could not have provided them at that
3 time. But I will follow up from them and I have no
4 problems providing it to the Commission.

5 SIR ROBIN AULD: Are they available now?

6 A. I would hope. I had written to the bank concerning it.
7 So I would think that I can get it.

8 SIR ROBIN AULD: When did you write? Once the Commission
9 drew your attention to the gaps, when did you write?

10 A. I would have written to them shortly after that.

11 SIR ROBIN AULD: Have you had any response?

12 A. No. But it was quite a bit of information that was
13 requested from them, so it could have been an oversight
14 of this particular situation in providing this.

15 SIR ROBIN AULD: If they don't indicate pretty soon that
16 they are going to provide them for you, we shall have to
17 issue summons.

18 A. Yes, I will try my best to get them.

19 SIR ROBIN AULD: Will you undertake to inform the Commission
20 by the end of this week what the position is?

21 A. Right. I will try and get them today and let them know.
22 I thought all the statements were provided, sorry.

23 MR MILNE: Moving on, you have a further account at the
24 First Caribbean International bank, again based in the
25 Turks & Caicos Islands. The statements that we have

1 from that again only run from December 2006 up to date.

2 SIR ROBIN AULD: Which bank is this?

3 MR MILNE: FCIB. Our statements are contained at pages 167
4 through to page 203.

5 A. May I point out, sir, that that is the period that
6 the Commission had requested that I provide statements
7 for. From the beginning of 2007 to date. That is
8 the period that was communicated on the transmission
9 sent to us. You would have had all the statements,
10 I believe, from First Caribbean Bank dealing with that
11 period.

12 MR MILNE: I will seek to clarify that but we would in due
13 course invite you to provide earlier statements than
14 that as well. We had hoped for a longer period.

15 SIR ROBIN AULD: For what period?

16 MR MILNE: Certainly from 2004 and 2005 and indeed 2006 are
17 missing. If there has been a misunderstanding, then
18 I accept that, but I think we had hoped for a broader
19 period and indeed have asked for and sought that from
20 other witnesses, and been provided with it by other
21 witnesses. Scotiabank, again, I believe, two accounts.
22 For clarification, one of them based at the
23 Providenciales branch and second based at the Grand Turk
24 branch. With those, the statements are provided from,
25 in the case of the Providenciales branch, November 2006

1 to date.

2 They are our pages 205 to 225. With the Grand Turk
3 branch from September 2006 to August 2008, although
4 again it appears to be simply an area of omission,
5 the period September to December from 2007 has dropped
6 out.

7 So we don't have the statements covering that
8 period.

9 For the record, again, the Providenciales account
10 was the one that ends with the numbers 10.
11 The Grand Turk account ends with two digits, 69, simply
12 for identification. I am not going to read out the full
13 account numbers.

14 SIR ROBIN AULD: There are missing statements from that too,
15 are there?

16 MR MILNE: Again, sir, they only start in late 2006 and we
17 would invite 2004 onwards. If there has been
18 a misunderstanding, then, no doubt, that can be
19 rectified.

20 You have an HSBC account in Miami and that was
21 provided in the most recent disclosure. Those
22 statements only cover the period January 2007 to
23 May 2008. So some 15 months.

24 We would invite you to rectify that position in
25 similar terms.

1 SIR ROBIN AULD: Missing from when?

2 MR MILNE: It is hard to say how long that account has been
3 open, sir.

4 SIR ROBIN AULD: From before?

5 MR MILNE: From before January 2007. Again we would invite
6 from 2004 onwards, if the account was in existence then.

7 SIR ROBIN AULD: To be fair to Mr Floyd Hall, this is
8 an error of the Commissions in seeking these documents,
9 is it?

10 MR MILNE: I was not aware that we only asked for that
11 period, sir, but, if that is the understanding, then
12 I make no criticism. But we would seek a wider period
13 of disclosure.

14 SIR ROBIN AULD: I would be surprised if it was so limited
15 a period that I didn't stumble upon it at some stage.
16 Anyway, one way or another you will help us, Mr Floyd
17 Hall?

18 A. Yes.

19 MR MILNE: There is further to that an account with
20 TCI Foreign Exchange Traders.

21 A. Yes.

22 Q. We have only, I think, one document in relation to that,
23 which is contained within the bundle. We would invite
24 earlier documentation. That one document --

25 A. That would be all the activity that would be on it.

1 Q. Is that the only activity?

2 A. Yes.

3 SIR ROBIN AULD: Nothing missing there?

4 A. No, I don't think nothing missing from there.

5 MR MILNE: If that could be checked, I would be grateful.

6 We have been informed that you have a Royal Bank of

7 Canada account based in the Cayman Islands?

8 A. Correct.

9 Q. We have seen no statements at all from that.

10 A. I thought I had sent them to you. It has only about

11 \$16,000 on it.

12 Q. We have not received that. You have what is termed

13 the Paradigm operating account. I will confess it is

14 not immediately obvious which of the two major banks on

15 the island operate it? Is it First Caribbean --

16 A. No, it is operated by Belize Bank.

17 Q. That again covers a limited period. That account only

18 covers from January 2007 up until 2008. From what you

19 have told us, Paradigm operated -- exists at least prior

20 to that?

21 A. Correct.

22 Q. We would seek an earlier period as well of statements in

23 relation to that. The ones we have are at pages 257 to

24 258.

25 I omitted to mention that the HSBC statements are in

1 the new section, section 8 of the bundle. These are the
2 recent ones. Pagination begins again at pages 41 to 48
3 within that. I am going to move on to issues within
4 the accounts but I see the time. It may be convenient
5 to do that at 2 o'clock.

6 (1.00 pm)

7 SIR ROBIN AULD: Yes. Shall we say 2.10.

8 MR GOMEZ: Before rising, nothing dramatic, quite early in
9 the proceedings this morning, you had indicated to us
10 a concern for Mr Hoffman's address.

11 SIR ROBIN AULD: Yes.

12 MR GOMEZ: I spoke with counsel for the Commission, as
13 I have been informed by Mr Edwards that my client's
14 attorneys had been in contact with solicitors of
15 Mr Hoffman and they have by telephone communicated
16 the address of those solicitors to the Secretariat of
17 the Commission.

18 SIR ROBIN AULD: That is of great help, thank you, Mr Gomez.
19 These are attorneys of Mr Hoffman's here in the TCI, are
20 they?

21 MR GOMEZ: They are in the TCI.

22 SIR ROBIN AULD: Thank you very much. I am very grateful to
23 you for your assistance. 2.10.

24 (1.03 pm)

25 (The short adjournment)

1 (2.08 pm)

2 Discussion

3 SIR ROBIN AULD: Mr Saunders, I understand you are here this
4 afternoon to represent the PNP?

5 MR SAUNDERS: Yes, sir.

6 SIR ROBIN AULD: I understand that you are here because
7 there is an objection on behalf of the PNP to produce to
8 the Commission copies of accounts that have been asked
9 for as a result of the evidence given by the Premier?

10 MR SAUNDERS: Yes, sir. I have only been instructed on this
11 a few hours ago, about 12.30 today. So my familiarity
12 with all of the details are quite thin. But there is
13 an objection. The thrust of the objection is this:
14 there are a number of individuals in the community who
15 have donated to the party,
16 the Progressive National Party and they have donated to
17 the party on the basis and with the assumption that
18 those details are going to be kept confidential. It is
19 a practice here in the islands that particularly
20 businesses that they donate to both parties, but they
21 would donate to one party differently than they donate
22 to other parties. Particularly those businesses make it
23 absolutely clear that the details of their quantum of
24 their donation should be kept confidential. Even within
25 the party itself, there is a select few individuals who

1 are privy to that information.

2 For that reason, there is a request to this
3 Commission that instead of requesting the entirety of
4 the records, that instead perhaps what would satisfy
5 your requirements is if details of payments to ministers
6 be provided, so the information be extracted from
7 the party's records.

8 SIR ROBIN AULD: But presumably the recipients of
9 the donations, the ministers, say, would know who had
10 made a contribution to them, wouldn't they? As recorded
11 in the PNP accounts.

12 MR SAUNDERS: There is the practice of donations made to
13 particular ministers and then there is the practice of
14 donations made to the party. I believe that
15 the ministers would -- again, I am not privy to
16 the exact practice, but I believe the ministers are
17 sufficiently senior that they would know about
18 the details of the donations to the party.

19 SIR ROBIN AULD: There is not much point in making
20 a donation for a particular minister if he doesn't know
21 you have made it, or member.

22 MR SAUNDERS: Yes, sir, that is accepted.

23 SIR ROBIN AULD: The problem has arisen as you know because
24 it may or may not be so, but there is a suggestion of
25 an intermingling of political contributions and

1 political uses with other purposes and some of this
2 money may or may not have found its way into
3 the accounts of the party. It is in that context that
4 we have sought to see the PNP accounts to which
5 I understand the Premier has no objection but you say
6 the interests are wider than his.

7 MR SAUNDERS: My instructions from the party is that they
8 have an issue with the wholesale disclosure of their
9 accounts and the thrust of that objection is that a vast
10 majority of corporate and commercial contributors
11 provide funding to the party on the basis that those
12 details are highly confidential. A wholesale disclosure
13 of that information is going to make a large number of
14 contributors extremely uncomfortable.

15 SIR ROBIN AULD: I can see that concern of those who have
16 made large-scale donations, but that is the very matter
17 we are here to inquire into, isn't it?

18 MR SAUNDERS: That is the matter that you are here to
19 inquire into. The problem, however, though is that
20 this, for instance, this discussion we are having, is
21 going to be on the Internet tomorrow morning.
22 The individuals that are implicated in this will also
23 bring into the public's view individuals that are not
24 implicated into this. So the problem with
25 the suggestion is that in dealing with the thrust of

1 your Inquiry, is it necessary to then bring wholly
2 innocent individuals into the public eye with
3 the inferences that flow from that in relation to that?
4 What I am suggesting is that a balance should be sought
5 whereby only the details that are necessary should be
6 made public and brought into this forum.

7 Tomorrow morning there is going to be the details
8 the transcripts. Within hours of that, the TCI Journal
9 will be taking details and extracting details from
10 the transcripts and making inferences well beyond
11 the actual discussions in this forum.

12 What I am suggesting is that in doing your job,
13 a balance needs to be brought in terms of just exposing
14 the details that are necessary to deal with the thrust
15 of your investigations.

16 SIR ROBIN AULD: I can understand the concern of those who
17 instruct you, and indeed you put the dilemma to
18 the Commission very well, but until we see the accounts,
19 the size and the number and the direction of the
20 donations, we can't know which is an innocent donation
21 and which is potentially a corrupt one. We can't judge
22 in the abstract, can we?

23 (2.15 pm)

24 MR SAUNDERS: My understanding is that, and again I was just
25 recently instructed, your interest was in payments to

1 ministers, not in payments to the party.

2 SIR ROBIN AULD: Well, the trouble is from the evidence

3 given by the Premier, unless I have misunderstood it,

4 there is a certain overlap where payments are made to

5 the party but with a particular intention that they

6 benefit an individual. Sometimes payments are made to

7 the individual minister for the general benefit of the

8 party and there is not a sharp divide between the two

9 always.

10 MR SAUNDERS: But the problem with looking at the party's

11 account is that information is not going to be on

12 the face of the party's accounts. All it will show is

13 debits and credits and in relation to the credits it

14 will say these credits were made by so and so in most

15 cases. An examination of the accounts will reveal

16 the individual donor's details but will not reveal

17 the purpose for the donations.

18 SIR ROBIN AULD: Are there some instances, Mr Saunders where

19 there is an indication that the payment is to the party,

20 but for particular dedication or allocation to

21 an individual member or minister? Or a particular

22 project that a particular minister may have in mind?

23 MR SAUNDERS: I would need to get fuller details in relation

24 to that. My understanding is that the vast majority of

25 the donations, contributions are not made with

1 a particular purpose. It is particularly those that are
2 given to the party. In certain cases where there is --
3 where there's discomfort about confidentiality,
4 a particular donor would make a contribution or
5 a donation directly to the particular minister. My
6 understanding is that's the practice but very seldom is
7 it provided with specific instructions towards
8 a particular project.

9 SIR ROBIN AULD: Is there anything he would you would like
10 to say, Mr Saunders? You put it very well if I may say
11 so.

12 MR SAUNDERS: Sir, what I would like to say is that given
13 the fact that I have only just been instructed over
14 an hour ago and have had very little time to look at
15 the -- I have noticed that you do have the powers to
16 request this information -- but to look at all of the
17 issues surrounding this request, I respectfully request
18 that this matter be adjourned until Friday until I have
19 had a chance to take fuller instructions and understand
20 the issues in relation to the management of the party's
21 accounts.

22 SIR ROBIN AULD: Yes, thank you. I will just ask the bar if
23 they have any submissions to make on the anxieties that
24 you raise. Does any member of the bar, before I ask
25 Mr Milne, have any observations to make on Mr Saunders'

1 points?

2 MR GOMEZ: There are only two possible points. I have no
3 problem with the request for the adjournment being
4 acceded to, that is the first point. Secondly, part of
5 what my learned friend has indicated might be resolved
6 in one or two ways, which would allow for
7 the admissibility of the evidence. One would be that
8 initially counsel for the Commission and counsel for
9 the party could review the accounts together and
10 separate out those payments which are innocuous. That
11 is to say that don't concern the Commission and no
12 reference to be made to them in the hearing, so that
13 the public knowledge of those payments would be in
14 a sense edited out.

15 Then only those payments which really concern
16 the Commission would then be dealt with and then --

17 SIR ROBIN AULD: It may take the dealing with them to know
18 what is relevant to the Commission's enquiry and what
19 isn't. But I think what you are saying is, until
20 the Commission has taken a view on it, having had sight
21 of it, when in doubt it shouldn't publish the names of
22 those who might be unfairly stigmatised by it.

23 MR GOMEZ: Yes, my Lord. What I am saying is to some extent
24 that can be done in camera and to the extent that it
25 could be done in camera, it would protect the innocent,

1 so to speak, and only those persons whose innocence is
2 the subject of question would then be impacted
3 negatively.

4 As officers of the court we are obliged to give
5 whatever assistance to the Commission as is required for
6 your purposes. So that there would be no danger to your
7 function by getting the co-operation of the bar in that
8 exercise. Save for that my Lord, that is all I have to
9 say.

10 SIR ROBIN AULD: Thank you. Any other member of the bar?

11 Mr Milne?

12 MR MILNE: Sir, the Commission will bear in mind that the
13 issue arose first because there appear to be
14 discrepancies between the explanation as given by
15 the Premier last week and the explanation as given by
16 the Deputy Premier today.

17 The first of those discrepancies was as to whether
18 or not the Premier was in receipt of a salary or indeed
19 not. The second was in relation to the payments made
20 out evidently from the PNP to Youlanda Scott, a stylist
21 to the Premier's wife. The Premier last week gave two
22 possible explanations. In fact he said there are
23 a number of possible explanations:

24 "The payments out of \$100,000 may have been
25 a contribution to the PNP on the understanding that the

1 money was by way of a wedding gift to me or the PNP may
2 have been meeting a cost incurred by me just as I had
3 incurred costs on their behalf personally."

4 We were seeking clarification of that and
5 the Deputy Premier indicated that he would identify
6 the records that would assist in clarifying that matter,
7 although he expressed doubt that the PNP would have been
8 engaged in making payments to a California stylist who
9 provided services to the Premier's wife. It was that
10 element that we were focusing on and that element in
11 respect of which records were being sought.

12 I accept, sir, on behalf of the Commission that of
13 course one can't simply ring-fence a section of the
14 papers and it may well be that we need to see a wider
15 spread of those. But the Commission is already well
16 aware of the need for confidentiality. The Commission
17 has been respecting that in relation to many witnesses,
18 and the Commission knows that it treads softly, if at
19 all, in some areas, and for that reason the Commission
20 is quite capable of reviewing, keeping confidential, if
21 appropriate redacting documents and making sure that
22 those documents do not cause undue or inappropriate
23 embarrassment to people who have nothing to be ashamed
24 but prefer to retain their natural confidentiality.

25 For that reason, sir, it would be my submission that

1 the Commission should be entitled to use its full powers
2 to require disclosure of these documents in
3 the knowledge that it can always hear submissions in
4 camera on behalf of the party in relation to specific
5 points, specific donors, specific transactions if they
6 were felt to be confidential, if they were felt to be
7 sensitive in any way. But it is wholly inappropriate at
8 this stage to make a ruling that there should be no or
9 partial disclosure to the Commission because that would
10 effectively hobble the Commission in its efforts to get
11 to the bottom of what has been going on.

12 In light of what we have learnt, particularly today,
13 as to the lack of published or audited accounts of the
14 party, it is clear that this is an area which lies very
15 much at the heart of the Commission's enquiries.

16 Whilst I don't oppose an application for
17 an adjournment, I simply raise a query as to whether it
18 is necessary that it should take four days. We are
19 moving perhaps not as quickly as we might, but
20 the Commission is anxious that we should make as much
21 progress as soon as possible and obviously the material
22 that will be disclosed, one hopes in due course, will
23 have a knock-on effect on further witnesses and the more
24 time the Commission has to consider it, the easier it
25 will be to use it appropriately. I don't know if I can

1 assist you any further.

2 SIR ROBIN AULD: Mr Milne, can you remember over what period

3 you sought the PNP accounts? I have a record of it

4 which I am trying to put up, but the computer isn't

5 keeping pace with you.

6 MR MILNE: There are payments in 2004 with which we are

7 concerned, and I would have to say that it appears to be

8 necessary that we cover that period. The payments to

9 Youlanda Scott, I think are in 2006. I will be

10 corrected if I am wrong. We have the points on that

11 which we provide to my learned friend. Therefore we

12 will be looking essentially from the period at the

13 beginning of 2004. In fact 2007. So we would need

14 the period between 2004 and 2007 for definite. I would

15 ask that it cover the period up to covering and

16 immediately after the last election.

17 SIR ROBIN AULD: Those are your submissions?

18 MR MILNE: Those are my submissions.

19 MR SAUNDERS: Sir, I don't particularly agree with the

20 thrust of those arguments. It is very clear from what

21 is said that what is being asked for is payments out to

22 ministers. That can easily be resolved without having

23 an extraordinary amount of collateral damage by

24 providing details of all of the payments to ministers

25 and that will show up in those records. Unless

1 the suggestion is that the chairman of the party or
2 the officer of the party can't be trusted in providing
3 a thorough list of payments to ministers.

4 If that is the concern, then say that that is
5 the concern.

6 I beg to differ on the suggestion that there isn't
7 an enormous amount -- donors to a party are highly,
8 highly sensitive about the disclosure of information.
9 The fact that the details of donations are going to be
10 made public to this Inquiry is going to send a shivering
11 effect down the spines of the donors and I can assure
12 you that --

13 SIR ROBIN AULD: Why should it be so frightening to them?

14 MR SAUNDERS: Why should it be so frightening to them?

15 I mean, I think in your opening statement you have
16 indicated the sort of environment of fear and
17 intimidation that there is in this particular community.
18 There is an environment that -- there is a feeling that
19 if you donate and you are a strong supporter of
20 a particular party, whether or not that is actually real
21 or imaginary, if you are a strong supporter of
22 a particular party and you are engaged in business that
23 with the flows and ebbs of political fortune, when
24 the party that you strongly support is in opposition,
25 that very few of your calls will be answered, very few

1 of your applications will be considered. Whether or not
2 that is the truth or reality, there is that perception,
3 and donors do not like their information to be made
4 public.

5 I disagree with the other statement as well, that
6 this is being dealt with in a very careful -- very
7 conscious -- I appreciate that a very thorough job has
8 been done here. A very thorough job has been done in
9 the investigation and presentation of that and it is
10 very clear from the information that is being sought,
11 but for someone's details to be brought out in this
12 particular forum, for an innocent party's details to be
13 brought in this particular forum, in a certain line of
14 questioning, where it does not have the ability to be
15 dealt with fully and in all cases they will not have
16 the ability to be dealt with fully will lead to public
17 inferences in relation to those individuals. Someone
18 makes a donation of \$100,000 to a party, the inference
19 is automatically going to be that that is a bribe.

20 If, for instance, there is facts in relation to that
21 that are not brought out in this particular forum, that
22 sheds a different light on it and is not brought out in
23 this forum, the inference is going to be made public,
24 everyone is going to be Googling it, and individuals
25 within the public are going to be making their own

1 conclusions based on what comes out here.

2 Two weeks later it is not going to make a difference
3 if the surrounding details are made public because
4 everyone would have already drawn their conclusions.

5 This particular information in relation to donations
6 to parties is highly confidential information. It will
7 irreparably damage the whole system for at least
8 a decade in that there will be a fear that if donations
9 are made to particular parties, that those details can
10 easily be made --

11 SIR ROBIN AULD: I think you have made that point now. That
12 is the central thrust of your submission, isn't it?

13 MR SAUNDERS: Yes, it is the central thrust of my
14 submission.

15 SIR ROBIN AULD: So it is concern for publicity to those who
16 may be innocent of any taint of corruption.

17 MR SAUNDERS: Just to give you a example, sir. In relation
18 to the loans involving Saunders & Co which has been
19 a matter of examination before this Inquiry, a line of
20 questioning has been brought up --

21 SIR ROBIN AULD: This doesn't arise out of this submission.

22 MR SAUNDERS: It doesn't arise out of this submission. I am
23 giving you a example of the cause for concern.

24 SIR ROBIN AULD: I don't need examples for the scope for
25 injustice if somebody is wrongly tainted with

1 a suggestion of bribery simply because they have made
2 a political contribution to one party or another. It is
3 those where it has gone to the extremes and where what
4 may be simply a political preference has turned to
5 a commercial imperative.

6 Tell me this, where are these accounts now from 2004
7 to the end of 2008?

8 (2.30 pm)

9 MR SAUNDERS: I am not in a position, I have just been
10 instructed, I have no idea where they are.

11 SIR ROBIN AULD: Do you know what they consist of? There is
12 an annual ledger, I imagine, which will relate to each
13 member to whom a contribution has been made, or is it in
14 general form?

15 MR SAUNDERS: Again, I could not shed any light on it but
16 I would doubt they would be in any other form than
17 the actual bank statements with the banker's description
18 of what the -- who made the contribution.

19 SIR ROBIN AULD: The ledger saying who the payor is and
20 sometimes but not always who the particular beneficiary
21 might be or the particular project it might be intended
22 for.

23 MR SAUNDERS: I very much doubt it would go into the deed of
24 the project.

25 SIR ROBIN AULD: Where are they now, you don't know?

1 MR SAUNDERS: I don't know.

2 SIR ROBIN AULD: Our last information when this was raised

3 last Friday was that they were in the PNP offices in

4 a room which was locked and either the holder of the key

5 was away or the key had been mislaid. I suggested that

6 if that was a problem, that the lock should be forced or

7 picked. Do you know if that has happened?

8 MR SAUNDERS: Sir, no, I don't know that that happened.

9 SIR ROBIN AULD: Now, if the Commission were to request you

10 to provide or those instructing you to provide this

11 afternoon all the accounts of the PNP in whatever form

12 from 2004, January, to December 2008, which are no doubt

13 in that locked room, on the basis that the Commission

14 would look at it privately, item by item and consider to

15 what extent it needed to canvass the nature of

16 the payments, whether privately, that is to say in

17 camera, or publicly, would you undertake to do that on

18 behalf of those instructing you?

19 MR SAUNDERS: Sir, I would not have the authority to

20 undertake that.

21 SIR ROBIN AULD: I will tell you what I am going to propose

22 and do if you have no authority. I am not going to

23 adjourn your application. I want those papers, those

24 accounts here this afternoon. If they are not, as

25 a result of my request, brought this afternoon, I shall

1 issue a summons this afternoon requiring their
2 production to the Commission before sundown today, which
3 would be personally served on, I imagine,
4 Ms Akierra Missick who is the Secretary General?
5 MR SAUNDERS: That is my understanding, sir.
6 SIR ROBIN AULD: Do you think you might have ten minutes in
7 which you can take instructions as to whether you could
8 undertake to bring all those accounts here this
9 afternoon, or do I have to issue a summons this
10 afternoon to achieve that? Would you like to take ten
11 minutes to make a phone call, Mr Saunders?
12 MR SAUNDERS: Sir, I will take ten minutes to make a phone
13 call. I should say, however, I feel very uncomfortable
14 giving that sort of -- personally giving that sort of
15 undertaking.
16 SIR ROBIN AULD: I am not asking you to give that
17 undertaking unless you are authorised by your clients to
18 do so. You can't give it on your own account clearly.
19 But they should understand that if they don't give you
20 authority to do so, I shall issue a summons immediately
21 for their production. What happens thereafter should
22 not, if I deal with the matter properly, affect
23 the concerns that you have put so eloquently to me.
24 MR SMITH: Sir Robin, it is my understanding that those
25 documents, I was just informed by my client --

1 SIR ROBIN AULD: You speak on behalf of the Deputy Premier?

2 MR SMITH: The Deputy Premier. He does have those
3 documents.

4 SIR ROBIN AULD: Who does?

5 MR SMITH: The Deputy Premier.

6 SIR ROBIN AULD: They are here?

7 MR SMITH: He does not have them physically with them.

8 SIR ROBIN AULD: But the Deputy Premier has the answer to
9 this, does he? Well, let's hear about it.

10 A. First of all, thank you very much, Sir Robin. First of
11 all, I do share the concerns as have been expressed by
12 our lawyer, the Progressive National Party lawyer.

13 SIR ROBIN AULD: You speak now in your PNP role?

14 A. I speak with my PNP cap and the Treasury of the PNP
15 party. I do share those concerns because in many cases
16 sometimes donations are even made to the party without
17 me as Treasurer even having knowledge of who they came
18 from.

19 What I can provide you with is an accurate
20 accounting of funds that have come into the party's
21 accounts and funds that went out to the party's accounts
22 to various ministers and various candidates over
23 the period. I can readily do so this afternoon because
24 they have all been inputted into the computer and have
25 been properly accounted for up to the end of 2008.

1 SIR ROBIN AULD: What form do they take, Mr --
2 A. They take the form --
3 SIR ROBIN AULD: -- a general ledger?
4 A. They take the form of a Quicken ledger. Quicken is
5 a previous version -- QuickBooks is an updated version
6 of Quicken, but I can provide a report that will
7 illustrate all the payments that would have come into
8 their accounts.
9 SIR ROBIN AULD: Identify the payors.
10 A. Not necessarily identify all the payors but most of the
11 payors, the large majority of the payors are identified.
12 SIR ROBIN AULD: And where particular indication is given of
13 the purpose for which the donation is made, that would
14 be there too, would it?
15 A. The purpose in all cases would have been a political
16 contribution.
17 SIR ROBIN AULD: What other accounting documents does
18 the PNP have that runs in parallel with this, I will
19 call it a ledger if you don't mind?
20 A. We basically have -- I would have copies of deposit
21 slips, copies of some of the cheques; in some cases
22 the cancelled cheques would have been returned to the
23 party but not in all cases because the banks have found
24 it difficult to do that.
25 In basically all cases the ledger will show item by

1 item the funds going to various ministers or various
2 candidates from the contributions that came into
3 the party.

4 SIR ROBIN AULD: Is there any other running account, that is
5 to say, indicating to what use particular amounts have
6 been put?

7 A. No.

8 SIR ROBIN AULD: So you have a -- forgive me, I will call it
9 a ledger and you have supporting vouchers in some
10 instances.

11 A. Yes. What I can say, the party would have a ledger and
12 it would have an income and expenditure sort of
13 statement and it would have a balance sheet. So you can
14 look at the income and expenditure statement and see
15 what funds were spent on political travel, what funds
16 were spent on campaign rallies, what funds would have
17 been spent on -- for the various candidates and what
18 have you. I can print out an income statement that will
19 show all of that.

20 SIR ROBIN AULD: Does this run from the financial year or
21 the calendar year?

22 A. A calendar year.

23 SIR ROBIN AULD: Are there any manual records from which
24 the computer records are derived?

25 A. I will have the cheque books.

1 SIR ROBIN AULD: Now, I think you and your -- wearing your
2 PNP hat, better have a word with Mr Saunders quietly for
3 a minute or two, don't you think? What I hope
4 as a result of your helpful intervention can be done is
5 there could be produced to the Commission this
6 afternoon, the ledger, the supporting vouchers where
7 they exist, income and expenditure and balance sheets
8 for the years 2004 to 2008.

9 A. Okay, I can do that.

10 SIR ROBIN AULD: Then that removes all unpleasant exchanges
11 of the sort that I have threatened. Would you like to
12 have a word with Mr Saunders who is your solicitor, your
13 attorney and see whether he is able to express those
14 instructions on behalf of the whole party. I will
15 adjourn for five/ten minutes to enable you to discuss
16 the matter.

17 A. Thank you.

18 (2.38 pm)

19 (A short break)

20 (2.48 pm)

21 SIR ROBIN AULD: Yes, Mr Saunders, have you had
22 an opportunity to take instructions?

23 MR SAUNDERS: I have had an opportunity to take
24 instructions. I am also advised that the actual
25 information isn't here with us today but they can be

1 secured within a short period of time. Sir, what I wish
2 to suggest, I believe this is what you were
3 suggesting as well, is that the information be dealt
4 with in camera.

5 SIR ROBIN AULD: That is when we have it. I will judge when
6 I have the material what I can properly use in
7 the interests of individuals and the public to explore
8 either in camera or if necessary in public with all
9 the concerns that you have expressed to me in mind. My
10 immediate concern is to have these documents put before
11 me.

12 MR SAUNDERS: The documents can be put before you from my
13 understanding in very short order. They are accessible
14 and, sir, if you can repeat that, you will receive
15 the documents, decide which of the --

16 SIR ROBIN AULD: I think this will be the third time I have
17 said it. Once I have received the accounts as
18 I described them to the Deputy Premier and he to me for
19 the years 2004 to 2008, the calendar years, I shall then
20 look at them and consider what it seems to me is
21 potentially relevant in terms of reference of my
22 Inquiry. Now, if some payments in there are of such
23 a nature or such a size or in such combinations that
24 they suggest the possibility of corrupt payments,
25 I shall then have them investigated in writing or in

1 these hearings, which may be in private, in camera or in
2 public as seems to me just, and in making that decision
3 I will take into account the public interest as well as
4 that of the private individual or individuals concerned.

5 At the moment my concern is to have these documents
6 brought before me. Before I finish, are they still in
7 a room behind a locked door, the key to which cannot be
8 found?

9 MR SAUNDERS: Sir, my understanding is that the documents
10 are at the Deputy Premier's residence. The compilation
11 of the statements, along with the original statements
12 themselves.

13 SIR ROBIN AULD: How long have they been there?

14 MR SAUNDERS: Sir, I was just given those instructions about
15 20 minutes ago.

16 SIR ROBIN AULD: Shall I turn my questions to the
17 Deputy Premier then? Deputy Premier, they are not in
18 your house in a locked room, the key to which cannot be
19 found, are they, Mr Floyd Hall?

20 A. No, sir.

21 SIR ROBIN AULD: How long have you had them?

22 A. I have been the party's Treasurer since I think
23 2001/2002 and I have been in possession of the party
24 banking activity since then.

25 SIR ROBIN AULD: So where did this story of them being in

1 a locked room, the key to which, whoever held it, had

2 gone away?

3 A. I was not privy to those discussions.

4 SIR ROBIN AULD: Is there anything else you would like to

5 say, Mr Saunders?

6 MR SAUNDERS: Yes, sir. My understanding is, in relation to

7 the party, the party was not aware of the fact that this

8 compilation were done and that the records were where

9 they were. Those are my instructions.

10 SIR ROBIN AULD: Where did they think the records were?

11 They have their own records, do they?

12 MR SAUNDERS: Sorry? Sir, my understanding is that they

13 were not aware that this compilation has been done. My

14 understanding is that the party hasn't actually double

15 checked it, they were also unaware of the fact that the

16 underlying statements, from which this compilation was

17 prepared, was also at the Deputy Premier's residence.

18 SIR ROBIN AULD: But are you saying that at the party

19 headquarters they had another set of records?

20 MR SAUNDERS: I don't know, but I believe the party was

21 under the impression that that is where they were.

22 SIR ROBIN AULD: Mr Deputy --

23 A. Maybe I can help. Thank you, Sir Robin. I think this

24 is in reference to some documents that Terry Clare would

25 have at the party's headquarters. That would relate to

1 a petty cash sort of account system. It has no bearing
2 on the major contributions that come to the party and
3 from which candidates would receive various stipends.
4 SIR ROBIN AULD: What statements of books are kept at the
5 party headquarters?
6 A. I think minimal. It will have to do with the normal day
7 to day sort of running of the party's activities.
8 Purely administrative, nothing major.
9 SIR ROBIN AULD: What bank accounts does the party keep?
10 A. Its main bank account is with the First Caribbean Bank,
11 which is held by me and which the accounting for
12 the party contributions come through and which
13 I undertake. Those records are with me.
14 SIR ROBIN AULD: It has no other account?
15 A. It has no other account. It has a loan account with
16 Belize Bank at present.
17 SIR ROBIN AULD: We better see the bank statements too for
18 the last four years as well, hadn't we?
19 A. The bank statements for?
20 SIR ROBIN AULD: The party's bank statements.
21 A. All of those records --
22 SIR ROBIN AULD: All of which you have?
23 A. Yes, I have them.
24 SIR ROBIN AULD: If you assure me, Mr Floyd Hall, that there
25 are no accounting records of significance at party

1 headquarters but they are all at your home, can you
2 arrange for them to be brought here now this afternoon?

3 I can make available a member of the Commission
4 Secretariat to attend wherever they are, with whoever it
5 is, and manually pick them up and bring them back here.

6 A. Perhaps that can be done after I have provided that
7 evidence this afternoon.

8 SIR ROBIN AULD: I would quite like it done now, if you
9 don't mind. Who would you depute to assist in this?

10 A. From your office?

11 SIR ROBIN AULD: Yes. To go to your house, pick up
12 the accounts for the last four years and the bank
13 statements.

14 MR SMITH: That is something he has to do himself, sir. If
15 you are going to break, he has to physically go and get
16 it.

17 SIR ROBIN AULD: Mr Smith, you are volunteering, are you?

18 MR SMITH: No, your Honour. I am saying that this is not
19 a task -- what I am saying is this is not a task that my
20 client can deputise.

21 SIR ROBIN AULD: Of course it is not, that is why I am
22 trying to find out who can do it. These accounts should
23 be produced as a matter of urgency before something
24 happens to them.

25 MR SMITH: We understand that and all I am saying to the

1 Commission, if you need them urgently, we would have to
2 physically leave and go get them. That is all I am
3 saying to the Commission.

4 SIR ROBIN AULD: You are the only person who can do this,
5 Mr Floyd?

6 A. I think so.

7 SIR ROBIN AULD: If that's the case -- where is Laurance?

8 (Pause).

9 I think if necessary that should be done. We should
10 interrupt and I am sorry to have to do this. If I had
11 know they were in your house, I would have taken
12 a wholly different approach to this exercise. I will
13 arrange for the secretary to the Commission,
14 Mr Laurance O'Dea, to accompany you to your home and to
15 return here with the accounts and the bank statements
16 this afternoon.

17 MR SMITH: Is there a need for the Secretariat to come? We
18 undertake to bring them ourselves.

19 SIR ROBIN AULD: I think the secretary should come. Why are
20 you concerned with this?

21 MR SMITH: It is his home. It's the man's home.

22 SIR ROBIN AULD: Are you going to go?

23 MR SMITH: I will go with him, yes.

24 SIR ROBIN AULD: I think the secretary should come.

25 MR MILNE: Sir, before we go any further, there is another

1 matter which I need to draw to the attention of
2 the Commission. This particular issue was raised
3 because of course there were unusual and indeed striking
4 payments made to Ms Youlanda Scott -- I keep going back,
5 but it is important.

6 The documents that we have are Bank of America
7 documents that have been served upon the representatives
8 for the Deputy Premier and they refer to payments made
9 to Ms Youlanda Scott by the PNP from the Belize Bank
10 Turks & Caicos.

11 We have been told of a First Caribbean Bank account
12 but there is clearly a Belize Bank as well, which is
13 documented in here.

14 SIR ROBIN AULD: In the name of the PNP?

15 MR MILNE: The Progressive National Party in full.

16 A. Yes.

17 MR MILNE: So we need to make clear that it is not simply
18 that account. We would need to see any official or come
19 to that unofficial accounts in the name of the party,
20 from which payments would be made. No doubt
21 the Deputy Premier, being Treasurer of the party, would
22 be aware of another account from which \$100,000 was
23 paid.

24 SIR ROBIN AULD: Is that so, Mr Floyd Hall?

25 A. That would be correct.

1 SIR ROBIN AULD: Two accounts?

2 A. It is the account that I referred to that is the loan
3 account at Belize Bank.

4 SIR ROBIN AULD: So there are two accounts?

5 A. Yes.

6 SIR ROBIN AULD: Well, unless Mr Oliver Smith has any other
7 submission to make, do you see any reason why this
8 shouldn't take place now Mr Oliver Smith?

9 MR SMITH: I am guided by what the Commission wants.

10 SIR ROBIN AULD: I am concerned, as you can see --

11 A. If I may, some of the records may need to be properly
12 organised because, as I said, I didn't anticipate having
13 to provide that information today.

14 SIR ROBIN AULD: None of us did.

15 MR SMITH: My proposal and my suggestion is that we can
16 continue my client's testimony and you could use
17 the evening to put the documents together, access
18 whatever he needs to access, put them in a fashion that
19 is easy to follow for the court and we could have that
20 done tomorrow.

21 A. Yes, I would prefer that. (Pause).

22 SIR ROBIN AULD: Mr Oliver, I think this is a matter of some
23 urgency, it needs to be dealt with, apart from anything
24 else, so Mr Milne can have an opportunity to read and
25 take whatever steps are necessary to resume his

1 cross-examination or his examination tomorrow of the
2 Deputy Premier properly informed as to the state of the
3 PNP's funding.

4 I think what should happen, should happen now. I am
5 waiting the secretary to the Commission to return and
6 when he does, providing he is available, and you,
7 Mr Smith are available and the Deputy Premier is
8 agreeable, I will ask the three of you to go to
9 the Deputy Premier's house and retrieve the accounts and
10 two sets of bank statements.

11 A. I would only have one set of bank statements because

12 I don't have the set of bank statements for
13 the Belize Bank account.

14 SIR ROBIN AULD: Where are they?

15 A. They are at Belize Bank. I would have to make request
16 them.

17 SIR ROBIN AULD: Perhaps then arrangements could be made by
18 phonecall for them to be copied and made available to
19 Mr Laurance on his way there or on his way back, is that
20 possible?

21 A. I am not sure. If it is going back as far as 2004,
22 I don't know whether or not that can be done by this
23 afternoon. Hence, there are also some reports that
24 I would have print out once I get home. So this is
25 not -- even though I can provide the information,

1 I assure you, it probably is going to take some time to

2 organise it in a fashion to give to you.

3 SIR ROBIN AULD: The sooner we start the better really,

4 otherwise it will be a late evening and Mr Milne won't

5 be instructed until the crack of dawn tomorrow at best

6 as to how to deal with this. It may require a lot of

7 attention or it may not require very much. I will just

8 talk very quickly with the secretary. (Pause).

9 MR SAUNDERS: Sir, may I make one suggestion in relation to

10 the procedure for dealing with the information?

11 SIR ROBIN AULD: Yes.

12 MR SAUNDERS: My understanding is that, when the documents

13 come back, the Commission will investigate, flag

14 payments that it considers to be suspect, deal with some

15 in camera and that there may be others that it will deal

16 with publicly. In relation to the payments that it may

17 be minded to deal with in public, may I suggest that,

18 before it deals with any of the payments in public, that

19 the party has an opportunity to make representations in

20 relation to the intention to deal with any particular

21 payments publicly?

22 SIR ROBIN AULD: That is exactly the sort of flexible

23 procedure that I had in mind when I said to you what

24 I did. The main thing is to get the documents in and

25 then see how best we can deal with them in fairness to

1 everybody. I think the way you put it is excellent.

2 MR SAUNDERS: I am much obliged.

3 SIR ROBIN AULD: I am sorry we will have to adjourn now,
4 Mr Deputy Premier. Mr Laurance O'Dea will accompany you
5 and Mr Oliver Smith and anybody else who is with you, of
6 course, to your home and secure these accounts and
7 the bank statements that you have available there. All
8 supporting vouchers that are available and arrangements
9 could be made by telephone perhaps with the Bank of
10 Belize to make available if they can this afternoon
11 whatever copy statements can be produced in time. I am
12 grateful to you for agreeing to that course being taken.

13 I am sorry it has to be taken in such a way. If
14 I had known you had them in your cellar I would have
15 taken a wholly different approach to this.

16 The Commission will adjourn now until 10.30 tomorrow
17 morning.

18 (3.03 pm)

19 (The court adjourned until 10.30 am
20 on Tuesday, 20th January 2009)

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