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Wednesday, 21st January 2009

(10.30 am)

HONOURABLE DEPUTY PREMIER FLOYD HALL (continued)

SIR ROBIN AULD: Good morning, everybody. Mr Milne.

MR MILNE: Sir, at this stage I don't wish to ask any

further questions. I anticipate that there will be

matters that will need to be explored at a later stage

but there will need to be discussions to legal aspects

of that before we take that any further.

SIR ROBIN AULD: Are you suggesting that I consider those

now?

MR MILNE: I am in the hands of Mr Saunders because, of

course, it is his application. There are certain

aspects, I think I can say this much, it relates to PNP

funding, which he thinks are confidential and should not

be ventilated in public.

SIR ROBIN AULD: I think if Mr Saunders wishes to take

points on that, he should do so and do so as soon as

possible and if he desires it, in camera. Is that

the position, Mr Saunders?

MR SAUNDERS: Yes, sir.

SIR ROBIN AULD: Ladies and gentlemen, I am afraid that we

have only just started and we have only just stopped.

For a short while, I wonder if you would mind leaving

the hearing room while I consider these matters of law

1 and take a view on what should happen next. Counsel, of
2 course, can remain.

3 (Section in camera)

4 Please ask the public to return.

5 (11.02 am)

6 SIR ROBIN AULD: Yes, Mr Milne.

7 MR MILNE: Mr Deputy Premier, would you please take

8 the bundle, the smaller bundle of documents in relation

9 to the banking. That ledger, as we have already seen,

10 which is the first part of the documentation --

11 SIR ROBIN AULD: FCIB register?

12 MR MILNE: Each page headed "FCIB Register" reflects, as

13 I think we have already mentioned, the payments in and

14 indeed debits from the account which is the main account

15 of the PNP.

16 A. Correct.

17 Q. Obviously, it reflects a series of contributions which

18 are made. I am going to ask you, if you would, please,

19 to go to the entries, which we see for December 2006.

20 These, I think, are at page 19. Do you have that, sir?

21 A. Yes.

22 Q. The party, as parties obviously will, is spending money

23 and there are a number of debits on that page, but there

24 is in fact only one credit, which is a contribution and

25 it is recorded 12/4. That is in fact December 4th 2006.

1 \$100,000.

2 Do you have that?

3 A. Yes.

4 Q. The entry against that says "contributions" without any
5 name given.

6 A. Yes.

7 Q. You have been given this morning a document which came
8 from the papers that were in the PNP files, which were
9 disclosed to the Commission a couple of days ago. One
10 of papers in there is a paying slip covering that
11 payment in?

12 A. Yes.

13 Q. Who is that payment from?

14 A. It is from Mario Hoffman.

15 Q. So Mr Hoffman gave a contribution on 1st December 2006,
16 \$100,000 to the PNP. Is there any particular reason why
17 that is not recorded in the ledger since you clearly had
18 the information as to its source?

19 A. No, no particular reason, save for the fact that
20 probably in inputting the information was an oversight.
21 Sometimes these statements are prepared way in
22 arrears of the deposits actually being made. In
23 an effort to get it done quickly, that information may
24 have been inadvertently omitted.

25 Q. Were you aware that Mr Hoffman had made a generous

1 donation to the party?

2 A. I would believe that, yes.

3 Q. Did you write to him, thank him personally?

4 A. No.

5 Q. To the best of your knowledge, did anybody contact him

6 and thank him personally?

7 A. No.

8 Q. This payment in fairness was some months after he

9 received Belongership. You were aware he became

10 a Belonger, I think by vote of the Cabinet on 27th

11 September that year?

12 A. He could have been, yes.

13 Q. I can take you to it if need be, but it was recorded on

14 27th September. It is page 85 of our bundle, should we

15 need to go to it. It is page 85 of the Cabinet minutes?

16 A. I will take your word for it.

17 Q. Having received Belongership, he was a continuing

18 developer on the islands, wasn't he?

19 A. Yes.

20 Q. From that day to this, there have been -- there have

21 been developments in relation to the Salt Cay project on

22 a regular basis coming back before Cabinet?

23 A. Yes.

24 Q. In your view, did the payment of \$100,000 to the ruling

25 party smooth the progress of those developments?

1 A. No.

2 Q. Thank you. I don't wish to ask anything further in
3 relation to that at the moment?

4 SIR ROBIN AULD: Did he make any further donations to
5 the party?

6 A. It is possible that he did.

7 SIR ROBIN AULD: Why do you say it is possible?

8 A. Because we had ongoing campaign activity. It was
9 around elections time and I know that we would have been
10 canvassing for donations throughout. So it is possible
11 that he could have made additional donations.

12 SIR ROBIN AULD: Where would we find those donations in
13 the party's records if he did make any further deposits?

14 A. I guess I will have to go through the records in detail
15 and if no information is there on the records, I will
16 have to contact the bank.

17 SIR ROBIN AULD: Would those be records that we don't have
18 and you have?

19 A. I think all the records you would have.

20 SIR ROBIN AULD: So we might find them there.

21 A. You should find them there.

22 SIR ROBIN AULD: Would they be in this form without
23 identifying the donor, or would they give his name?

24 A. They would probably give his name, if it is there.

25 SIR ROBIN AULD: Thank you.

1 MR MILNE: Sir, whilst I am on my feet, there are a number
2 of other matters. In fact one of which I am reminded is
3 reflected in the register, and it may be appropriate
4 that I take that point now before Mr Smith rises.

5 If you turn, please, to page 48 of that bundle.

6 This is the first part of bundle 2.

7 Mr Deputy Premier, you have already made clear to us, of
8 course, the records in relation to the other account,
9 the Belize Bank account or indeed accounts are skimpy at
10 best and non-existent at worst?

11 A. Yes.

12 Q. So in fact any payments into that account from
13 Mr Hoffman or indeed anybody else are unlikely to have
14 any back-up documentation which has been retained?

15 A. Unlikely, yes.

16 Q. So that is, whether by intention or simply default,
17 an anonymous route into the party. If somebody were to
18 give money and it happened to go into that account,
19 there wouldn't be a record of the identity of the donor?

20 A. That would have been by default. At the end of the day,
21 the source of information could possibly be obtained,
22 but it would have been by default, as I explained
23 earlier.

24 Q. The contrast which you have outlined to us is that
25 the Belize Bank statements, the \$6 million that went

1 through that account, even if sums for money from that
2 went into the First Caribbean Bank, the Belize Bank is
3 not documented, the First Caribbean is documented?

4 A. Correct.

5 Q. Therefore, by going into this, we can get far more
6 detail indicating that you are far more aware of the
7 activity on the First Caribbean Bank account than you
8 were on the Belize Bank account?

9 A. That is correct.

10 Q. There are a number of payments in, payments out that are
11 made on this account and presumably, since you kept
12 the records, we can reasonably assume that they were
13 your records.

14 A. Yes.

15 Q. I am going to ask you to look at one of them on page 48,
16 which is 16th October 2008. So a matter of a few months
17 ago. The party paid out \$15,000, \$15,065 to
18 North Star Charter Limited. Does that ring any bells?

19 A. Yes, it does. I remember posting that transaction.

20 Q. What was that for?

21 A. It was in respect to an expense that was incurred by
22 the Premier.

23 Q. An expense incurred by the Premier? Could you be
24 a little more specific?

25 A. Well, I could only infer that it is

1 the North Star Charter Limited. I would imagine that it
2 is a charter operation. I don't know the type of
3 charter, but it would have been a cheque that was
4 written by the Premier on that account.

5 Q. Is chartering a private aircraft, I would suggest, sir,
6 because that crops up in the Premier's papers on
7 a number of occasions, why was the PNP paying for
8 a private jet for the Premier?

9 A. I am not sure it is a private jet, but what I can say is
10 that to the best of my knowledge, the information that
11 is contained here is all the information that I have,
12 and if -- you ask the question as to why would the party
13 pay for it. If it is an activity that related to
14 the party, it is brought to the Premier's political
15 endeavours, it would be natural for the party to pay for
16 them.

17 Q. What was the activity that justified the expenditure of
18 \$15,000 of party funds on a charter, on that occasion?

19 A. I don't know what the exact occasion was.

20 Q. Did you sign that cheque?

21 A. In looking at this, this would have been a situation
22 where I would have left signed cheques with the Premier
23 when I was out of the country and so that particular
24 cheque, I was not aware of it at the time it was
25 written.

1 Q. Where were you at the time it was written?
2 A. I could have been out of the country on government
3 business.
4 Q. How do you know if you can't say where you were?
5 A. Because in doing the posting, I realised that it was
6 a cheque that was written by the Premier, so I would not
7 have been the person writing that cheque.
8 SIR ROBIN AULD: But who would have signed it?
9 A. I would have signed it --
10 SIR ROBIN AULD: You left a blank cheque signed, perhaps one
11 of a number while you were away?
12 A. Yes.
13 SIR ROBIN AULD: Do we have the cheque?
14 MR MILNE: We don't, sir, no. I am afraid not. That was
15 not with the papers.
16 What emergency was likely to crop up while you were
17 on holiday, assuming it was holiday, that required you
18 to leave the Premier with a series of blank signed party
19 cheques?
20 A. If I am travelling and I am out of the country, I would
21 have left the chequebook with the Premier and it would
22 have had signed cheques in it. I don't know what
23 circumstances gave rise to him incurring that
24 expenditure at the time.
25 Q. Did you query it afterwards?

1 A. No, I didn't query this particular expenditure. It was
2 a situation where I did the postings in this account
3 probably sometime in December, so I haven't had
4 the chance to query it.

5 (11.15 am)

6 Q. Did it not cross your mind that given your Belize Bank
7 account was 1.5 million overdrawn, that spending \$15,000
8 on a charter aircraft might not be the best expenditure
9 of party money?

10 A. As I said, I have not had the chance to analyse this
11 transaction in a manner in which we are doing now.
12 I had posted these figures into the ledger in order to
13 facilitate a report that has been given to
14 the Commission. Obviously in looking at the transaction
15 before I could commit any further or condemn
16 the transaction, I would need to know what was
17 the purpose of the transaction by the Premier. I would
18 not want to draw a conclusion that it was
19 inappropriately spent without hearing his explanation.

20 Q. But you don't appear to have ever sought his
21 explanation?

22 A. No, I can tell you I have not. Not in this particular
23 transaction or with the postings since -- during
24 the month of October onward.

25 Q. Yes. Forgive me, because I have a feeling I may have

1 misstated the date, sir. I think I read it as
2 10th June. In fact it is 10/16, which would be
3 16th October. I think the American notation for dates
4 is being used here?
5 A. Yes. You did state October.
6 Q. There is another cheque --
7 SIR ROBIN AULD: Are you leaving the North Star Charter?
8 MR MILNE: I am, sir, but I am not going very far.
9 SIR ROBIN AULD: But you are staying with North Star Charter
10 or not?
11 MR MILNE: No, I am going to the next cheque immediately
12 after.
13 SIR ROBIN AULD: Could I just ask this, is
14 North Star Charter a Turks & Caicos air charter company?
15 A. No, sir.
16 SIR ROBIN AULD: Where is it?
17 A. I don't know but I am not familiar with this name.
18 The first time I came across this name was inputting
19 the company's records.
20 SIR ROBIN AULD: So it could be anywhere in the world?
21 A. It could be anywhere. I don't know.
22 SIR ROBIN AULD: So if we want to find out where it is and
23 who it is, we have to ask the Premier, do we?
24 A. I believe so. Yes.
25 SIR ROBIN AULD: Thank you.

1 MR MILNE: The following cheque, again dated, it would seem,
2 16th October 2008 is made out apparently to a lady
3 called Mildred Rivas. Again this is categorised as
4 candidate's stipend. Candidate's stipend, we
5 understood, was to spend on political purposes.
6 A. Correct.
7 Q. Does Mildred Rivas hold any part in the PNP?
8 A. Not in the PNP.
9 Q. You know who she is?
10 A. I do know Mildred.
11 Q. She is the former girlfriend of the Premier by whom he
12 has two children, he has told us?
13 A. That is correct.
14 Q. So can you think of any reason why the party funds
15 should have been expended in making payments to a lady
16 who lives in Florida and happens to be the Premier's
17 former partner?
18 A. I do not know.
19 Q. Did you query it?
20 A. As I said, these transactions were only recently put
21 into the ledger since I got the chequebooks and did
22 the postings. I have not had the chance to go through
23 this with the Premier or anybody else. What I can say,
24 though, is that I don't know what nature of work or what
25 nature of activity Ms Rivas would have provided that

1 could have been party related. It is up to the Premier
2 to give that explanation.

3 SIR ROBIN AULD: Is this the amount in the exact same sum as
4 was paid to North Star Charter Limited?

5 A. It is \$5,000 different.

6 SIR ROBIN AULD: 15,000 to the charter and 10,000 to
7 Mildred Rivas, all within four days.

8 A. Yes.

9 SIR ROBIN AULD: Thank you.

10 MR MILNE: It may be, sir, and I am going to be cautious
11 because it is not for me to give evidence, but we see
12 a number of occasions when there is a large sum, as it
13 were, with a very small amount on the end.
14 The Deputy Premier may know more about this than I do.
15 In some cases, is it correct that a transfer of, say,
16 \$15,000 might result in a bill of 15,065 for what would
17 be known as BACS or CHAPS transfers in Europe?
18 Basically a transfer charge imposed by the bank?

19 A. It is possible.

20 Q. I am not going to go over ground we have already
21 covered, Mr Deputy Premier. But the nature of your role
22 as Treasurer surely must to some degree be guardian of
23 the party funds?

24 A. That is correct.

25 Q. Surely, given the history, I would suggest, of fairly

1 lavish spending on the part of the Premier, did you not
2 regard it as being risky to give blank signed cheques
3 when there doesn't appear to be any election in
4 the offing, there does not appear to be any likelihood
5 that very many funds will have to be expended, rental or
6 anything of that nature; why would you have to do that?

7 A. As I stated, it is common practice that if I am out of
8 the country and not accessible, then I would leave
9 the party's chequebook with the Premier or if I am in
10 Grand Turk, I would leave it with the other signatory.
11 So there is nothing peculiar about that. He is
12 the leader of our party and he is the Premier of our
13 country.

14 Q. The other signatory, Arabella Smith, remains a signatory
15 on the account?

16 A. Yes.

17 Q. Is she not a special adviser in the Premier's office?

18 A. She is a special adviser in his office but in
19 the Grand Turk office.

20 Q. But she works closely obviously with the Premier on
21 political matters?

22 A. Yes.

23 Q. And on governmental matters?

24 A. Yes.

25 Q. One last topic. Forgive me, the last one may have been

1 one last topic but this is one last topic for
2 the moment, which is the issue of the bank accounts held
3 by the party.

4 You have told us that there is the Belize Bank
5 account, we have looked at.
6 The First Caribbean International Bank account that we
7 have been looking at, at least the ledger thereto and
8 we -- I can confirm we have received some statements
9 from the First Caribbean International Bank in
10 the original format. You were asked by
11 the Commissioner about the documents which attorneys for
12 the Premier thought were locked in a room. We remember
13 the story, the lady had gone away and taken the key and
14 they could not get them out.

15 Your evidence, I think, was that such documents as
16 there would be at PNP headquarters would probably be no
17 more than internal accounts, petty cash, matters of that
18 type.

19 A. To the best of my knowledge.

20 Q. We have in fact been provided with some of those
21 documents which indeed appear to reflect that, and if
22 I could take one of them as an example. The files we
23 have, if I hold them up, are cardboard files, put
24 together in such a fashion that there are labels on the
25 front which are stuck on. Within those, they are marked

1 accounting, there are a number of documents in relation

2 to Progress House. Is that the PNP headquarters?

3 A. Correct.

4 Q. Whoever it is at PNP headquarters, they have been fairly

5 assiduous about collecting receipts. We have

6 photocopies of receipts for all sorts of things. But

7 essentially, the day-to-day trivia of running an office.

8 Quite small receipts. I pick one up at random here but

9 it is \$11.94. We can see the level of detail that they

10 have gone into. Indeed, in each case, there appears to

11 be a form of accounts sheet.

12 Who runs the PNP office?

13 A. It is a lady by the name of Terry Clare.

14 SIR ROBIN AULD: Could you say that name again, please?

15 A. Terry Clare.

16 MR MILNE: Terry Clare, does she work as an employee of the

17 PNP?

18 A. Correct.

19 SIR ROBIN AULD: She is the lady who is away with the key,

20 is she?

21 A. Yes.

22 MR MILNE: So if Terry Clare is running it, all of these

23 items would be billed to the PNP, no doubt there would

24 be a petty cash till to cover small matters such as we

25 have seen.

- 1 A. Yes.
- 2 Q. What about larger items for running the building?
- 3 A. I don't know how that is handled.
- 4 Q. You don't know how that is handled?
- 5 A. I don't know how it is handled.
- 6 Q. You are the Treasurer, sir, don't you know how the money
- 7 is disbursed?
- 8 A. Not for the building, because I think the building is
- 9 rented and a private management operation deals with
- 10 that.
- 11 Q. Well, then, how does the party fund it?
- 12 A. The party fund the building?
- 13 Q. Let's take it in stages. First of all, how does
- 14 the party fund the running of the building?
- 15 A. As I told you, the building is rented to the best of my
- 16 knowledge and it is a private real estate operation that
- 17 handles the management of the building.
- 18 Q. To whom do you pay rent?
- 19 A. To whom rent is paid?
- 20 Q. Yes.
- 21 A. I think the rent comes from the constituency offices.
- 22 I believe government pays rent for the constituency
- 23 offices at the building.
- 24 SIR ROBIN AULD: The TCI government pays your rent?
- 25 A. Right, pays the rent. Pays rent to Progress House.

1 MR MILNE: Why does the TCI government pay the rental on
2 your building?

3 A. We have what we call special -- not special advisers --
4 constituency offices for all persons who are elected,
5 and I think it was decided by the candidates to have all
6 of their offices centered in Progress House, and
7 Progress House was then turned over to a private real
8 estate operation that rented the offices in
9 Progress House to the government for the various
10 candidates on the island of Providenciales. It was six
11 candidates on Providenciales.

12 Q. That private company presumably would be
13 Provident Management Services, is that correct?

14 A. I think that could be the name.

15 Q. Right. Provident Management Services seems to be paid
16 for by the government. Having taken on board your
17 answer, I still am waiting to understand why
18 the government is paying for your party headquarters.

19 A. It is not the party's headquarters. It is headquarters
20 that is provided -- it is offices that is provided by
21 the government for all 15 candidates throughout
22 the entire Turks & Caicos Islands. All 15 elected
23 candidates would have offices in their various
24 constituency. The group of candidates, the elected
25 representatives in Providenciales, which so happen to be

1 all six members of the PNP, ended up having their
2 constituency offices that had been paid for by
3 the government at Progress House, because they thought
4 they could get better efficiencies of management and
5 overhead by having it in a central location.

6 Q. So does the government also pay for PDM constituency
7 offices around the Turks & Caicos?

8 A. That is correct.

9 Q. So it funds all of those?

10 A. All of them.

11 Q. And out of which budget does that come?

12 A. That comes out of the consolidated fund.

13 The government's consolidated fund.

14 Q. So PDM can have no complaint because their constituency
15 offices are funded in exactly the same way as the PNP?

16 A. That is correct.

17 Q. The account that you were referring to, which is
18 Provident Management Services Limited, that is
19 effectively a PNP account, albeit at one remove?

20 A. No it is not.

21 Q. So what does the PNP pay towards
22 Provident Management Services?

23 A. I don't know of any payments that go towards
24 Provident Management Services.

25 Q. But they are running your building for you. So you

1 don't have to pay for any of the running at all?

2 A. No.

3 Q. So Provident, to their credit, appear to be very

4 diligent about keeping records. There is everything

5 here from, not political payments, but certainly a great

6 deal of supplies to the offices, security, management

7 fees, Provo Power, lots of Do it centre references.

8 Essentially any work, any maintenance around

9 the building, the running of the building itself all

10 seems to have come out of this set of accounts?

11 A. Yes.

12 Q. The government funds all of that?

13 A. It is Provident Limited's account, I don't know very

14 much about that situation, apart from what I told you,

15 that Provident Limited to my knowledge is a real estate

16 entity that manages the building and any rents that are

17 paid in respect of it goes to Provident Management

18 Limited or Provident Limited as you stated.

19 Q. So Terry Clare, whom you mentioned earlier, was it

20 Terry Clare?

21 A. Yes.

22 Q. By whom is Terry Clare employed?

23 A. She was originally employed by the PNP.

24 Q. In the running of its own offices, lest there be any

25 doubt, the PNP does not have to put its hand in its

1 pocket at any stage because the government subvention
2 effectively covers all the running costs?
3 A. I believe that to be the case.
4 Q. At what stage was it decided that the government would
5 pay for political parties' offices?
6 A. It was decided shortly after the election in 2007.
7 Q. Sorry, after the election of --
8 A. 2007.
9 SIR ROBIN AULD: How decided and by whom?
10 A. It was decided by Cabinet.
11 SIR ROBIN AULD: Cabinet decision?
12 A. Yes.
13 MR MILNE: We will in due course be hearing from
14 representatives of the PDM. No doubt they will be able
15 to confirm the receipt of the funds that they get. Am
16 I -- can I be confident in assuming they get exactly
17 the same as the PNP?
18 A. I think you can be confident in that.
19 Q. They must have been delighted when the government that
20 had just defeated them in election decided to help fund
21 their constituency offices?
22 A. I don't know.
23 Q. Did you not get a nice thank-you letter from the PDM?
24 A. No.
25 (11.30 am)

1 Q. Has there ever been a stage, given the state of the
2 country's accounts, where you have considered that it
3 may not be in the best interests of the TCIG to fund
4 parties which clearly have incomes running to millions
5 of dollars of their own?

6 A. That has been a consideration and perhaps in
7 the upcoming budget, it may be taken into consideration
8 not to proceed with that.

9 Q. Well, rather than cutting the scholarship fund that sent
10 individuals to college, wouldn't it be easier simply to
11 stop paying your own party money for rent?

12 A. With the scholarship fund, I have to state that our
13 government took the scholarship provision from 4 million
14 to 20 million that it is today in a very short period of
15 time. So we have not been derelict in our
16 responsibility to the education of our people. As it
17 relates to funding of political offices, I do agree with
18 you. When you are looking at cutting costs, those
19 should be some of the first areas to go.

20 Q. But they have not been done?

21 A. Well, it is not that it is off the table. Some
22 considerations have been made already, with respect to
23 curtailing expenditure, and it is safe to say that, in
24 preparing the next budget, if the situation --
25 the economic situation that presently obtains persists,

1 obviously the political offices will have to go together

2 with other expenditure.

3 Q. The only point I make, Mr Deputy Premier, and I think

4 you have responded to this, if there is anything further

5 you wish to say, then obviously you are free to do so,

6 but the observation is simply this, that given

7 the cutback in what many would regard as essential

8 services, do you see it is curious that this has

9 survived when others have gone, like medical or

10 scholarship funding?

11 A. It was not singled out for special treatment, I can

12 assure you, and at the end of the day, as I said, it is

13 still on the table.

14 MR MILNE: Thank you. I have no further questions at this

15 stage?

16 SIR ROBIN AULD: Mr Floyd Hall, who runs

17 Provident Management Services?

18 A. I believe Terry Clare runs that operation together

19 with --

20 SIR ROBIN AULD: Say the name.

21 A. Terry Clare --

22 SIR ROBIN AULD: She is the employee.

23 A. And I think she runs it.

24 SIR ROBIN AULD: But whose business is it?

25 A. I don't know, sir.

1 SIR ROBIN AULD: It is a company?

2 A. It is a company.

3 SIR ROBIN AULD: And there are shareholders and directors?

4 A. Yes.

5 SIR ROBIN AULD: You don't know who the directors are?

6 A. I don't know.

7 SIR ROBIN AULD: Or who the moving spirit behind it is?

8 A. I don't know.

9 SIR ROBIN AULD: Presumably it has a bank account?

10 A. It should have a bank account.

11 SIR ROBIN AULD: Into which it records its receipts and

12 disbursements?

13 A. Exactly, I believe it has that.

14 SIR ROBIN AULD: You have never sought to see it, for

15 example, to check the rightness or wrongness of the

16 money that is being accounted for there?

17 A. No, I never had reason to check into it.

18 SIR ROBIN AULD: Thank you. Now, Mr Smith, I think it is

19 for you, isn't it?

20 MR SMITH: I think it is for me, Sir Robin, but I was trying

21 to ascertain whether or not we should ascertain

22 whether members of the bar should go first. That would

23 be my preference, if they have any questions.

24 SIR ROBIN AULD: I have no strong views on this, whether you

25 should precede them or they you. Mr Gomez are there any

1 questions you might have of Floyd Hall?

2 MR GOMEZ: We are still reviewing some of the documents

3 which have been produced through Mr Hall.

4 SIR ROBIN AULD: The answer is yes, is it? You have some

5 questions for Mr Floyd Hall?

6 MR GOMEZ: I anticipate that I will have some questions for

7 him.

8 SIR ROBIN AULD: Mr Saunders?

9 MR SAUNDERS: Sir, no.

10 SIR ROBIN AULD: Counsel for the attorney?

11 MS BROOKES: No.

12 SIR ROBIN AULD: So Mr Gomez, Mr Smith seems to think that

13 you should go before him. I have no strong views on the

14 matter. What do you say?

15 MR GOMEZ: My problem is twofold. One is I am still

16 awaiting a proper full review of documents which were

17 produced through him, and I have not had the benefit of

18 the documents produced by my learned friend Mr Saunders.

19 SIR ROBIN AULD: You are clearly not equipped to do so at

20 the moment.

21 MR GOMEZ: At the moment I am not in a position.

22 SIR ROBIN AULD: Then, Mr Smith --

23 MR SMITH: May I proceed? I will be very brief.

24 Re-examination by MR SMITH

25 MR SMITH: Good morning.

1 A. Good morning, sir.

2 Q. How you doing today?

3 A. Not bad.

4 Q. Let's just clear up one thing first. You indicated in

5 response to questions by Mr Milne about the government

6 paying for the constituent office of the PNP as well as

7 the PDM?

8 A. Correct.

9 Q. And you are sure that there is no preference that you

10 only pay for the PNP and not for the PDM?

11 A. Absolutely no preference.

12 Q. You responded to various questions by Mr Milne and he

13 made references to two bundles, I think two black

14 bundles, bundle 1 and bundle 2?

15 A. Correct.

16 Q. You haven't had an opportunity to review the documents

17 in those bundles, am I correct?

18 A. Yes.

19 Q. Can you tell us how it is that the Commission got those

20 documents in those bundles?

21 A. The Commission got all the information in those bundles

22 from me. I started presenting information to

23 the Commission since September and I think the last

24 submissions were made sometime in December.

25 Q. So are we to assume that you voluntarily provided all

1 these documents?

2 A. I volunteered all the information that I have.

3 Q. Were any of these documents subpoenaed by

4 the Commission?

5 A. No.

6 Q. There was some testimony yesterday in relation to some

7 financial matters. I think Mr Milne had asked you about

8 what steps the government took in order to be more

9 stringent on the government's spending. Do you remember

10 those questions?

11 A. Yes.

12 Q. I would invite your attention to bundle 6, page 127.

13 The core bundle?

14 SIR ROBIN AULD: Red 6?

15 MR SMITH: Red 6, page 127.

16 Now, you came into elected office in 2003, is that

17 correct?

18 A. That is correct.

19 Q. At all times would you agree with me that you were

20 the minister of finance?

21 A. Correct.

22 Q. Would you agree with me, sir, that at some point in time

23 in 2007, you came to the realisation that there was

24 a need to cut back on the country's expenditure?

25 A. That is correct.

1 Q. And the references -- could you tell the Commission what
2 exactly you did in relation to making an attempt to cut
3 back on the expenditures of the country?

4 A. Okay. Usually we would have Cabinet meetings,
5 pre-Cabinet meetings weekly, and at that time, it would
6 be all ministers will meet and we will discuss our
7 various ministries' activities and try and take firm
8 decisions on various matters as it relates to
9 the government business. During that time I would have
10 brought up the situation that I didn't think that
11 the economic situation that we had anticipated was going
12 to be a good one, and that the country's finances, as
13 were budgeted for, could very well be in jeopardy, and
14 I invited my colleagues at that time to take some
15 serious initiatives to curtail their spending.

16 I also have regular meetings with my budget team and
17 practically whenever I am in Grand Turk, which is
18 probably could be about two or three days out of the
19 week I would have daily meetings with my PS finance, and
20 if I am not in Grand Turk I would certainly have daily
21 telephone conversations during which we would discuss
22 the country's finances.

23 Q. Did you put together an economic team to address
24 the situation?

25 A. Yes, our budget team came together and we started

1 looking at various items within the budget and seeing
2 which we can curtail on or which we could eliminate and
3 started scaling back on expenditure, and we wrote to all
4 the departments of government advising them that if they
5 didn't have to undertake a particular expenditure, that
6 they should refrain from doing so.

7 Q. Correct me if I am wrong, what is reflected at page 127
8 and 135, 142 and 152 of the red binder are those
9 recommendations that came as a result of the initiative
10 you took by putting together a budget team?

11 A. Yes. Those recommendations came as a result of
12 the initiative that were taken by me and my PS finance.
13 What I would like to state though, the budget team
14 wasn't only assembled to deal with this situation. We
15 always had a budget team, we have a strategic group of
16 individuals within government who are civil servants and
17 we would meet at least on a monthly basis and go through
18 the expenditures as it related to government activity.

19 Q. I am going to move on to another matter --

20 SIR ROBIN AULD: Mr Smith, this is probably a bad moment to
21 interrupt you, and I think we should have broken
22 a little earlier before you started but we ought to give
23 the court reporters a five to ten-minute break now.

24 MR SMITH: I have no problem with that, sir.

25 (11.40 am)

1 (A short break)

2 (11.50 am)

3 SIR ROBIN AULD: Mr Milne.

4 MR MILNE: I think in fact, sir --

5 SIR ROBIN AULD: It is Mr Smith, it is not Mr Milne now.

6 Yes, Mr Smith.

7 MR SMITH: Thank you. It is just a habit, I think, sir.

8 We were just talking about the financials and my

9 question to you is, how would you compare, even with

10 this economic downturn, the Turks & Caicos financial

11 situation with, say, for instance, the other countries

12 within the Caribbean?

13 A. The financial situation of the Turks & Caicos Islands as

14 it compares with other countries in the Caribbean is

15 really fantastic. Even though we are going through the

16 financial dilemmas or the economic dilemmas that most

17 people perceive as being very, very troubling,

18 the country of the Turks & Caicos Islands is in a good

19 financial situation, given that we only have \$66 million

20 of total national debt. Furthermore, our GDP is about

21 \$750 million. Our debt to GDP is less than 6 per cent.

22 The IMF and the World Bank has recently indicated that

23 most countries should try and keep their debt to GDP in

24 the area of about 40 per cent.

25 We have countries in the Caribbean that runs back to

1 GDP in excess of 50 per cent. In fact some countries
2 like Jamaica probably have debt to GDP in excess of
3 100 per cent.

4 Q. That is why I am here.

5 A. I am sorry. Sorry, counsel. But when you take it in
6 totality, we have been able to create an economic
7 environment in the Turks & Caicos Islands in a very
8 short period of time since August of 2003, where we have
9 grown our revenues by in excess of 100 per cent. That
10 has been a collective effort by the entire Cabinet, led
11 by the Premier.

12 Also, what I can say is that had it not been for
13 the onerous barring guidelines that have been imposed on
14 us by the UK, we would have been able to do certain
15 things very readily to take our people out of the state
16 that they are in on the islands of Grand Turk and
17 South Caicos by readily getting access to capital
18 through the banks.

19 Because you have banks which are willing to assist
20 the Turks & Caicos Islands with credit, but because we
21 have three provisions in the barring guidelines, one of
22 which requires us to have a reserve component, the other
23 one which has -- it is related to that servicing
24 component which we are well within and there is another
25 one which relates to total debt as it relates to

1 recurrent revenues which we are also well within.

2 The only criterion that we don't satisfy is the cash

3 reserves.

4 That situation is problematic for us for a number of

5 reasons.

6 Q. Which we will go into later?

7 A. Thank you.

8 Q. Yesterday you were asked certain questions by Mr Milne

9 in relation to a letter that you said was signed by six

10 or seven of your colleagues. Do you remember that

11 incident?

12 A. I remember that letter.

13 Q. I think it was put to you by Mr Milne that you, whether

14 or not you were distancing yourself from that letter?

15 SIR ROBIN AULD: Which letter is this, the October 2007 or

16 the more recent letter?

17 MR SMITH: The more recent letter. Am I correct that

18 the one that was put to you and asked if you were

19 distancing yourself from, that was the December letter,

20 the more recent letter, is that correct?

21 A. That is correct.

22 Q. Are you in fact distancing yourself from that letter,

23 sir?

24 A. I am not distancing myself from the content of the

25 letter, but I am distancing myself from having been

1 suggested to have signed the letter, because I still sit
2 as a member of Cabinet and I don't think it is
3 appropriate for me to have my signature or my name
4 associated with the letter in that fashion.

5 Q. So when you said yesterday that you were distancing
6 yourself from the letter, you meant in fact that because
7 you didn't sign the letter?

8 A. Yes.

9 Q. What about the contents of the letter, what is your
10 views, sir, as to the contents of that letter?

11 A. Well, that letter, that Mr Milne referred to yesterday,
12 that wasn't the final draft of that letter. In that
13 letter they made, I believe some incorrect -- well,
14 I don't know if they are incorrect or correct --
15 references to the Premier taking a flight with someone
16 that was paid by government.

17 I have no knowledge of that, I cannot say that that
18 is factual and I --

19 Q. But for that would you agree that the general content of
20 the letter, most of the contents of that letter you
21 shared the similar sentiments with the person who wrote
22 that letter?

23 A. Yes, and I have the revised letter, the final draft of
24 it here if it would help the Commission.

25 SIR ROBIN AULD: Was that sent, the revised letter?

1 A. The revised letter was the letter that actually got
2 circulated in the press.

3 SIR ROBIN AULD: That is the one you didn't sign?

4 A. I didn't sign either letter.

5 SIR ROBIN AULD: But you agree with the content.

6 A. I agree with the content.

7 SIR ROBIN AULD: Perhaps we could have copies. Perhaps we
8 can identify it, it is a revised letter from a number of
9 members of the PNP party in and out of the Cabinet, is
10 it?

11 A. Yes.

12 SIR ROBIN AULD: To the Premier.

13 A. Yes.

14 SIR ROBIN AULD: Dated?

15 A. Forgive me, but the date is not on this letter.

16 MR SMITH: I don't think it is in and out of the Cabinet.
17 I think it was a letter by mostly --

18 SIR ROBIN AULD: Just members of the Cabinet.

19 MR SMITH: Persons who were not members of the Cabinet, am
20 I correct, Mr Hall?

21 A. There was one member who was from Cabinet associated
22 with the letter.

23 SIR ROBIN AULD: When was it sent?

24 A. This letter was actually done by members completely out
25 of the Cabinet.

1 SIR ROBIN AULD: When was it sent, do we know?

2 A. This was sent sometime early in January.

3 SIR ROBIN AULD: Thank you. (Handed)

4 MR SMITH: You were questioned about a GBL development and

5 some development that was occurring on behalf of GBL.

6 A. Yes.

7 Q. Could you tell us exactly what this development entails?

8 A. GBL is a development that my cousins and I,

9 Clayton Green and Norman Hamilton, undertook sometime

10 back in 1997, to build a small what you would call

11 condominium complex.

12 Q. Let me stop you there. Back in 1997, were you

13 an elected Member of Parliament?

14 A. No.

15 Q. So as I understand it, this was a development that was

16 conceived prior to you entering into

17 the House of Legislature, is that correct?

18 A. Much prior to my entering into the House of Assembly.

19 Q. Continue.

20 A. It was in 1997 I believe that we started that process

21 and we are still struggling with it today because when

22 we finally got in a position which I believe sometime in

23 2006, 2007 to actually mobilise the project and get

24 moving forward, that is when the economy as it relates

25 to real estate started going sour.

1 Q. Can you answer this, what is the physical state of that

2 development right now?

3 A. It is under construction. The first phase is under

4 construction and it has an office on it that is

5 completed.

6 Q. Are the workers still working today?

7 A. No.

8 Q. Could you tell the Commission the reason why this

9 development, for all intents and purposes, has stalled?

10 A. It is stalled because we have not been able to secure

11 the adequate number of pre-sales to get the loan from

12 the bank to proceed.

13 Q. So would I be correct in saying that this is

14 a development which is presently incurring a loss to

15 you?

16 A. Yes, a significant loss.

17 SIR ROBIN AULD: The name of this development?

18 MR SMITH: It is called GBL Holdings Limited. I think some

19 questions were posed to you today, I think Mr Milne

20 tried to make it clear, but I am not sure, because he

21 used the term, a development in South Caicos. Is there

22 a development in South Caicos, sir?

23 A. No, there is not a development in South Caicos.

24 I purchased a lot with a residential home on it in

25 South Caicos.

1 Q. Why did you purchase this lot with a residential home in

2 South Caicos?

3 A. The lot with a residential home in South Caicos has

4 sentimental value to me and my cousins and some other

5 family members because it was my grandparents' home in

6 South Caicos. I spent most of my summers on that

7 property and it was being sold by a family member and

8 I wanted to purchase it from them for sentimental

9 reasons.

10 Q. So it was basically to keep this property within your

11 family?

12 A. Yes.

13 (12 noon)

14 Q. Are you earning millions of dollars from that lot and

15 the building there in South Caicos, sir?

16 A. No, only \$400 a month in rent.

17 Q. Now, there was some testimony yesterday, and I think

18 Mr Milne actually made an attempt to correct it, that

19 you over a period of maybe three or four years deposited

20 \$12 million in your bank account. Do you remember that

21 testimony?

22 A. I remember that.

23 Q. Could you speak to that, sir?

24 A. Yes. I thought I adequately addressed this yesterday,

25 but based on feedback, it was obvious that some people

1 wanted to hear what they wanted to hear.
2 The \$12 million was indeed not \$12 million that had been
3 deposited to my account. It was the result of subtotals
4 on the Bank of Nova Scotia ledger. I have two
5 Bank of Nova Scotia accounts and anyone who has
6 a Bank of Nova Scotia account would be aware of the fact
7 that periodically subtotals are made. Now,
8 the Commission inadvertently tallied up the subtotals,
9 treating them as deposits that were going into my
10 account, when they were in actual fact only subtotals,
11 and it would have had a grand total at the bottom that
12 would show the period of all the transactions that went
13 there.

14 I believe that would have been far less than
15 the \$12 million. Also I would indicate that this was
16 over a period of four years, when you look at all
17 the deposits with respect to the various accounts,
18 whether it be the Paradigm account, the Belize Bank
19 account and Bank of Nova Scotia account. So the actual
20 tally is a far cry from the \$12 million that was
21 suggested.

22 Q. When you say actual tally over the four years' period
23 that you just testified, would I be correct in saying
24 you raised somewhere in the realm of \$2.5 million or \$3
25 million.

1 A. It would not exceed \$3 million.

2 SIR ROBIN AULD: So there might still be up to \$3 million

3 unaccounted for?

4 A. Not unaccounted for.

5 SIR ROBIN AULD: From that original 12?

6 A. It would not be unaccounted for. These were

7 transactions which were accounted for in the discussions

8 that I had with Mr Milne yesterday.

9 SIR ROBIN AULD: You say the whole 12 million has been

10 accounted for one way or the other by you in your

11 evidence, do you?

12 A. Yes. What I want to make profoundly clear is that there

13 was subtotals --

14 SIR ROBIN AULD: I think that was made clear yesterday, and

15 I think Mr Milne, if I am not wrong about this, accepted

16 that there was a subtotalling taking place there.

17 MR MILNE: We are checking on that, sir, but I can see

18 the explanation and what we are proceeding to do is

19 produce another sheet which will eliminate those, de

20 bene esse we will assume that is correct. I can see how

21 the maths would come about in that fashion. We would

22 still submit that there is something in the order of

23 \$3 million which has to be explained. Some of that, we

24 have heard explanations and for clarity I should explain

25 that we have been provided this morning with some

1 spreadsheets which incorporate a number of comments.
2 I may come back to these later on and raise individual
3 points with the Deputy Premier. I say, and this is not
4 meant to be a criticism at this stage, it may be later
5 on, but there are a number of entries which still don't
6 have any line against them, that don't have any entry,
7 but no doubt Mr Smith may wish to deal with some of
8 those.

9 SIR ROBIN AULD: There is a likely issue which may
10 disappear, up to about 3 million of the 12 million
11 originally mentioned.

12 A. Yes.

13 MR SMITH: I think the explanation for that, he has provided
14 and I thought Mr -- I sent it to Mr Milne last night but
15 he didn't get it by email.

16 SIR ROBIN AULD: Mr Milne will come back to it and clarify
17 the position.

18 MR SMITH: My client will address each and every one of
19 those.

20 Sir, have you any ministerial credit cards?

21 A. No.

22 Q. Any black American Express card?

23 A. No.

24 Q. Have you even seen the inside of the jet that was
25 purchased from Indigo Transportation?

1 A. Never went inside it.

2 Q. You don't know if it has plush carpets --

3 A. I have no knowledge of the interior.

4 Q. Have you declared all your bank accounts to

5 the Commission?

6 A. Yes.

7 Q. Let me ask you this one final question, sir: having been

8 here, having been allowed yourself to voluntarily

9 produce all this information to the Commission and

10 having had an opportunity to reflect on this Commission,

11 what recommendations, sir, would you like to see coming

12 out of the Commission?

13 A. Thank you, counsel. A number of --

14 SIR ROBIN AULD: How long have you got? One.

15 A. How long a time you would give me. There are a number

16 of issues that have been quite appropriately raised in

17 this Commission and ought to be addressed as a growing

18 democracy in a Caribbean sort of setting. Some of

19 the issues, however, also have implications for the UK.

20 The Turks & Caicos Islands, for example, its major asset

21 is Crown land and unlike other countries, other big

22 industrial countries where you may have coal, you may

23 have oil, you may have minerals and what have you,

24 the only major asset for us is Crown land and our sun,

25 sea and sand. It is unfortunate that Crown land being

1 the major asset that the government has, that we can't
2 leverage it in an appropriate way in order to raise
3 funds for the country other than actually selling that
4 asset. As individuals you know if you have property and
5 it is unencumbered, you can go to the bank and you can
6 leverage that property at the bank and you can get
7 a loan and once you pay off your loan, you still have
8 your asset.

9 Unfortunately for us in the Turks & Caicos Islands,
10 based on the barring guidelines that have been set by
11 the UK, our government cannot go to a financial
12 institution and pledge a parcel of valuable Crown land
13 and then utilise that to generate funds to undertake
14 capital expenditure or emergency situations like what we
15 have had with the hurricanes that have hit us in recent
16 times.

17 SIR ROBIN AULD: So permit mortgage of Crown land?

18 A. So that the country can generate credit.

19 SIR ROBIN AULD: Without disposing completely of its assets.

20 A. Without disposing it. So the recommendation would be
21 that the UK give us the latitude to pledge parcels of
22 Crown land with banks so that we can raise immediate
23 revenue in order to deal with some of the emergency
24 situations that we have faced as a result of the
25 economic downturn and natural disaster situation that

1 has hit us.

2 MR SMITH: Any other recommendations?

3 A. The other recommendation I have is that going through
4 the finances of the country, it would be imminently
5 realised that the internal auditor function of
6 the Turks & Caicos government is badly needed. This
7 will be -- will go a long way in helping to curb
8 the situation of over-expenditure by various departments
9 and nip a difficult situation in the bud long before it
10 becomes a catastrophic situation.

11 So an internal auditor who would have
12 the responsibility to go from department to department
13 and who would have the teeth to enact sanctions
14 immediately for a department that is spending out of
15 control would be a good thing for our government.

16 SIR ROBIN AULD: Pause, please. What I have written there
17 is more rigorous control of government expenditure by
18 internal audit.

19 A. That would be appropriate.

20 MR SMITH: Any other recommendations?

21 A. Financial supervisions of the statutory bodies. That is
22 another area that is desperately in need of attention,
23 because under the finance and audit ordinance, as it
24 relates in the Turks & Caicos Islands today, the
25 ministry of finance has no authority to step in to

1 a statutory body and rein them in if they are going out
2 of control.

3 This relates from increasing salaries to their staff
4 in the statutory bodies to undertaking promotions to
5 spending on areas that the ministry of finance would
6 consider not to be appropriate. So better control of
7 statutory bodies, financial supervision of statutory
8 bodies is in desperate need.

9 The last issue I want to talk about is the campaign
10 finance reform, because much discussion has been focused
11 on this area, and it is an area that I believe ought to
12 have some attention, but it is an area also that I think
13 the attendees to this Commission, as well as
14 the personnel who are intricately involved in this
15 Commission ought to be aware of, that we, in the Turks &
16 Caicos Islands, are not isolated in the manner in which
17 campaign finances are handled. Throughout the entire
18 Caribbean and even in the UK, financial assistance or
19 financial contributions are commingled with private
20 funds.

21 I stated the other day, and this is not to slander
22 any institution or any country for that matter, but
23 I stated the other day that the UK only recently stopped
24 state-sponsored bribery as recent as 2002, also, with
25 campaign finances. In the UK campaign contributions to

1 parties go in and out of the parties without any
2 supervision until about eight to ten years ago.
3 So we are a very, very young democracy here in
4 the Turks & Caicos Islands, and to cast aspersions on
5 the people of the Turks & Caicos Islands as being
6 crooked in that fashion, I think would be inappropriate.

7 Now, if you asked the question as to whether any
8 stringent controls need to be implemented, certainly,
9 yes, I do agree with that and I think that you would
10 find that most people would say that you agree with
11 that, but the matters that I heard as it relates to the
12 party's activities, it is for the party administration
13 to deal with. I do not think it is an area where
14 the Commission ought to have unilateral authority to
15 brandish unfairly some of the treatments by which
16 ministers or persons who were associated with
17 the party's accounts, and cast unfair aspersions on them
18 based on that activity. I think it is up to the party
19 structure to discipline that individual. I think we
20 have a rigorous party structure in the Turks & Caicos
21 Islands that will end up doing that. Thank you.

22 SIR ROBIN AULD: As I understand it, you are saying that
23 the Commission, at any rate, should acquire a greater
24 recognition of the Caribbean tradition of fairly lax
25 control of contributions to political parties and their

1 use, but that some improvement is needed and you see
2 the rigour necessary should be provided by the parties
3 themselves?

4 A. Correct.

5 SIR ROBIN AULD: Not by legislation?

6 A. If legislation -- legislation should be last resort but
7 I think it ought to be incumbent on the party structure
8 first and foremost.

9 SIR ROBIN AULD: Parties first, legislation last resort.

10 A. Last resort.

11 MR SMITH: I have no further questions.

12 MR GOMEZ: If it pleases you, Mr Commissioner.

13 SIR ROBIN AULD: You still have not had an opportunity to
14 look at the recent documentation.

15 MR GOMEZ: The Honourable Deputy Premier is here. What
16 I was going to propose, Mr Commissioner, is that I go as
17 far as I can and then reserve until such time as I can
18 get instructions on the documentation and insofar as it
19 is relevant to my client's position, at that point, we
20 may or we may not need to cross-examine on the accounts.
21 Though he may wish to exercise his right to comment and
22 to provide a further statement.

23 SIR ROBIN AULD: Clearly, if you are in a position to do --
24 you should do what you can now and what you can't should
25 be put back until you have had an opportunity to look at

1 the documentation and unfortunately that would mean,
2 Mr Floyd Hall, we would have to ask you to return.
3 MR GOMEZ: I anticipated that that would be your position
4 and I am quite ready to commence.
5 SIR ROBIN AULD: You are in a position professionally to do
6 so, are you, Mr Gomez?
7 MR GOMEZ: Since our conversation last evening I have made
8 many attempts to put myself in that position. I am
9 loath to ask for an adjournment again because I know
10 your time is valuable but --
11 SIR ROBIN AULD: Let's see if I can help in this way. Who
12 is the most senior member of the Turks & Caicos bar
13 here? Is it you, Mr Smith?
14 (12.15 pm)
15 MR SMITH: I may sound like I am, but I am not.
16 SIR ROBIN AULD: In this row you seem to be the most senior
17 member.
18 MR SAUNDERS: Sir, I think it is myself.
19 SIR ROBIN AULD: It is you. Mr Saunders, is there a system
20 in this jurisdiction of the Mackenzie friend? Do you
21 know what I mean by the Mackenzie friend?
22 MR SAUNDERS: I would be grateful if you could explain sir.
23 SIR ROBIN AULD: There clearly isn't. A Mackenzie friend is
24 someone who can appear with the leave of the Tribunal on
25 behalf of another, although he or she is not

1 professionally qualified. It is usually a matter in
2 the discretion of the Tribunal but you don't have that
3 tradition here?

4 MR SAUNDERS: I don't believe there is.

5 SIR ROBIN AULD: This is a Commission of Inquiry and I can
6 conduct the matter in the way in which I consider right,
7 under the ordinance, and I propose to allow Mr Gomez to
8 make a start and we will see how far we get before he
9 needs to ask for time to look at the documents.

10 MR SAUNDERS: Sir, I have one question. It is not going to
11 be more than 30 seconds.

12 SIR ROBIN AULD: You want to go before Mr Gomez, do you?

13 MR SAUNDERS: Yes, sir.

14 SIR ROBIN AULD: Is there agreement about this? (Pause)

15 Thank you.

16 Cross-examination by MR SAUNDERS

17 MR SAUNDERS: Minister, in relation to Belongerships, and
18 the practice in relation to Belongerships, isn't it
19 the case that the grant of Belongerships to developers
20 who have contributed in undertaking developments of more
21 than \$100 million is quite common? Stan Hartling, for
22 instance, is a good example --

23 SIR ROBIN AULD: Let's get the answer to the question first.

24 A. It is quite common.

25 SIR ROBIN AULD: It is common?

1 A. Yes, it is common.

2 SIR ROBIN AULD: What is common?

3 A. Granting Belongerships to developers who have undertaken

4 substantial investment.

5 SIR ROBIN AULD: I think there has been evidence to that

6 effect.

7 MR SAUNDERS: Isn't it also the case that it is almost

8 universal that developers who have undertaken

9 substantial developments at the very minimum request and

10 are granted permanent resident certificates.

11 A. That is usual.

12 Q. So would you say that there would be any reason for

13 a developer to make a contribution, any large-scale

14 developer to make a contribution to the party in order

15 to secure a Belongership?

16 A. If it would be usual?

17 Q. Would there be any reason for a developer to make

18 a large-scale contribution to the party in order to

19 secure a Belongership?

20 A. No.

21 SIR ROBIN AULD: Did I mishear your first answer that it

22 would be usual or it would be unusual; what did you say?

23 A. I think his question was -- the question that he asked,

24 if it was usual for residents coming to the country who

25 made substantial investment to be granted permanent

1 residency certificates.

2 SIR ROBIN AULD: The next question was if somebody has

3 committed themselves to a large development, as

4 I understood the question, would it be common for that

5 person in addition to make some payment to the party in

6 order to secure one or other of those privileges?

7 A. That would not be necessary.

8 SIR ROBIN AULD: Not necessary?

9 A. That would not be the practice.

10 SIR ROBIN AULD: Not common, thank you.

11 Cross-examination by MR GOMEZ

12 SIR ROBIN AULD: Mr Gomez, the acoustics are not all that

13 good here or at least my hearing may not always be that

14 good, so can you be sure to speak up so that the court

15 reporters and I can hear.

16 MR GOMEZ: I shall try.

17 SIR ROBIN AULD: Well done.

18 MR GOMEZ: Mr Hall, you don't mind if I --

19 A. No.

20 Q. Good afternoon.

21 A. Good afternoon to you.

22 Q. In your examination through your counsel you were asked

23 about the economic position of the Turks & Caicos

24 Islands vis-a-vis other countries in the region. In

25 order to put that question in context, if I were to draw

1 reference to specific countries in the region, would you

2 be able to give an answer?

3 A. Generally, I think.

4 SIR ROBIN AULD: Mr Gomez, I didn't stop Mr Smith when he

5 asked his series of questions about this. The terms of

6 reference of the Commission are into possible bribery

7 and/or other serious dishonesty and secondly as to ways

8 in which structurally the country may be better

9 regulated by law or practice or policies. My concern is

10 not in approaching either of those questions how good it

11 has been in its political direction and financial

12 management. You can make a good profit whether you do

13 so honestly or dishonestly. So it is not the wisdom of

14 its economic policies that I shall sit in judgment on or

15 anybody.

16 MR GOMEZ: I understand that, Mr Commissioner, but my

17 learned friend Mr Milne yesterday pursued a line of

18 questioning which, and I am paraphrasing it, suggested

19 that my particular client was spendthrift in his

20 approach to government finances in particular, and

21 I want to put these questions so as to put my client's

22 spending habits in context because surely, for instance,

23 an expenditure of \$2 million, while a large expenditure

24 on the jet service that was being questioned about, in

25 the context of an economy that is being -- the growth of

1 which is being advanced by certain activities, if it has
2 moved from \$350 million in GDP to 750 in the space of
3 five years, the \$2 million expenditure may well be
4 viewed as not that unreasonable.

5 SIR ROBIN AULD: Looked at on its own, if the country is
6 doing well and it is not in deficit and it can afford
7 it, no doubt there is no reason why the Premier
8 shouldn't travel around in a private jet. The context
9 of the questions was that this was not something that
10 was a proper form of expenditure, given
11 the circumstances of the country's financial position
12 certainly at the time, and may have resulted from
13 improper approaches to the Premier to make such luxury
14 available.

15 But I don't want to inhibit you, but I don't want it
16 to become an encomium on how much better the TCI's
17 financial direction has been than several other
18 countries all round the Caribbean or around the world,
19 or we will be here forever.

20 MR GOMEZ: I didn't want to dwell on it.

21 SIR ROBIN AULD: All right.

22 MR GOMEZ: You would accept, Mr Hall, that the 6 per cent of
23 GDP ratio of your national debt in the Turks & Caicos
24 Islands to GDP is an extremely healthy one, viewed by
25 any economic barometer?

- 1 A. Correct.
- 2 Q. Now, in your examination or cross-examination by
- 3 Mr Milne, you had indicated that you regarded
- 4 the Premier, Mr Misick, as having been effective in
- 5 bringing a lot of business to the Turks & Caicos
- 6 Islands?
- 7 A. That is correct.
- 8 Q. That remains your view, is it not?
- 9 A. That remains my position.
- 10 Q. Would you accept that in order to attract business,
- 11 expenditures of large sums of money are often required
- 12 by the government?
- 13 A. That could be correct as well.
- 14 Q. Would you also accept that the change in the fortunes of
- 15 the Turks & Caicos Islands was not self-inflicted by
- 16 the Cabinet but was in essence something that happened
- 17 because of the large increase in the price of oil and
- 18 the subsequent collapse of the financial markets
- 19 throughout the world?
- 20 A. That has helped with the situation.
- 21 SIR ROBIN AULD: Did you say that has helped?
- 22 A. Yes, that has helped.
- 23 MR GOMEZ: When you say helped?
- 24 A. It helped to compound the situation.
- 25 Q. Prior to that, prior to the increase, catastrophic

1 increase in the price of oil from \$50 per barrel to \$150
2 per barrel as late as September last year, and then
3 the subprime mortgage collapse in the United States and
4 in Europe, prior to that, would it not be true to say
5 that your finances were in even better shape than they
6 are today?

7 A. Much better shape.

8 Q. This would have been during a period in which
9 the Premier had entered into arrangements for the rental
10 of aircraft?

11 A. I think the date of the lease --

12 Q. The date of the lease is August 2007 and it had a term
13 of two years.

14 A. When we came out of the fiscal year 2006/2007, we had
15 a very strong fiscal year, so it would be around that
16 period.

17 Q. So it would have been around that period. So that at
18 the time that that contract was in fact entered into, it
19 would be unreasonable to assert that he should have
20 foreseen what later transpired?

21 A. I don't think he could have foreseen what would later
22 transpire, but if the question is as to whether or not
23 I agreed --

24 Q. I am not asking if you agreed. You have said what you
25 said.

1 A. No, I don't think he could have foreseen --

2 Q. But I want to put his position in the context of the

3 economic situation at the time that he made that

4 decision?

5 MR SMITH: I think he should be allowed to finish his

6 answer, though.

7 MR GOMEZ: I think he did.

8 SIR ROBIN AULD: Did you say you had finished?

9 MR GOMEZ: Did you finish your answer?

10 A. What I was saying was that I didn't expect for

11 the Premier to know that the economy was going to turn

12 sour.

13 Q. Now, in the time since your administration has come into

14 office, I think from 2003 onwards, would it be true to

15 say that you have encouraged a large number of Turks

16 Islanders to return home?

17 A. Yes, we have.

18 Q. You have in that context provided increased educational

19 opportunities?

20 SIR ROBIN AULD: Now, Mr Gomez, despite my remarks, this is

21 becoming a party political broadcast. Corruption and

22 other dishonesty can flourish in an economy that is

23 doing well and in an economy that is doing badly for

24 whatever reason.

25 These other matters are relevant only insofar as

1 they provide a backdrop as to whether there has been

2 corruption or other dishonesty. That is all.

3 MR GOMEZ: I must have misinterpreted the length of time

4 Mr Milne took in addressing this particular witness on

5 the --

6 SIR ROBIN AULD: There are questions of appropriateness of

7 behaviour, given the financial state of the country at

8 the time. If there is money in the bank, the government

9 bank, to afford all sorts of extravagances by its public

10 servants, then fine. But if there is not and there are

11 other reasons why they may be incurring such expenses,

12 then that is a pointer to dishonesty. That was

13 the thrust of his examination.

14 MR GOMEZ: I understand that, Mr Commissioner. What I am

15 trying to elicit from this witness are answers which put

16 in context some of the decisions, so that when you look

17 at the decisions you may better assess whether they may

18 have been corruptly driven or whether they were driven

19 by the normal policy objectives of the administration

20 that was in power.

21 That's as far as I am going. I am not attempting to

22 turn this into a political show.

23 (12.30 pm)

24 SIR ROBIN AULD: See how you go, but I have made my own

25 approach to this fairly clear. I am looking really at

1 hard facts.

2 MR GOMEZ: I understand that, Mr Commissioner.

3 Now, in terms of your explanation of the political
4 practice of helping constituents and Turks & Caicos
5 Islanders who would approach you in your capacity as
6 a politician, candidate or minister in the government,
7 is there a social net provided for by legislation in
8 the Turks & Caicos Islands, by which welfare payments
9 are made by government?

10 A. We have a social department and a social -- I think we
11 call it the department of human services.

12 Q. What is the budget for that department?

13 A. I don't remember offhand but it is not a very generous
14 budget.

15 Q. So if a person were unemployed, would he be entitled --
16 could he go and say: I am entitled to X amount of
17 unemployment benefits?

18 A. No. I think it is reserved for, like, the most extreme
19 cases. If that person was deemed to be an able body, he
20 probably wouldn't get it.

21 Q. So you would have to be disabled?

22 A. Not necessarily disabled but indigent to some point.

23 SIR ROBIN AULD: Unemployment benefit limited to extreme
24 cases?

25 A. Yes.

1 MR GOMEZ: Assistance with the purchase of food.

2 A. They get -- human resource department --

3 Q. Is that well funded?

4 A. Modestly.

5 Q. So would you accept as a description of the social net

6 actually provided in the Turks & Caicos that it is

7 limited at best --

8 A. I would say that is a fair characterisation of it.

9 Q. Would you accept that as a result of that, pressure is,

10 as it were, put on individual politicians to, in

11 a sense, fill the void created by that lack of social

12 spending?

13 A. I would say there is considerable pressure on

14 politicians here in the Turks & Caicos.

15 Q. In relation to that?

16 A. In relation to that.

17 Q. Would you personally feel that you might be exposing

18 the recipients of your generosity to embarrassment by

19 making scrupulous records of gifts which you may have

20 made to them in order to help them out with a problem?

21 A. I could say that that is the case too because sometimes

22 it becomes so frequent you don't want to have labelled

23 throughout your financial records that you assisted this

24 one, that one --

25 Q. For instance, if you lent me \$5 to have a snack at the

1 restaurant and then you went out and told Tom, Dick and
2 Harry that you lent me the \$5, that wouldn't look good,
3 would it?

4 A. No, it wouldn't.

5 Q. If it were felt that generally these gifts or these
6 objects of generosity would later be publicised in any
7 form, would that discourage persons from readily coming
8 forward and asking for assistance?

9 A. It would discourage them.

10 Q. Would that impact on your view as to your responsibility
11 as a representative of the people of the constituency
12 that elected you?

13 A. It would, yes.

14 Q. Would you accept that quite possibly that view would be
15 shared by not only the Premier, but all of your Cabinet
16 colleagues and Parliamentary colleagues?

17 A. Yes, it could.

18 Q. My learned friend, Mr Saunders, raised the point about
19 large investors as a matter of policy obtaining
20 the level of immigration status, enabling them to
21 facilitate their investment.

22 Is that policy shored up by legislation?

23 A. No.

24 Q. Do you think that the transparency and the practice
25 might be enhanced if the Turks & Caicos, like

1 the Bahamas, provided a statutory framework? For
2 instance, in the Bahamas, a person who invests \$500,000
3 in purchasing a home, is entitled by statute to
4 citizenship, not just permanent residence?

5 A. We have a similar statute that would entitle
6 the individual to permanent residency, but we have
7 an amended -- well, we have a new immigration bill that
8 is about to be tabled, and it encapsulates a whole lot
9 of new issues that we are presently confronted with from
10 an immigration standpoint here in the Turks & Caicos
11 Islands.

12 Q. So persons who create rumours surrounding investors who
13 are getting status and suggesting that they are paying
14 for it illicitly, there is no foundation for that?

15 SIR ROBIN AULD: I don't know that he can answer for all
16 the rumours, Mr Gomez.

17 Your question, which was an important one, was that
18 Belongership or any such entitlement, like in
19 the Bahamas, should have a statutory basis and
20 the answer was, as I understood it: yes, I agree and we
21 are taking some steps towards that in our new
22 immigration bill.

23 MR GOMEZ: That is an accurate reflection of what he said.

24 SIR ROBIN AULD: He can't speak for everybody else in
25 the position --

1 MR GOMEZ: So far as you are concerned.

2 A. So far I believe it is unfounded.

3 MR SMITH: What is the question so far?

4 MR GOMEZ: I was prevented from asking him the general
5 question, whether so far -- whether as far as -- whether
6 he regarded the rumours --

7 MR SMITH: I don't think my client, as Sir Robin rightly
8 says, can speak to rumours.

9 MR GOMEZ: He didn't say he could not speak to rumours, he
10 could comment so far as he is concerned.

11 SIR ROBIN AULD: What value is a comment by Mr Floyd Hall on
12 the generality of rumours? What evidential value does
13 it have? I am sure he would not claim to know which
14 rumour was true and which rumour was false.

15 MR GOMEZ: That is true, Mr Commissioner, but generally
16 speaking rumours have no evidential value at all.

17 MR SMITH: So why raise the question?

18 MR GOMEZ: Because it was put to him.

19 SIR ROBIN AULD: I think we are getting beyond the realms
20 of --

21 MR GOMEZ: Now, you have now accepted that Mr Misick was
22 a signatory on the PNP's bank accounts?

23 A. Correct.

24 Q. At the conventions of the PNP is there a process by
25 which acts of the executive and officers of the party

1 are ratified and confirmed by the general membership?

2 A. That is correct.

3 SIR ROBIN AULD: You use the term "convention", you mean to

4 use it accurately do you, there is nothing in writing?

5 MR GOMEZ: When I say convention, I mean the party meeting.

6 The general body.

7 SIR ROBIN AULD: Is there a party constitution to that

8 effect or is it just its practice?

9 MR GOMEZ: I will go on and ask him that, Mr Commissioner.

10 SIR ROBIN AULD: Thank you.

11 MR GOMEZ: You have a written constitution, do you not?

12 A. Yes, we do.

13 Q. Your written constitution provides for a meeting of the

14 membership of the party in convention on a periodic

15 basis, does it not?

16 A. Annually every August.

17 Q. At those conventions, the acts and omissions of

18 the executive and party members are discussed and dealt

19 with, are they not?

20 A. That is correct.

21 Q. Would it be true to say that at the party's conventions

22 the accounts, such as they have been produced, have been

23 accepted by the relevant institutions within the party

24 and affirmed?

25 A. Correct.

1 Q. And ratified?

2 A. Correct, except for, as was pointed out, the Belize Bank

3 account.

4 SIR ROBIN AULD: I didn't hear that.

5 A. Except, as was pointed out already, the Belize Bank

6 account.

7 SIR ROBIN AULD: There are minutes of these annual meetings

8 of the party, are there?

9 MR GOMEZ: I can ask him.

10 A. I cannot say affirmatively that that is indeed the case

11 but I believe there would have been meetings.

12 SIR ROBIN AULD: There could have been a whole mass of

13 things for discussion, I imagine, once a year. Some may

14 be ratified, some may not be. Is there an agenda on

15 other minutes of the meetings.

16 A. There is an agenda, we have a Secretary General who

17 would best be able to answer that.

18 SIR ROBIN AULD: That is Ms Missick, is it not?

19 A. Ms Missick probably.

20 MR GOMEZ: Would it be true to say that the law firm of

21 Stanfield Greene acts generally on your behalf?

22 A. Yes.

23 Q. That firm has been your family's attorneys as well?

24 A. It has been my attorney.

25 Q. What about your brothers?

1 A. Yes.

2 Q. Do you know whether that was known to Mr Michael Misick
3 or not?

4 A. Yes.

5 Q. So can you confirm to the Commission whether
6 the \$150,000 payment, which he described as a loan from
7 you, but which you say was really a loan from your
8 brother, whether that came from the client account of
9 Stanfield Greene?

10 A. It came from the client's account of Stanfield Greene.

11 Q. Would you accept that if Mr Misick had, through some
12 mistake or other, thought that the loan was coming from
13 you, that he might have based that on the fact that it
14 came from that account?

15 A. No because --

16 SIR ROBIN AULD: This is a question seeking a speculative
17 answer and it sounds as if you are not going to get one.

18 You know the answer to this, do you?

19 A. Yes. The answer is that I told him --

20 MR GOMEZ: He said no.

21 MR SMITH: Let him answer.

22 MR GOMEZ: He said he told him.

23 A. I told him -- he knew it was from my brother.

24 MR GOMEZ: Mr Commissioner, the reason I put it to him is
25 because I don't want you to be put in a position that

1 I have had an opportunity to question the witness and
2 I don't question him on the subject and then it is
3 thought that I am accepting his answers as being
4 truthful and that of my client as being --
5 SIR ROBIN AULD: You can ask him did he know, but if you
6 start asking him, is it reasonable to assume
7 such-and-such, you are inviting speculation when in fact
8 there was no need for it.
9 MR GOMEZ: Fair enough. I am obliged.
10 You spoke about the issue of the proprietary
11 interest of Mr Smith in lands at Water Cay?
12 A. Yes.
13 Q. Now, you had lent him \$75,000 approximately?
14 A. Yes.
15 Q. Are you aware that he transferred his proprietary
16 interest to a company?
17 A. I was aware of that.
18 SIR ROBIN AULD: You were or weren't?
19 A. I was, yes.
20 MR GOMEZ: And that the company applied to the government
21 to, as it were, sanction that transfer?
22 A. I am aware of that.
23 Q. You were in Cabinet when that discussion took place,
24 were you not?
25 A. I was.

1 Q. You didn't inform your colleagues that you had lent

2 Mr Smith monies and that this was a way of ensuring that

3 you would be repaid?

4 SIR ROBIN AULD: Put that question again please, I didn't

5 hear it properly.

6 MR GOMEZ: You didn't tell your colleagues that he had lent

7 Mr Smith monies and that this was a means by which he

8 would secure repayment?

9 A. I probably did not.

10 Q. Is there any statutory impediment preventing ministers

11 in the executive from participating in professional

12 activities outside of government?

13 A. Not to my knowledge.

14 (12.45 pm)

15 Q. So there is no statutory impediment for a real estate

16 agent who happens to be in Cabinet getting paid

17 a commission for soliciting a sale of land in the course

18 of ordinary business?

19 A. I am not aware of any impediment.

20 Q. Would you accept that probably there needs to be some

21 statutory regime prohibiting ministers from actively

22 engaging in a trade, calling or profession while

23 ministers of the government?

24 A. I don't know if I agree with that, because I believe in

25 Bermuda you can be a minister and still carry on your

1 profession and unless there is something more compelling
2 to suggest otherwise, I don't think that we need to have
3 a statutory provision that prevents ministers from doing
4 that.

5 Q. Do you think that such a provision would enhance
6 transparency in government?

7 A. I think the area dealing with declarations probably
8 ought to be more rigorously enforced as opposed to
9 a provision that prevents a member of the executive from
10 practising his or her professions.

11 SIR ROBIN AULD: More rigorous enforcement of declarations
12 of interests?

13 A. Yes.

14 Q. You maintain that Mr Michael Misick's intervention in
15 the effecting of the sale of the Water Cay property from
16 ultimately Mr Smith as beneficial owner to the company
17 which actually purchased from him was solicited by you?

18 A. I indicated earlier that I spoke to the Premier about
19 it, yes.

20 Q. And you initiated that -- his involvement, you spoke to
21 him --

22 A. I spoke to him and I believe Mr Smith spoke to him as
23 well. You must appreciate that Mr Smith was both our
24 friends, not only my friend, he knew Michael on the same
25 basis as he knew me.

1 Q. But I believe it would be reasonable to infer that you
2 were a very, very good and close friend of
3 Mr Michael Misick, given your wedding gift that you gave
4 evidence about?

5 A. I am a colleague. I have known Michael for many, many
6 years. Long before politics we were high school
7 friends.

8 Q. In fact, you have trusted him because of that
9 relationship you have had all these years?

10 A. Of course.

11 Q. For the sake of the record, would you confirm that
12 the company that actually purchased the Water Cay
13 property was Aquarius Development Limited?

14 A. I believe that is the company.

15 Q. Would it not be true to say that Aquarius Development
16 Limited had more than one shareholder?

17 A. I don't know the composition of the shareholders.

18 Q. Now, you have a brother whose name is Earl?

19 A. His name is Quinton. We call him Earl.

20 Q. So his nickname is Earl?

21 A. Yes.

22 Q. And Quinton, you indicated came into some good luck and
23 he was able to sell some property for over \$1 million?

24 A. It was for \$1 million.

25 Q. Did he give you any of that?

1 A. I probably benefited from something. We are brothers.

2 Q. If you did benefit from it, would you have gotten paid

3 from Stanfield Greene?

4 SIR ROBIN AULD: I didn't catch the last part of that

5 question.

6 MR GOMEZ: If you did benefit from it, would you have been

7 paid from the client account of Stanfield Greene?

8 A. That would have been possible. If I got anything it

9 probably would have been from Stanfield Greene, but also

10 I have assisted my brother generously over the years.

11 Far more than what I would have benefited from him, so

12 far.

13 Q. It is not me who is levying any criticism of you, sir.

14 A. No, for the record. Not personal.

15 MR GOMEZ: Subject to the review of the accounts, those

16 would be all of the questions which I have of this

17 witness.

18 SIR ROBIN AULD: Thank you, Mr Gomez. Let's see what

19 the position is about the accounts. Where are they and

20 how big are they and how long will it take to digest

21 them, Mr Milne?

22 MR MILNE: I understood that my learned friend had them

23 already.

24 SIR ROBIN AULD: He has got them.

25 MR MILNE: He has got them and he is waiting instructions

1 from his clients, the Premier, is that correct?

2 MR GOMEZ: I have the volumes that this witness produced,
3 which were given to me the same time they were given to
4 you.

5 SIR ROBIN AULD: It is those documents you want to look at.

6 MR GOMEZ: And yesterday my learned friend received some
7 other documents. I have just gotten what I had asked
8 him to provide out of that and I will see --

9 SIR ROBIN AULD: Are you saying you have not had
10 an opportunity to look at the two main Floyd Hall
11 bundles?

12 MR GOMEZ: We have not yet completed our review of them.

13 SIR ROBIN AULD: How long do you think you will need to
14 complete your review of these two bundles to start with?
15 If it is of any indication to you, we have had to go
16 through bundles of that order pretty quickly in a matter
17 of days this month, so we would expect you will be
18 pretty brisk about it.

19 MR GOMEZ: I understand that, Mr Commissioner. As I have
20 advised my client since I have been here, he needs to
21 take his obligation to the Commission very seriously and
22 any answers which he gives will be given under oath.

23 SIR ROBIN AULD: I understand that. How long do you think
24 you will need?

25 MR GOMEZ: I think until Friday morning.

1 SIR ROBIN AULD: What about the other documents, is there
2 much in those?

3 MR GOMEZ: I am saying I think we will be able to finish our
4 review and be ready to proceed with this witness by
5 Friday morning.

6 SIR ROBIN AULD: Mr Milne? Who has got the other documents?
7 We have at the moment, the Commission has?

8 MR MILNE: I must confess, sir, as I stand here, I am at a
9 loss as to what my learned friend still needs.

10 I thought we had provided everything.

11 SIR ROBIN AULD: When did we provide --

12 MR GOMEZ: I didn't ask for anything. What I said is I had
13 in fact received from my learned friend out of the
14 latest bundle that he got what I needed.

15 SIR ROBIN AULD: Is this bundle 2?

16 MR GOMEZ: I have already gotten that, Mr Commissioner.

17 SIR ROBIN AULD: Mr Milne, can you help.

18 MR SMITH: Sir Robin --

19 SIR ROBIN AULD: Just a minute, Mr Smith. Just help me on
20 what Mr Gomez had and when?

21 MR MILNE: Sir, earlier on I held up some of the
22 spreadsheets from Progress House. I think my learned
23 friend wished to see copies of those which we got in the
24 last day or so. He is more than welcome to view any of
25 those. They are all very much of the same nature and

1 the Commission have already heard my questions in
2 relation to them.

3 SIR ROBIN AULD: Then what about these two bundles,
4 the bundles 1 and 2 of Mr Floyd Hall?

5 MR MILNE: Those, I believe he has bundle 2, which is
6 the PNP documents. In relation to bundle 1, I have not
7 been asked for any of the specific documents which, if
8 I can summarise, the schedules that have been put
9 towards the end of those documents are essentially
10 the Deputy Premier's payments towards credit cards,
11 the credits going into his bank accounts, matters of
12 that sort, where on occasion I think the Premier has
13 been mentioned, and persons connected with the Premier,
14 but for the most part not. I don't know if my learned
15 friend seeks those.

16 SIR ROBIN AULD: Tell me what you want to see or want to
17 read.

18 MR GOMEZ: I don't need any further documents from my
19 learned friend. I was trying to make that point clear.
20 He has already given me volume 2 which I believe I am
21 entitled to see. Volume 1, I don't believe my client is
22 entitled to see those documents other than what has
23 been --

24 SIR ROBIN AULD: If there is anything material in them
25 relevant to the Premier, then of course you are entitled

1 to see them. Why don't you ask Mr Smith.

2 MR GOMEZ: My instructions are that I have what I actually
3 need for review. I do not at present need volume 1 for
4 this witness.

5 SIR ROBIN AULD: Right.

6 MR GOMEZ: My client is reviewing volume 2.

7 SIR ROBIN AULD: That is this little bundle?

8 MR GOMEZ: Yes. And I am going to show him what I have
9 received in relation to the latest disclosure by the PNP
10 and we should be in a position to proceed with this
11 witness, if necessary, on Friday morning.

12 MR SMITH: I have a problem with Friday morning. My client
13 has a problem with Friday morning. As the Commission is
14 aware, he was scheduled to testify -- his testimony got
15 moved on two occasions and when we had discussions last
16 week, I was trying to get from the Commission some
17 definite date. The reason being is that my client has
18 a pre-existing doctor's appointment overseas and he
19 leaves tomorrow for that and he is not expecting to
20 return before Monday, I think. He will be back in the
21 country on Monday, sometime during the day --

22 A. I will come back on Sunday.

23 SIR ROBIN AULD: We have a fairly full commitment for
24 the remainder of this week. Mr Milne, at the moment we
25 have, I think, fairly full obligations in the next two

1 days, haven't we?

2 MR MILNE: The Honourable McAllister Hanchell is the next
3 witness who I think we anticipate hearing from this
4 afternoon and into tomorrow. Mr Chal Misick is
5 scheduled for Friday morning. Whether there was any gap
6 tomorrow, I can't really say, but I think it is unlikely
7 and it seems that my learned friend wouldn't be ready at
8 this stage in any event for tomorrow -- for Thursday.

9 SIR ROBIN AULD: Shall we contingently list, if it is
10 convenient to you, Mr Floyd Hall, your return for
11 Monday? Can you do that?

12 A. That is possible.

13 SIR ROBIN AULD: In the morning if necessary.

14 A. Correct.

15 MR SMITH: Could Mr Gomez advise me over the weekend if he
16 does intend to question my client.

17 SIR ROBIN AULD: I would hope that in the ordinary
18 traditions of the bar, he would give you full notice.

19 MR SMITH: I am asking for a little more than that, given
20 the fact that this is an Inquiry, I am asking that he
21 possibly submit the areas of inquiry so I may be able to
22 properly address those.

23 SIR ROBIN AULD: I think you must talk to Mr Gomez about
24 that. Clearly he should give you as much notice as he
25 can of the documents that he proposes.

1 MR SMITH: Much obliged.

2 SIR ROBIN AULD: Mr Gomez, does that cause you any problem?

3 MR GOMEZ: It doesn't cause me any problems. I am surprised

4 that my learned friend would have felt that it would.

5 SIR ROBIN AULD: Liaise between you so that we can make

6 the best use of Mr Floyd Hall's time on Monday and

7 the Commission's time.

8 MR GOMEZ: I shall.

9 SIR ROBIN AULD: Thank you. Very well, Mr Floyd Hall, we

10 will see you again on Monday and I am sorry to ask you

11 to come back. Mr Milne will, of course, have some

12 questions for you at the end of all this but

13 I anticipate they won't be all that long.

14 MR MILNE: Sir, might I just inquire through the Commission

15 whether we will have the pleasure of Mr Gomez's company

16 on Monday, or indeed will it be Mr Fitzgerald, who I

17 think is hoping to return --

18 MR GOMEZ: I anticipate being relieved tomorrow afternoon by

19 both Mr Fitzgerald and Mr Ginton, but any undertaking

20 which I give you will be abided by by the two of them.

21 SIR ROBIN AULD: Mr Fitzgerald could take a wholly different

22 view from you on something, you never know. Clearly

23 there is an importance in you, Mr Fitzgerald and

24 Mr Smith liaising over the programme for Monday insofar

25 as it concerns Mr Floyd Hall. If there are any

1 difficulties, the Commission should be informed at any
2 time over the weekend and we can take a course.

3 MR GOMEZ: I am in contact with Mr Fitzgerald by e-mail and
4 if he has a different opinion, I will communicate it to
5 Mr Smith.

6 SIR ROBIN AULD: Thank you.

7 MR GOMEZ: I am not seeking to steal a march on anybody.

8 SIR ROBIN AULD: No suggestion that you were, Mr Gomez. You
9 are here in a difficult position, you have to come in to
10 fill a gap at short notice and I am grateful to you for
11 the help that you have given.

12 MR GOMEZ: Thank you.

13 SIR ROBIN AULD: And Mr Edwards too. 2.05.

14 (1.00 pm)

15 (The short adjournment)

16 (2.05 pm)

17 MR MCALLISTER HANCHELL (sworn)

18 Cross-examination by MR MILNE

19 SIR ROBIN AULD: Mr Milne.

20 MR MILNE: Minister, my name is Alex Milne. I am going to
21 be asking you some questions. You are represented,
22 I think today, by Mr Ariel Misick QC of counsel?

23 A. That is correct.

24 Q. And Ms Akierra Missick?

25 A. That is correct.

1 Q. Minister, you were provided to the Tribunal through your
2 attorneys last night quite a considerable documentary
3 bundle?

4 A. Correct.

5 Q. Two bundles in fact, one of them being essentially
6 a bringing together of the correspondence for which we
7 are grateful because it puts it in chronological order,
8 and obviously that was all familiar?

9 SIR ROBIN AULD: That is volume 1, is it?

10 MR MILNE: It is now to be volume 3, sir. They were
11 numbered A, B and C -- or lettered A, B and C. We have
12 two large volumes that the minister will have which were
13 prepared by the Tribunal and they are the black-backed
14 volumes, numbers 1 and 2. The attorneys will, I hope,
15 forgive us. We have re-numbered to try to keep that
16 numbering. So the correspondence will be 3, rather than
17 A. The further disclosure will be 4. I say
18 straightaway this is new material, and I assume you
19 would agree with that because you have provided us with
20 a statement making clear that this is new material that
21 you have provided at about 7.30 last night.

22 A. Additional material, yes.

23 Q. So we are going to be coming to that in due course.

24 The starting point for the Commission, with yourself
25 as indeed with every other minister, has been that we

1 ask you to provide us with the contents of your
2 declarations made under
3 the Registration of Interests Ordinance, those being
4 over the period of your elected post.

5 First of all, Minister, can you tell me when did you
6 initially become an elected official in the Turks &
7 Caicos Islands?

8 A. 2003.

9 Q. There were two elections, I believe, that year. Were
10 you elected in the first or second of those or both?

11 A. In the by-election, in the first.

12 Q. That I think was in the early part of the year?

13 A. Yes.

14 Q. The present government was elected in much the same
15 configuration that we have today, in the latter part of
16 2003 and then re-elected in 2007?

17 A. Yes.

18 Q. You have therefore been in what was Legislative Council,
19 subsequently named the House of Assembly from 2003
20 onwards, and you have been subject to the requirements
21 of the Registration of Interests Ordinance, throughout
22 that period, would you agree?

23 A. Yes.

24 Q. You have made a number of returns and indeed your
25 attorneys have given us what we took to be a synopsis of

1 those returns in your disclosure. Do you believe that
2 there was over the years a cross-party culture of
3 non-disclosure under
4 the Registration of Interests Ordinance?

5 A. I believe that over the years that the interpretation to
6 fill out the registers, knowing today, weren't done
7 properly.

8 Q. You say the interpretation was it was not done properly.
9 Why was that?

10 A. Based on my interpretation of the information to be
11 filled in the provided form, over the years I filled
12 them to the best of my ability. But since this
13 Commission of Inquiry, it has raised questions of
14 whether or not these forms have been filled properly.

15 Q. I am going to invite you to look at the forms in
16 a minute but the easiest way to do this, I am going to
17 ask you to open two bundles and compare one to the
18 other. If we take first of all please volume 1 and open
19 that at page 1. Do you have that?

20 A. Yes.

21 Q. Then could you please open -- put side by side with it
22 volume 2, the divider towards the very back of that
23 file, behind that divider the pages -- the numbering
24 re-starts at 1001. You will find that with that second
25 file, you may have to turn it slightly sideways. Just

1 dealing with the second file for the minute --

2 A. Volume 2?

3 Q. Volume 2. Page 1001. It may help if you take for

4 a moment those documents and just flick through so you

5 will get a feel for what is in here because we will come

6 to the detail in a minute?

7 SIR ROBIN AULD: Shall we identify them first?

8 MR MILNE: Yes, sir. This section has a series of

9 documents. In each case the Register of Interests

10 created by the Registrar for a given year. The register

11 obviously is drawn up from the returns that you have

12 made and indeed your colleagues have made but we have

13 copied here the pages that relate to your returns. To

14 avoid the possibility of doubt, behind each register we

15 have put a copy of the actual return. Do you follow me?

16 A. Yes.

17 Q. So we see the register pages for 2003 and then

18 the return that you filled out, and indeed in 2003 there

19 were two returns. I think the reason will become

20 obvious. One of them dated shortly after you were

21 elected. I think that is in fact dated -- you could

22 tell me, sir, 15th September or 15th July, but it is

23 a mid-year declaration shortly after your initial

24 election, I suspect. Then a further declaration made at

25 the end of the year, 31st December 2003. Correct?

1 A. Correct.

2 Q. So we have two in fact for that year. Subsequent years
3 tend to be one declaration because only one is required.

4 We can look at those as we go through. Let's leave
5 that to one side for a minute. Those documents are
6 the actual declarations, actual returns and indeed
7 the record made in the register.

8 On the other hand, volume 1 is the documents
9 provided to us by your attorneys, no doubt on your
10 instructions, when the Commission began in about
11 September -- in fact I think the requests were made as
12 early as July or August, but these were sent through at
13 about September. It was the first tranche of paperwork
14 that we were provided with.

15 SIR ROBIN AULD: Reconstructed returns year by year?

16 MR MILNE: That was our understanding, sir, yes.

17 SIR ROBIN AULD: For year by year, rather.

18 MR MILNE: For year by year. Again, as an example, pages 1
19 and 2 reflect a return or a reconstructed return for
20 2003.

21 2004 follows right the way through to 2007 and
22 subsequently we will get to the most up to date which
23 was 2008, as at September 1st.

24 Minister, if we look at the declaration that you
25 made to the Commission for 2003, that is page 1 of

1 bundle 1, there are a series of things that were
2 requested by the Registrar originally. You were asked
3 to indicate remunerated directorships, employment, trade
4 or profession, financial sponsorships and gifts
5 received. Overseas visits, real property, shareholdings
6 and liabilities exceeding \$10,000.

7 Without trudging through each individually, am
8 I right in thinking that none of these, if we go through
9 them, will we find any reference to financial
10 sponsorship and gifts received.

11 The returns that you made in fact in each case said
12 that that detail would be provided. If it assists, it
13 is the bottom of pages 1, 3, 5, 7 and so on. In fact 8,
14 I beg your pardon.

15 In each case we were told that details of your
16 financial sponsorship would be provided.

17 (2.15 pm)

18 SIR ROBIN AULD: Is that right?

19 A. Which volume?

20 SIR ROBIN AULD: Volume 1, start with page 1. These are
21 the reconstructed returns. If you go down to the bottom
22 of page 1 under (iv), that is the start of these
23 references.

24 A. Yes, I am with it. What did you say about the details
25 to be provided again?

1 MR MILNE: In each case the documents that you submitted or
2 were submitted on your behalf by your attorneys said
3 that details of financial sponsorship and gifts received
4 would be provided.

5 A. Correct.

6 Q. Now, it may be that some of that detail has come
7 through, but the Commission might well have been left
8 under the impression by those documents that you had
9 made declarations in 2003, 2004, 2005, and so on?

10 MR MISICK: Sir, you will recall that he was to provide
11 the document as if he was providing them afresh?

12 SIR ROBIN AULD: I don't think that is quite right.
13 The request was, and I can remember drafting it, was
14 that he should provide copies of his returns for
15 previous years, but for the current year, he should
16 provide to the Commission a copy of his return as if he
17 were making it by way of his duty under the Registration
18 of Interests Act.

19 MR MISICK: I will look at the letter but -- let Mr Milne go
20 on while I look at this.

21 SIR ROBIN AULD: Do look at it.

22 MR MILNE: Minister, so we can be clear, I would suggest to
23 you that what the Commission was seeking was not your
24 best guess at what you should have said five years ago
25 but what you actually did say five years ago, do you

1 follow?

2 A. Yes, I am following. I understand.

3 Q. Taking -- I take that one example, financial sponsorship
4 and gifts. Leaving aside whether that information has
5 indeed been provided --

6 MR MISICK: I have the reference, if I can refer you to it.

7 SIR ROBIN AULD: Yes.

8 MR MISICK: It is your letter, or Mr O'Dea's letter, and it
9 says:

10 "Sir Robin assumes that you have submitted your most
11 recent periodic declarations of interest within the last
12 12 months. He therefore considers it reasonable to ask
13 you to provide the Commission with the current update."

14 The words "current update".

15 SIR ROBIN AULD: But read earlier in the letter, Mr Misick.

16 It contains, I think, three requests, the first of which
17 was copies of returns for the previous years and that is
18 the point Mr Milne is making. All we could do for
19 the current year, because we were making the request
20 ourselves and it might not have been time for the annual
21 return, was to ask the recipient voluntarily to provide
22 a copy of his return as if he were making it out last
23 year for last year.

24 MR MISICK: I hear what you say, but certainly my
25 interpretation of the expression "with the current

1 update" meant that he was --

2 SIR ROBIN AULD: Would you like to read out the earlier part

3 of the letter. I am only working from memory at the

4 moment. You have got it in front of you.

5 MR MISICK: Yes. It is bundle 3.

6 SIR ROBIN AULD: Thank you.

7 MR MISICK: Number 1 is the date and content of each

8 declaration, interest, made by you at any time. 2,

9 whether or not you have made any such declarations.

10 The information that you would have provided in such

11 declarations, if made pursuant to it.

12 So there's that as well. He should have put in

13 the information as if he was making the declaration.

14 SIR ROBIN AULD: Yes, but that is only applicable if there

15 weren't any. Here there were. 1 is the applicable

16 paragraph:

17 "The date and content of each declaration of

18 interest made by you at any time during your tenure."

19 Clearly if no copy were available, then

20 the recipient would have to try to reconstruct it.

21 MR MISICK: I don't want to get too technical about it, but

22 it says whether or not you have made any such

23 declaration.

24 SIR ROBIN AULD: But that is the next paragraph. It is

25 clearly an alternative to the first.

1 MR MISICK: Yes, so applying the second alternative, whether
2 or not he made one, if he made one or didn't make one,
3 the new information he was to provide should contain
4 updated information.

5 SIR ROBIN AULD: But it is only an alternative if there is
6 no available copy of the original return. There is no
7 reason why one would ask somebody for the date and
8 content of the original return and then ask them in
9 addition for the return they would have made if they had
10 not made a return.

11 MR MISICK: Maybe that is a point I will make in argument,
12 but I think the interpretation of what he was being
13 asked is -- certainly may have been -- not been
14 understood.

15 SIR ROBIN AULD: You have said what you said and I have said
16 what I have said and we can see how it goes.

17 MR MISICK: Yes, thank you.

18 MR MILNE: Minister, the fact of the matter is that in
19 the returns that you did make over the years you have
20 never declared any financial sponsorship or gifts, have
21 you?

22 A. No.

23 Q. Why not?

24 A. Because my interpretation of the form at the time did
25 not provide me to do so.

1 Q. What was that interpretation?

2 A. My interpretation was that the usual holiday gifts,
3 birthday gifts, your mother, your father, your sister,
4 your brother was intended there and I believe it speaks
5 about a value of a certain value and thinking now,
6 I didn't think that that was applicable at that
7 particular time.

8 Q. Well, if we were here arguing about a shirt that your
9 brother bought you, or a tie that your wife gave you
10 at Christmas, or a meal that your business colleague
11 bought you over lunch, then I think we would be wasting
12 the public's time and money. I think what we are
13 concerned with is not Christmas and gifts at birthdays.

14 Are you saying, is it your evidence and I just need
15 to be clear about this, it is important we clarify it at
16 a early stage, that you had never received any financial
17 sponsorship or assistance?

18 A. As it relates to any specific dollar amount?

19 Q. Have you received any political contributions over
20 the years?

21 A. Yes, I have received political contributions over
22 the years.

23 Q. Have you declared them to the Register of Interests?

24 A. No, I have not declared political contributions to
25 the Register of Interests.

1 Q. Why not?

2 A. It is my interpretation of the form that political
3 contributions weren't being declared. As a matter of
4 fact, you have copies of all of the registers, I am
5 sure, from the inception of our political history, and
6 no one, including past or present members, to my reading
7 of it, has declared political contributions.

8 Q. What did you think that that box on the form was for?

9 A. Could you refer me to the form so I can familiarise
10 myself with that?

11 Q. Absolutely. If you turn over in volume 2, at the end.

12 A. I found it.

13 Q. It is page 1005. This is the example from 2003?

14 A. Again --

15 Q. Do you have that?

16 A. Yes, I have it, thank you. In 2003 when I became
17 a member of the legislature, there were no briefings as
18 to the interpretation of these forms or briefings of
19 anything as a matter of fact. We simply -- I can only
20 speak for myself. I learn as I -- run away and my
21 recollection that this particular portion of the form
22 has never been filled.

23 SIR ROBIN AULD: Let's identify the part of the form that
24 Mr Milne is asking you about. It is under paragraph 4,
25 isn't it? On page 1005, this particular example. It is

1 headed, "Financial Sponsorships, Gifts", et cetera.

2 Then it says:

3 "Below give details of any material benefits

4 received as a candidate or member of the then

5 Legislative Council."

6 A. Yes.

7 SIR ROBIN AULD: That is what we are talking about.

8 A. Yes.

9 SIR ROBIN AULD: I have your answer and I am not taking

10 issue with you on it. That is what you say and Mr Milne

11 will want to ask you about it.

12 MR MILNE: What is it about that wording, sir, that you

13 don't understand? Is there some ambiguity that makes it

14 unclear?

15 A. Sir, I have to say that I have followed practice that

16 I saw in place and that is my answer in relation to

17 that.

18 Q. Where did you see that practice take place?

19 A. On previous registers.

20 Q. So you went to the trouble of reading back through

21 previous registers?

22 A. No I didn't went to the trouble of reading previous

23 registers; I found it my business to look at a register

24 to try to see if I could get an interpretation of what

25 is required.

1 Q. Were you left unsure as to what was required?
2 A. If I was left unsure? I was certain as I filled
3 the form that was what was required.
4 Q. So when you subsequently received financial benefits as
5 a candidate which no doubt exceeded \$10,000, because we
6 know of contributions which exceed \$10,000 on a regular
7 basis, you didn't think: I really ought to be putting
8 those in the Register of Interests.
9 A. No, I did not think so.
10 Q. Is your reason for that: nobody else did, so why should
11 I bother?
12 A. My reason for that is my interpretation as I said
13 earlier of how to fill the form. You yourself very well
14 know, because I am sure you have copies of all of the
15 registers, and past and present members, as I recall,
16 because I did my research in preparing to fill this
17 revised form out, that no one has filled that.
18 Q. You said there was no briefing when you started. Did
19 you seek the advice of the Registrar whose job it was to
20 collect these documents?
21 A. The Registrar is the most difficult man to find.
22 SIR ROBIN AULD: Yes, so we found.
23 MR MILNE: But you seem to have managed each year insofar as
24 your form found him. So presumably there was an address
25 to which you were required to send it, or a person to

1 whom you were required to hand it.

2 A. Not at all. As a matter of fact -- let me take you to

3 your page, 1003 -- where in 2005, because I know you are

4 going to come up with something else about 2006

5 shortly -- where I filled two registers. The Registrar

6 comes to the House of Assembly, now the former

7 Legislative Council. And he brings an envelope for

8 everybody and it is my recollection and I did it my own

9 self, I sat, I filled the form, I gave it back to him.

10 2005 is a clear example where I give him the form. He

11 came again. I said: I gave you the form previously. He

12 said: no, you didn't. I said: no problem, I am going to

13 fill another one. That is how it operates. There is no

14 office and no -- to which you just said.

15 Q. So you met with him on that occasion?

16 A. No, I have not met with him. There is the break, he

17 walks on the break, he gives everybody their envelopes,

18 and he hangs around, listens to the debate, then most

19 members I observed, but for myself in particular, I fill

20 the form right there and then and hand it back to him,

21 to the best of the my knowledge at the time.

22 Q. So you just understood, then, that there was

23 a collective view that this box didn't mean anything,

24 that it didn't need to be filled in, and that it was not

25 necessary to make any declaration in it?

1 A. Collective view by whom? Past members, present members,
2 my government.

3 Q. You tell me, sir, because as I understand it, you are
4 saying: that is the practice and I simply adopted
5 the practice.

6 A. I didn't say that. I said I observed that was
7 the practice and there is no collective view. My
8 filling of this form is my sole responsibility and
9 I take those sole responsibilities, but I am simply
10 trying to tell you that there were no briefings on how
11 to interpret this form, and I filled the form to the
12 best of my knowledge in each and every year.

13 Q. Indeed you sign it and say it is true to the best of
14 your knowledge and belief?

15 A. Yes, sir.

16 Q. So if you received a financial donation and you signed
17 it saying this is true, knowing that you had
18 the donation and you left it out, then the form wouldn't
19 be true, would it?

20 A. It is an error.

21 Q. If you missed it out, if you left it out altogether, you
22 omitted deliberately to mention a donation --

23 A. It is an unintentional error.

24 Q. But you are telling me that you deliberately left it out
25 because you didn't think you needed to?

1 A. No I am not. You are telling me that. I am telling you
2 it is an error.

3 SIR ROBIN AULD: I think he is saying he did it because that
4 was his interpretation and he is acknowledging that
5 the interpretation was in error.

6 A. Yes.

7 MR MILNE: What did you believe was the purpose of
8 the Registrar -- of the register itself? Why did you
9 think you had a register?

10 A. My interpretation now of the register is to declare as
11 set out in the form for the sake of the public in the
12 event to avoid any conflicts that may arise.

13 (2.30 pm)

14 Q. Right. When did that realisation dawn upon you that
15 that was the purpose of it?

16 A. From the very first time I saw the form, my quick
17 interpretation was that was what it was all about.

18 Again, I had no briefings to confirm that, and I ran
19 along all the years as to what my interpretation was.

20 Q. That is a reasonable interpretation. The whole purpose
21 of having this is to make full disclosure so that there
22 can be transparency, so that there can be a clear record
23 kept, and of course in due course so that you can be
24 accountable. So that would require, I would suggest to
25 you, tell me if you agree or disagree, full disclosure,

1 full honesty, full candour with the Registrar. Would
2 you not agree?

3 A. To the best of my ability, based on my interpretation of
4 the form.

5 Q. The purpose in having a box that wants information on
6 financial sponsorship is in case anybody should say,
7 heaven forbid, that you received a gift and acted
8 inappropriately because of that gift. Can you see that
9 that is a risk?

10 A. It is an error, as I said, on my part, on my
11 interpretation of the form.

12 Q. The question is, can you see the need for declarations
13 of political contributions?

14 A. I see the need, yes, for political contributions. As
15 I understand it now, as I have had the opportunity
16 because of this Commission of Inquiry to have some
17 advice on what that really means, yes, I do see the need
18 now.

19 Q. So only now does it become clear that this was
20 an important box, is that what you are saying?

21 A. Only now -- only in the sense that this is the first
22 opportunity that I have had to have any interpretation
23 from counsel specific in relation to that. So, yes,
24 only now and only now have I had an opportunity to have
25 that explained to me what it means.

1 Q. Going back to your form, page 2 of the first bundle.
2 A. This is volume 3?
3 Q. Bundle 1, page 2.
4 SIR ROBIN AULD: The reconstruction.
5 MR MILNE: Turn over the page. We will come back to this in
6 a minute or two but overseas visits. Again, do you
7 accept from me there are no items filled in at any stage
8 in any of your original records?
9 A. I am going to take you for that. I am going to take
10 your word for that one.
11 Q. But again, in each of these returns, given to the
12 Commission you say to be provided?
13 A. Yes.
14 Q. On this particular one, which is the reconstruction for
15 2003, you were asked about real property. That is -- so
16 we can be clear -- property in excess of \$10,000 which
17 would be any substantial piece of land or indeed
18 buildings on land, and you refer to parcels and they are
19 numbered here, 60605/929394 (AL Services) which is one
20 of your companies; 60811/10, Long Bay Hills. 60400/135,
21 Silly Creek.
22 There appear to be there three entries and indeed
23 one of those entries incorporating four parcels, albeit
24 by the looks of things three of them contingent upon
25 each other. It is quite substantial.

1 When you instructed your attorneys to put in these
2 forms, presumably you had a clear recollection that you
3 owned that property at the time, is that right?
4 A. This is 2004?
5 Q. No this is 2003. Page 2. Do you have that?
6 A. Yes.
7 Q. Page 2 of the bundle. Real property, you set out
8 a series of properties that you have told us you owned
9 in 2003 and would have been in your return for 2003.
10 Yes?
11 A. Yes.
12 Q. If we look at the other bundle, your actual return was
13 made in 2003. The register was entered --
14 SIR ROBIN AULD: Page 1006.
15 MR MILNE: 1002, in fact, sir. 1002 is the register but
16 1006 is the return. You put a line through it. Nothing
17 declared. Why was that?
18 A. That must be -- that is an error based on my
19 interpretation because under declarations and
20 shareholdings, I am looking at 1002, if we are on
21 the same page, AL Services Limited, the company is
22 there. It is public knowledge of AL Services Limited,
23 what it does and where its place of business is. So
24 there would have been no reason, known by intention, not
25 to declare the real property. The interpretation of

1 this form at the time is due to that.

2 Q. But not everything there was owned by AL Services.

3 608110 is not declared as owned by AL Services. 60400

4 is not declared as owned by AL Services. Why did you

5 declare nothing at all? Why did you strike it out in

6 2003?

7 A. That must be an error again.

8 Q. So you owned --

9 A. One minute, if you may. I would like to remind you of

10 the process that these forms were brought and I filled

11 them to the best of my knowledge at the time.

12 Q. Well, you have given that answer, sir. We have taken

13 that on board, but I think it is still a pertinent

14 question, why it would be in 2003, when you were asked

15 to fill out the forms for the Registrar, you managed to

16 forget that you owned six parcels of land and said in

17 essence you had nothing to declare?

18 A. The page is 2004 you are looking at?

19 Q. I am looking at the declarations you made. You made

20 a declaration upon arrival and that is page 1003

21 onwards. You struck through the land and property at

22 1006, declaring nothing at all. The declaration you

23 made at the end of that year, you just left the whole

24 thing blank. You didn't even put a line through it,

25 which is why, one assumes, the Registrar filled out

1 the register as saying nothing declared. I am asking
2 you why you didn't declare what you would have known
3 perfectly well you owned in 2003?

4 A. Yes, that is an error. There is no reason not to
5 declare that. I owned those properties before I became
6 a member. That is public knowledge in this island at
7 that particular time and now that I own those
8 properties. That is an error.

9 Q. You say it is an error, sir, but it is a pretty big
10 error, isn't it? Do you normally forget what property
11 you own?

12 A. I believe I subsequently declared those properties in
13 later years. So that in itself substantiates that there
14 was an error. I am a human being. I don't know about
15 you but I make errors.

16 SIR ROBIN AULD: We will find some in subsequent entries,
17 will we, returns?

18 A. Yes, to the best of my recollection. I can't find it
19 right now.

20 MR MISICK: He deals with that in paragraph 4.1 of the
21 statement of his explanation.

22 SIR ROBIN AULD: Can we pick up one of them while we are at
23 it. Any return from 2003 to 2007. We will find some
24 there, will we, somewhere?

25 MR MISICK: Yes.

1 MR MILNE: It appears to be the same error in 2004. You
2 don't declare anything in 2004, do you, for property?
3 SIR ROBIN AULD: Page?
4 MR MILNE: The register is at page 1014, land and property,
5 nothing declared. The return is at page 1018. Sir,
6 that was struck through, 14th February 2005.
7 So the same thing there.
8 SIR ROBIN AULD: Let's keep to the returns, shall we,
9 because the Registrar might have made a mistake.
10 MR MILNE: Certainly, sir. 2006, this is at page 6. I beg
11 your pardon, page 1025. For the first time land is
12 declared. That is the 2006 return. Do you have that?
13 A. Yes. Page 6 of volume 1?
14 Q. I beg your pardon -- yes. 2005 return at the end of
15 2005?
16 SIR ROBIN AULD: Page?
17 MR MILNE: Page 1025.
18 SIR ROBIN AULD: I don't know about Mr Hanchell's bundle but
19 I don't seem to have a 1025.
20 MR MILNE: At the end of volume 2, sir.
21 SIR ROBIN AULD: I am in the end of that.
22 A. Neither -- I don't.
23 MS MISSICK: Sir, if we may assist, in our bundle which we
24 have entitled bundle 4 at tab 6, page 181, I believe
25 that is the same declaration that counsel is referring

1 to.

2 SIR ROBIN AULD: Thank you very much. This is for which

3 year?

4 MS MISSICK: 2005, sir.

5 SIR ROBIN AULD: So there appears some property in the 2005

6 return.

7 MS MISSICK: Yes, sir.

8 SIR ROBIN AULD: Thank you. Does it stay there? I suppose

9 it does, does it?

10 MS MISSICK: Yes, sir.

11 SIR ROBIN AULD: So nothing for two years until 2005. In

12 the case of land.

13 MR MILNE: So why was it that you would have failed to

14 declare it in those early years altogether?

15 A. Say that again?

16 Q. Why did you fail to declare the land to the Registrar of

17 Interests in 2003 and 2004?

18 A. Those are errors in filling out the form. There is no

19 reason not to declare those properties. Those are

20 properties that I believe, without looking through

21 the documents at the dates, that I have owned prior to

22 becoming a member of the legislature.

23 Q. You see, sir, with respect, you are a minister in

24 the government of the Territory. You are a successful

25 businessman, as we understand it.

1 A. You think so?

2 Q. I am not going to bandy words with you about the success

3 of your business but you are a minister within

4 the Territory?

5 A. Yes, that is a fact.

6 Q. You can therefore, I would suggest, read and understand

7 quite easily a form that is designed to be clear and

8 lucid in its interpretation. You have also told us,

9 with respect, that you followed what was essentially

10 a pattern set by others in not declaring financial

11 sponsorship and gifts. We must therefore assume that

12 you followed or could have followed the pattern of

13 others when they did declare land and property. There

14 is no cross-party culture of not mentioning the land you

15 owned, so why did you not put it in?

16 A. Those are clear errors, sir.

17 MR MISICK: He said several times that it was an error.

18 MR MILNE: I am simply inviting you to explain how you could

19 forget something as basic and obvious as that, but you

20 can't assist us further?

21 A. It is an error, sir.

22 Q. Are we going to find then there are many other errors

23 scattered through these documents made over the years?

24 Should we regard them as being wholly unreliable?

25 A. I would suggest we deal with what you are referring to

1 in the future when we get to that.

2 Q. Right.

3 If I were to suggest to you that the attitude to
4 declaration, the attitude to clarity, transparency,
5 accountability was very much an opt-in, opt-out culture
6 as far as the Cabinet seems to have been concerned, is
7 that a fair assessment --

8 MR MISICK: He can't speak for the Cabinet. He is here as
9 an individual.

10 MR MILNE: Since you appear to be saying that you were
11 adopting the approach or attitude of others, by
12 following what you thought was a pattern.

13 A. What I want to say and what I will say is that I have
14 made errors in the declarations, and more caution should
15 have been placed on my part to fill the declarations out
16 properly, enabling me, what you have regarded as full
17 disclosure, and I regret that I didn't do that but at
18 the same token, you yourself can look at previous
19 declarations. You yourself as a lawyer, who may
20 understand these forms better than I do, the evidence is
21 there that past and present members have not filled
22 the forms properly.

23 Q. Shareholdings.

24 A. Page?

25 Q. Let's start from the beginning.

1 A. Bundle?

2 Q. Page 2.

3 SIR ROBIN AULD: Page 2 of the reconstruction?

4 MR MILNE: The reconstruction sir, yes.

5 SIR ROBIN AULD: Volume 1, page 2.

6 (2.45 pm)

7 MR MILNE: In fairness to you, I want to be clear about

8 the accuracy of what is being put. You told us in

9 the reconstruction shareholdings included AL Services

10 Limited, Caicos Shipping and

11 Professional Accounting Services.

12 Yes?

13 A. Yes.

14 Q. And indeed that appears to be reflected in the register.

15 So that part you got right. That has been put into

16 the register for 2003. Correct?

17 We find that, if you need reassurance -- I will give

18 you the return, page 1006.

19 A. Yes.

20 Q. Not, curiously, at page 1011 which was the second one of

21 that year, but be that as it may, a declaration was made

22 in part in 2006 to that effect.

23 A. Pardon me?

24 Q. You made two declarations in 2006 -- 2003, my error.

25 I do not wish to mislead. You made a declaration in the

1 middle of the year and a declaration at the end of the
2 year, and you made a proper declaration in the middle of
3 the year and then put nothing in at the end of the year.

4 Would you agree? Page 1011. Yes?

5 A. I agree that on 7th August, page 1003 and the other
6 declaration, there is some information that that is not
7 consistent.

8 Q. Right. 2004, turning here to page 1018.

9 SIR ROBIN AULD: This is the original bundle -- the original
10 returns.

11 MR MILNE: The original returns. Do you have that?

12 A. Yes.

13 Q. In that case in 2004, page 1018, you have got the form,
14 you have gone through it and you have put lines through.

15 You have struck through financial sponsorships, a line
16 through; land and property, line through; declarable
17 shareholdings, line through. Nothing declared. Not
18 a case of not sending the form in. The form is signed

19 by you. Your name is written out. It is dated. It is
20 even witnessed by your colleague, the Honourable
21 Jeffrey Hall. But you have declared nothing. Why did
22 you do that in 2004, in relation to those items?

23 A. Those must be errors, sir.

24 Q. So on this occasion you forgot about your land, about
25 your shareholdings, about your companies, about

1 everything. Forgive me, not the companies.

2 The directorships are in there. You filled those in.

3 A. Page?

4 Q. This is your declaration, dated 14th February 2005.

5 Valentine's Day 2005.

6 You fill in your directorships. Everything else,

7 essentially you say there is nothing.

8 The register is made out to reflect that. Now, more

9 errors? That was the year I forgot I owned a company.

10 That was the year I forgot I had shares. I forgot

11 I owned land.

12 A. But I declared them on 1003 in August.

13 Q. Yes. Do you understand, Minister, that when we read

14 these forms, we found them utterly confusing because

15 land would be declared, then it would disappear, then it

16 would come back again. Anybody who goes to the original

17 register would risk being subject to the same confusion,

18 because in each case there is a slapdash approach,

19 I submit to you, of sticking down whatever you can

20 remember. Is that not a fair assessment?

21 A. No, it is not a fair assessment. On August 2003, as

22 I explained earlier, the declaration was submitted, and

23 this is a clear case where for one reason or another,

24 I was asked to fill the form again and very quickly

25 I tried to comply as I tried to do always. I filled

1 the form and both declarations were registered by
2 the Registrar. They would have been the same from
3 August to December, and there would have been no reason
4 for me in the first instance to fill two declarations
5 out, a few months within, five months within; and
6 I regret not filling the second form out properly but
7 I wish the Registrar had found the first form that
8 I filled out in August 7th and we would not be having
9 that particular debate. That is an error, and I regret
10 making those errors and not looking and taking more time
11 in particular in relation to that declaration.

12 Q. Right. You seem to make errors every single year. That
13 appears to be what you are telling us, that you make
14 an error every year because every year, certainly as far
15 as financial gifts are concerned, you misinterpret
16 the form, and on a number of years, when required to
17 fill out perfectly straightforward information, you
18 manage to forget that you should be giving that
19 information?

20 A. Sir, if you are suggesting perfection, I am not.

21 Q. Sir, I am suggesting reading the form, and I am not
22 suggesting for a minute that that is something that is
23 beyond your wit or indeed should be beyond your
24 diligence, since you are a gentleman who is required to
25 deal with forms, as minister for natural resources, one

1 suspects, on a regular basis?

2 A. In relation to?

3 Q. In relation to your professional duties, your elected
4 duties.

5 SIR ROBIN AULD: May I ask a question just for information?

6 A. Yes.

7 SIR ROBIN AULD: Your declaration, the original declaration
8 on page 1006 in volume 2, as to your shareholdings, one
9 of the entries you made there was for a firm, a company
10 called Professional Accounting Services Limited, which
11 I gather never took off.

12 A. Never took off.

13 SIR ROBIN AULD: Are you an accountant by training?

14 A. No, as a matter of fact I had a past relationship with
15 an accountant, and I believe she was in the process of
16 doing something, and at that time she was such a busy
17 lady, I recall filling out or making the application for
18 her. So because my name is related to that,
19 I remembered it when I was filling the form and so
20 I disclosed it. It was nothing that I was going to be
21 engaged in at all.

22 SIR ROBIN AULD: It is common knowledge, I think, that you
23 are a businessman of some wide experience. How did you
24 start? Did you start as a businessman or did you have
25 a training in some discipline before you went into

1 the world of commerce?

2 A. No, as a matter of fact, if you want my life story,

3 I didn't finish high school. I came to Provo in 1984.

4 I got a job with Carl Simmons and eventually

5 Rodney Thompson in the freight business as a stevedore,

6 and I worked my way through the freight business,

7 offloading aeroplanes and vessels and eventually

8 I became warehouse manager, assistant manager of the

9 business.

10 SIR ROBIN AULD: So you worked your way up?

11 A. I worked my way up the old-fashioned way.

12 MR MILNE: Let me take another example, Minister. Look at

13 page 4 of the first bundle.

14 A. Yes.

15 SIR ROBIN AULD: Reconstruction.

16 MR MILNE: Reconstruction. Shareholdings exceeding \$10,000.

17 A. Yes.

18 Q. You have declared on that occasion, in this form, this

19 reconstruction, three companies. Just three lots of

20 shares, AL Services Limited, Caicos Shipping Limited,

21 Big South Limited.

22 Am I to take it that those are details that you gave

23 your attorneys and that they filled out the forms?

24 A. Collectively, yes.

25 Q. So when the Commission received that, the Commission

1 might have anticipated that you had made similar
2 declarations in your forms to the Registrar of
3 Interests.

4 If we look at the second bundle, page -- if we start
5 with the register which is at page 1013 and 1014. In
6 this case, the directorships, AL Services and
7 Caicos Oil Limited, not Caicos Shipping. But
8 shareholdings, nothing declared.

9 Going over the page 2005. This is page 1020, and
10 1021. Caicos Oil Limited, shareholding. AL Services
11 Limited, shareholding. Alistair Limited?

12 A. Which page is Alistair?

13 MR MILNE: This is page 1021.

14 A. That must be a typo on whoever prepared the form.

15 Alistair doesn't exist.

16 Q. I think that may in fact be a misreading of

17 Akita Limited?

18 A. I can't say what it is but I can say what it is not.

19 Q. You can see at page 1023 you filled in Akita Limited.

20 It seems to have been misread as Alistair Limited which

21 is curious. Be that as it may, let's move on. This is

22 2006.

23 A. Page?

24 Q. Starting at page 1026. A declaration following it at

25 page 1028. Look, if you would, please, at declarable

1 shareholdings, 1031. Caicos Oil, AL Services and that

2 probably is meant to be Akita.

3 A. Page?

4 Q. 1031 looks like Akita Limited?

5 A. Akita.

6 Q. You told us in your 2004 return, that is

7 the reconstruction, that you had Big South Limited. You

8 never actually had a company called Big South Limited,

9 did you?

10 A. Let me help you out so we can get a picture. If I can

11 get some assistance and be referred, there is something

12 in here, there is a structure of companies where I have

13 an interest.

14 Q. Sir, there are, but I am asking you about what was sent

15 to the Commission. I am asking very specific questions.

16 We can come back and you will have the opportunity to

17 make these points at a later stage.

18 MS MISSICK: Sir, if I can assist my learned friend

19 an explanation in relation to Big South Holdings is

20 given on page 24 of bundle 3, which the Commission was

21 supplied with on 29th October 2008, where we explain

22 there was an error.

23 SIR ROBIN AULD: Just a minute, please. We are just looking

24 at what was and wasn't there at the time, aren't we?

25 That is an explanation now as to why it was not there at

1 the time, is that it?

2 MS MISSICK: Sir, yes. Not an explanation as to why it was

3 not there at the time. An explanation that Big South

4 Holdings has an interest in one of the companies that is

5 there at the time.

6 SIR ROBIN AULD: I see. Then that may be the explanation.

7 A. Yes, that is what I was about to get to.

8 SIR ROBIN AULD: Thank you, Ms Missick.

9 MR MILNE: Big South Holdings rather than Big South Limited

10 crops up in a number of places, but it never actually

11 seems to have cropped up in those years that we have

12 discussed in your registered interest returns.

13 A. Because Caicos Oil in relation to that sits on top of

14 Big South Holdings and Akita.

15 So in filling out the form, as I explained earlier

16 to the best of my knowledge, you may find cases where

17 I have said Caicos Oil or Big South or Akita. In my

18 view that I was declaring the overall figures, they are

19 all connected.

20 MR MILNE: So if the Registrar looked at it and he didn't

21 know that Caicos Oil happened to own other companies, he

22 would be none the wiser, would he?

23 A. No, I believe -- I am no expert in the company

24 information and so on, but I believe if one was to check

25 the registrar of companies, you will see where they

1 relate to each other if that was what he chose to do.

2 (3.00 pm)

3 SIR ROBIN AULD: Is that what the Registrar would have been

4 expected to do, follow a corporate tree by going to

5 the registrar of companies if he saw a company name

6 there?

7 A. I can't say, sir.

8 SIR ROBIN AULD: He would never know what is a holding

9 company and what is a subsidiary, would he?

10 A. I cannot say what he is expected to do, sir.

11 SIR ROBIN AULD: No.

12 MR MILNE: The whole idea of a Register of Interests is so

13 that somebody can look at the Register of Interests and

14 see where your interests lie. Is that not a reasonable

15 conclusion, sir?

16 A. That is a reasonable conclusion, but you are not taking

17 into consideration at all, based on your continuing line

18 of questioning, that I filled the form to the best of my

19 ability and understanding at the time, and I honestly

20 thought if the name Caicos Oil didn't come to hand,

21 Akita or Big South Holdings, that I was in fact

22 declaring the company which trades as Caicos Oil.

23 Q. Because Big South Holdings is a separate corporate

24 entity set up, no doubt, at your request or purchased at

25 your request in order to perform a specific function?

1 A. Big South hold my shares, yes. That is what Big South

2 does. That is all it does.

3 Q. So if somebody looked in the Register of Interests,

4 because Big South Holdings might perhaps be involved in

5 some way with government or a government entity, to see

6 did any of the ministers have an interest in

7 Big South Holdings, they would be blissfully ignorant

8 from the register because you didn't tell them, did you?

9 You didn't spell it out?

10 A. I don't see that, how you are putting it. I don't agree

11 with you, how you are putting it. It was not

12 intentional not to carry the same names every year in

13 this particular case.

14 Q. This approach to filling out, just putting in

15 the barest, the most basic of information, or indeed no

16 information at all, any of these examples that I put to

17 you, are you going to characterise those as merely

18 an error, merely an error, nothing more than that?

19 A. I cannot answer to something not knowing what you are

20 going to ask me. I cannot say I am going to say it is

21 an error what you are going to put to me. First you

22 have to put it to me.

23 Q. You see, I am going to suggest, sir, rather than

24 plodding through every missing entry, every individual

25 failure, to say this was a lamentably slapdash approach

1 to filling out an official government form with a very
2 clear purpose, and I would invite you to comment upon
3 this, and I would suggest that you clearly didn't care
4 that much about providing this information to the
5 Registrar of Interests.

6 A. I could comment now?

7 Q. Please do.

8 A. I do not accept you categorising that I didn't care that
9 much. The fact is it is public knowledge that I have
10 interests in Caicos Oil and AL Services and when filling
11 the form to the best of my ability and memory at the
12 time, I tried to capture as I understood the form.

13 Q. You see, it is not as if, I would suggest,
14 the Turks & Caicos are so small that every person must
15 know everything that you are involved in?

16 A. They know Caicos AL Services.

17 Q. Particularly, I would suggest, given that you have
18 fairly complex and extensive business interests.

19 A. I really don't understand what that means.

20 Q. You have said that it was widely known that you had
21 an interest in Caicos Oil and indeed that has appeared
22 in the press in recent months. You have been widely
23 publicly associated, no criticism. But the fact that
24 you own Caicos Oil has been well publicised. What I am
25 going to suggest though, Minister, is that it would not

1 be public knowledge that you had interests in
2 Big South Holdings, CaicosMart Limited,
3 DominiCaicos Transfer Limited or indeed Walkin Fuel
4 Limited or any of the others, Unit 5, The Enclave II.
5 That is why you have the register, so that the less
6 obvious ones can be put in.

7 Is it your evidence that everybody knows what I am
8 involved in so why should I worry? Is that the approach
9 that was --

10 A. That is not my evidence. We were speaking specifically
11 as it relates to Caicos Oil and AL Services. Yes,
12 Caicos Oil has been in the press because somebody in
13 government decided to leak a confidential Cabinet minute
14 and some individual in the public decided to make it
15 a big deal. Yes, some of the other things that
16 I haven't declared, that the public may not have known,
17 that it may be a -- it can only be an error or at the
18 time of the acquisition I may have had already filled
19 out my declaration for that particular year.

20 MR MILNE: Sir, I am going to leave that topic now. Given
21 that I am moving on, this might be a good point to take
22 the break.

23 SIR ROBIN AULD: Yes. We will take a five or ten minute
24 break now.

25 (3.06 pm)

1 (A short break)

2 (3.14 pm)

3 SIR ROBIN AULD: Yes, Mr Milne.

4 MR MILNE: Minister, a short while ago I asked you about

5 the issue of political donations. You accept, I think,

6 that you did receive political donations on occasions,

7 is that right?

8 A. Yes.

9 Q. Have you ever provided a list of those political

10 donations over recent years?

11 A. To?

12 Q. To your attorneys, to anybody?

13 A. No, not over recent years.

14 Q. Did you not think it might be appropriate to do so in

15 the context of the Commission of Inquiry?

16 A. I have in this declaration, and I think the new

17 declaration is bundle 4, is it?

18 Q. It is now.

19 A. I think I have.

20 (3.15 pm)

21 Q. Where are the political donations to be found in there?

22 A. One moment.

23 SIR ROBIN AULD: This is the new bundle received yesterday,

24 is it?

25 MR MILNE: Received last night sir.

1 SIR ROBIN AULD: In bundle 4, produced to the Commission.

2 MS MISSICK: Sir if we may assist, tab 14 of bundle 4.

3 SIR ROBIN AULD: Thank you.

4 MR MILNE: What do we see at tab 14 of bundle 4, Minister?

5 A. Sir, what I have, I have produced an account called

6 South Caicos 2007 PNP campaign and I believe -- I can't

7 refer you to the tabs. I believe there is a schedule of

8 monies that I would have gotten from the PNP. In

9 addition to that, in my statement, sir, I respectfully

10 and I humbly ask how that can be dealt with.

11 SIR ROBIN AULD: This is the statement of -- it came with

12 the bundle, did it?

13 A. Yes.

14 SIR ROBIN AULD: Dated the 20th of this year?

15 A. Yes.

16 SIR ROBIN AULD: It says 08 but you mean 09.

17 MR MISICK: An error.

18 A. Many errors.

19 MS MISSICK: Sir, if we may assist at paragraph 3.5 of

20 page 5 of the Honourable Minister's statement, he

21 discusses political donations.

22 SIR ROBIN AULD: Page 5, 3.5 thank you.

23 MS MISSICK: And further, if we may also assist, the other

24 document he refers to is Deputy Premier Floyd Hall,

25 volume 2, page 55, sir.

1 SIR ROBIN AULD: Thank you. Now let's see how this deals
2 with the question.

3 MR MILNE: Let's go back just a few moments to remember
4 I pointed out to you that when you provided
5 the reconstructed entries for the Commission, in respect
6 of five years of returns, when asked about financial
7 contributions, although you felt you didn't need to
8 disclose them to the Registrar of Interests, you gave
9 the words "to be provided" each time.

10 That was back in September of 2008. Having
11 requested clarification, having requested more detail,
12 and having waited for those clarifications, particularly
13 in relation to this matter, political donations, we get
14 it last night. But what we have, sir, is that
15 paragraph, at 3.5, saying:

16 "I have received from time to time political and
17 campaign donations..."

18 Without any figures, without any detail as to those
19 you have received personally. Are you going to give us
20 that list or do we have to rely upon your colleague?

21 A. Sir, he is not completing my statement, and for the sake
22 of the public, I humbly am asking you -- and my
23 statement goes further to say in 3.5 -- I am willing to
24 disclose the identity of the major contributors of this
25 account but with the permission, sir, of the Commission,

1 I would prefer to do so in camera to protect
2 the identity of the contributors.

3 SIR ROBIN AULD: All you need to do or needed to do over
4 the last six months was send us a little list. If you
5 have got a little list, let us have it and then we can
6 consider how in fairness to all it should be dealt with,
7 if at all, in the public hearings.

8 A. Can I have, with your permission, to undertake to bring
9 you a list tomorrow morning because I don't suspect we
10 are going to finish today and we can take it from there,
11 sir?

12 SIR ROBIN AULD: Mr Milne?

13 MR MILNE: Any list, no matter how late, is better than
14 none, sir.

15 A. Let me say that can I further take an undertaking to try
16 to provide you with whatever -- I can come up with
17 a list this evening and also in the morning if it is
18 incomplete, I will bring you what I have.

19 SIR ROBIN AULD: Just as a matter of interest, Mr Hanchell,
20 on what will you be drawing when you compile this list?
21 I take it the list isn't there at the moment. What will
22 you be looking at when you make the list?

23 A. I would be -- I think you would want me to provide who
24 the contributors are.

25 SIR ROBIN AULD: I want to know what you will be looking at

1 to refresh your memory to enable you to provide
2 the list.

3 A. I would be looking at the deposits.

4 SIR ROBIN AULD: The deposits.

5 A. I will be looking at the deposits.

6 SIR ROBIN AULD: In what?

7 A. Into this bank account that is here, and also I will
8 provide you -- there is a list that is somewhere in here
9 that I have gotten on Sunday of this week from
10 contributions from the PNP. I can give you that one
11 immediately --

12 SIR ROBIN AULD: Give us as comprehensive a list as you can.
13 Remember this, if Mr Milne only gets it at 9.45 tomorrow
14 morning, he won't be able to digest it and to question
15 you and that would mean you having to come back.

16 A. I will get pushing on it tonight, sir, and I will ask my
17 counsel to try to forward that to you, and if it is
18 incomplete, I don't want to be ran over the cold because
19 it is incomplete. But I am going to give you something
20 this evening.

21 SIR ROBIN AULD: Would you indicate the sources of the sort
22 that you have just indicated to me --

23 A. Yes, for monies coming in.

24 SIR ROBIN AULD: Where it can be documented or not as
25 the case may be.

1 A. Yes.

2 SIR ROBIN AULD: Will that do, Mr Milne, as best we can for
3 the moment?

4 MR MILNE: Sir, yes, but I think there are a number of
5 aspects should be made clear. There are three different
6 matters being conflated, being mixed up here.

7 The first is this, that the minister has referred us
8 to the documents at tab 14, which is a bank account
9 called the South Caicos PNP campaign, South Caicos 2007
10 PNP campaign, there of Saunders & Co. That does not on
11 the face of it appear to be in the minister's name. It
12 appears to be a specific campaign account. His name
13 does not appear on that, so whilst it is of relevance
14 and perhaps of interest, that is not, strictly speaking,
15 political contributions to yourself, sir. Do you agree?

16 A. No, I don't agree. This account deals with political
17 contributions to myself.

18 Q. So if a cheque in your name were handed to you, would
19 you be able to pay it into that account?

20 A. I am not certain if the bank would accept that. I am
21 not certain.

22 Q. Right. The second aspect is this, that there may be
23 political contributions made to you personally, no doubt
24 in your name; from a bank account from looking at a list
25 of deposit numbers, are you saying that you would be

1 able to remember over the last five years which of those

2 were political contributions?

3 A. No, I didn't say I would be able to remember over

4 the last five years. What I said -- what I thought

5 I said was that to allow me an undertaking to go and

6 provide where the funds came from and I intend to do

7 that by going back to deposit books and trying to

8 compile that.

9 SIR ROBIN AULD: Won't you also need the assistance of the

10 PNP's two bank accounts with First Caribbean Bank and

11 the Belize Bank?

12 A. No, because I said also on Sunday I was provided a list

13 of monies that I have had from the PNP and we have that.

14 SIR ROBIN AULD: Who provided that to you?

15 A. That was faxed to my house from the Deputy Premier.

16 I requested that in preparation for this final statement

17 that you have here now.

18 SIR ROBIN AULD: So you have got part of a little list

19 anyway.

20 A. I have got part of a list.

21 SIR ROBIN AULD: Derived from the two PNP bank accounts?

22 A. I can't say who they were derived from.

23 SIR ROBIN AULD: But from Mr Floyd Hall?

24 A. Yes, sir.

25 MR MILNE: So you were given a list of the PNP contributions

1 to you on Sunday?

2 A. No, I asked for them on Saturday and I was given them on
3 Sunday because I was trying to prepare this statement
4 that you have just received.

5 MR MILNE: That is what we were discussing, sir. You
6 received them on Sunday. You say now you asked for them
7 on Saturday. So it was your request, you rang
8 Mr Floyd Hall and said: please send me a list of all
9 the contributions I have had from the PNP?

10 A. Yes.

11 Q. So Mr Floyd Hall did that for you? You sent you a fax?

12 A. Yes.

13 Q. May we see the fax?

14 A. I don't know if we have it --

15 Q. Will you bring it with you tomorrow, sir?

16 A. Since it is available and I really want to co-operate,
17 I will undertake to try to get it to you tonight.

18 SIR ROBIN AULD: Just attach it to your comprehensive list
19 as part of the source material.

20 MS MISSICK: Sir, if we may assist. I have seen that fax
21 list and it is reproduced at -- in the Deputy Premier's
22 bundle at page 55.

23 SIR ROBIN AULD: You referred us to that.

24 MS MISSICK: If I may give this to the Honourable Minister,
25 he can confirm that this is the list he had received.

1 SIR ROBIN AULD: That sounds like a good idea. Get it on
2 the transcript now as confirmation.

3 MR MILNE: Which bundle are we talking about?

4 MS MISSICK: This is the Deputy Premier's volume 2.

5 MR MILNE: We have seen the fax that the Minister received,
6 we have seen that and it is page 55 which is
7 the Quickzoom report.

8 A. This is it.

9 Q. That is a document which was produced to the Commission
10 not on Sunday, but in fact effectively the night before
11 last by the Deputy Premier, following his evidence on
12 Monday. Are you saying that that is exactly the same
13 document that you received by fax on Sunday?

14 A. To the best of my knowledge, it is exactly the same
15 document.

16 Q. For the avoidance of any possibility of doubt, could you
17 bring the original with you tomorrow, sir?

18 A. The original fax I can bring.

19 Q. That is what I mean.

20 SIR ROBIN AULD: Is there anything else we want to ask
21 Mr Hanchell to produce with the list or as to its
22 makings?

23 Q. Is there any other documentation that is relied upon,
24 any notes that are relied upon? Can I simply ask this,
25 Mr Minister. Do you have records of your own? Do you

1 keep records of political donations?

2 A. No, sir.

3 Q. Do you have any filing system that would include letters

4 that you have received or indeed letters that you sent

5 out?

6 A. No, sir.

7 Q. When you fill out -- when you receive your bank

8 statements, you don't mark against them: this was

9 a political donation from an individual.

10 A. I don't do reconciliations, sir.

11 Q. Do you have an accountant who does it for you by any

12 chance?

13 A. I don't do reconciliations on my personal stuff, sir.

14 Q. Do you have an accountant who deals with your papers in

15 general?

16 A. Only I deal with my personal stuff, nobody else.

17 Q. If you received a personal donation from an individual

18 who wanted to support you, can you tell us which account

19 it is that you would pay that into?

20 A. If I receive a donation, it would either be in this

21 account here --

22 Q. Which account is that?

23 A. Sorry, on 148, the PNP account.

24 Q. That is the South Caicos 2007 PNP campaign?

25 A. Yes. It will either be in that or it will be made

1 payable to me, and I would either cash it or deposit it

2 into 131732.

3 Q. What would -- funds. Let's deal for a moment with the

4 South Caicos PNP --

5 SIR ROBIN AULD: Just before you move away from the list.

6 I don't want you to say or anybody to be able to be

7 criticised for not having asked you, we have been

8 talking about a list of political contributions.

9 A. Yes.

10 SIR ROBIN AULD: You may have received donations of other

11 sorts for other reasons. If there are any such, and

12 there is a list of those, you better keep that in mind.

13 A. Yes, but I can say that donations would only be

14 political donations.

15 SIR ROBIN AULD: Political or nothing?

16 A. But I heard you very well. If there are, keep it in

17 mind, and I will keep it in mind.

18 SIR ROBIN AULD: Thank you.

19 Q. So any political donation would go into the South Caicos

20 2007 PNP account?

21 A. Yes.

22 Q. When was that account set up?

23 A. That account was set up in 2006.

24 Q. So November 28th, if we look at page 148, this is in

25 bundle -- the new bundle 4, page 148. This is the very

1 first statement of the South Caicos PNP campaign. Their
2 bank account, 28th November, zero balance and a deposit
3 of \$83,000 is paid in. Yes?
4 A. Yes.
5 SIR ROBIN AULD: Just a minute, please. This is an account
6 held with --
7 MR MILNE: This will be the First Caribbean Bank, I suspect.
8 SIR ROBIN AULD: Is that right?
9 A. Yes, First Caribbean Bank.
10 MR MILNE: So prior to 2006, this account did not exist.
11 Prior to 2006, into which account would political
12 donations have been paid?
13 A. 13 -- if there is any, 1317382. That is in the bundle
14 somewhere.
15 Q. That account is with which bank?
16 A. First Caribbean Bank, McAllister Hanchell.
17 Q. That would be your personal bank account, and every
18 political contribution would have gone into that one
19 prior to the creation of this account?
20 A. I cannot categorically say every political contribution
21 would have gone into that one.
22 (3.30 pm)
23 Q. Would you be able to identify political contributions
24 that may have gone elsewhere?
25 A. I am going to do my best to identify every political

1 contribution, where it came from and where it went.

2 Q. With the political contributions, which we have seen
3 described as candidate stipend, into which account would
4 they have been paid if they were paid to you?

5 A. I am not certain. If you may, with what I have been
6 asked to do, perhaps I can identify that more clearly
7 with the reconciliation. So perhaps if you could rest
8 that matter for tomorrow. I can perhaps tell you
9 exactly where this money went to.

10 Q. Minister, before -- let me be specific. Before 7.30
11 last night when we received these documents, we were not
12 aware from you of political donations. We were not
13 aware until we saw the documents produced to us by
14 the Deputy Premier of the candidate's stipend that you
15 received. None of that was declared to the Commission,
16 was it, prior to these papers?

17 A. Prior to last night, no. None was declared.

18 Q. Once you knew that we knew, declaration was made.

19 A. No. That is not the case.

20 Q. Well, you told us after we already found out from
21 a different source.

22 A. Well, I requested it on Saturday.

23 Q. Right.

24 A. And I got the fax and if I am wrong tomorrow, my memory
25 tells me it is Sunday when I received the fax. Now,

1 I don't know when you requested it from a different

2 source.

3 Q. Well, we requested details of your income months ago,

4 with respect, sir.

5 A. Yes.

6 Q. This is income. Whatever the purpose, whatever

7 the source, it is income in your hands. So why were we

8 not told about it prior to coming to the islands?

9 A. Well, you have to take into the context that

10 the information that you have asked for, and there is

11 no -- the information that you have asked for is sort of

12 complex and is ongoing. As a matter of fact, it takes

13 you a while to get a simple bank statement around here.

14 Because I have legal counsel, who is advising me, every

15 moment that I have to put my attention to this, it

16 becomes more clear to me of what my obligations should

17 have been, what they are now and what I am supposed to

18 supply to the Commission.

19 So the fact of the matter that you only received

20 something last night is purely because I have given

21 every effort to try to give you the -- what I would

22 regard as a supplementary information. It has

23 absolutely nothing to do with your request that you made

24 earlier.

25 Q. The request to the Honourable Deputy Premier for your

1 earnings from the PNP was made on Saturday. By
2 telephone? Face to face?
3 A. No, I think I called him.
4 Q. You rang him?
5 A. I think I called him.
6 Q. He faxed it to you the next day?
7 A. Pardon?
8 Q. He faxed it to you the following day?
9 A. That is when I recall I received it the following day or
10 that night, one of the two.
11 Q. That was not very complicated was it, sir?
12 A. No it was not very complicated.
13 Q. Why couldn't that have been done months ago.
14 A. Because, and we are going back over and over --
15 Q. No, sir --
16 A. It was my interpretation, based on the declaration to
17 the Registrar, that it wasn't necessary to file those
18 and I believe I have dealt with that in my statement, if
19 I may. I am looking for it, if I can be assisted by my
20 counsel --
21 SIR ROBIN AULD: Is it around paragraph 3.5?
22 A. I don't know.
23 SIR ROBIN AULD: Is it, I don't know.
24 A. Me either.
25 MS MISSICK: Yes, sir, it is located in paragraph 3.5 in the

1 Honourable Minister's statement. Also to give
2 the Honourable Minister a bit of assistance,
3 the Commission were aware of the South Caicos PNP
4 account, which appears at page 87 of bundle 1, and in
5 all fairness we did alert, and the Honourable Minister
6 did alert that there was such an account and we sent
7 the account data sheet for this account. Once we
8 received the bank statement in relation to this account,
9 the earliest opportunity to give them to the Commission
10 was last night. So this isn't the first time
11 the Commission has seen this account appear. It
12 appeared earlier in one of our earlier letters to the
13 Commission and is currently in bundle 1 at page 87.

14 MR MILNE: Right. Sure enough, I fully accept, sir, that
15 there is a reference to South Caicos PNP campaign.

16 A sheet naming the account. But other than that,
17 nothing.

18 SIR ROBIN AULD: I think Mr Milne is with some justification
19 just a little exasperated and perhaps we all are. If we
20 had had this sort of basic information when we first
21 asked for it months ago, we would not be here now doing
22 what we are, examining ministers under summons. It is
23 the last thing that I ever wanted to do in this case.
24 I think that is really what underlies this line of
25 questioning in the last five/ten minutes. But we are

1 where we are and the minister is going to produce a list

2 for us tomorrow and we will have to make the best of it.

3 MS MISSICK: Yes, my Lord.

4 MR MILNE: Minister, this account that was set up then,
5 the South Caicos 2007 PNP campaign, appears to have been
6 an account into which considerable sums of money were
7 paid. Would you agree?

8 A. Yes.

9 SIR ROBIN AULD: What page are we looking at now, Mr Milne?

10 MR MILNE: It starts at tab 14 in the fourth bundle,
11 page 1048. Into that account it would appear that
12 \$83,000 was paid on 28th November. Three days later on
13 1st December, another \$83,000 was paid. 15th December,
14 \$1,000, January 10th, 75,000. January 17th, another
15 75,000 and January 23rd, 20,000.

16 So in the space of slightly under two months, your
17 campaign received \$337,000 for political purposes. Is
18 that right?

19 A. Yes.

20 Q. That, if I understand correctly, is purely for
21 the purposes of campaigning on South Caicos, is that
22 right?

23 A. No. That is for the purposes of McAllister Hanchell in
24 relation to his aspirations to be elected, which
25 involved campaigning not only on South Caicos, we are

1 a small country with a number of islands, but sometimes
2 throughout the islands.

3 Q. You were only going to be elected in one constituency,
4 were you not?

5 A. Yes, but if there is a campaign in Providenciales or
6 Grand Turk and there are PNP supporters who want to go
7 to that rally or meeting or so on and so forth, I would
8 find myself using those funds to make that happen. So
9 there is not -- it is not categorically South Caicos
10 related. We would do other things to help other
11 candidates as well.

12 SIR ROBIN AULD: I was not paying proper attention to the
13 sums there, but was it about a third of a million that
14 Mr Milne identified --

15 A. He said 300,000 something.

16 MR MILNE: 337,000.

17 SIR ROBIN AULD: A third of a million for the election
18 expenses in this campaign?

19 A. Yes.

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

21 A. Yes we were talking about ...

22 MR MILNE: It is the same month in fact, you received
23 \$23,000 directly from the party which appears in
24 the Deputy Premier's list.

25 A. Yes, 55, volume 2.

1 Q. Yes.

2 SIR ROBIN AULD: So what do you spend it all on, a third of

3 a million in that time? What sort of thing does it go

4 on?

5 A. Just generally, it goes on supplies, food supplies,

6 rallies, music, travel, accommodation. Those sort of

7 things. Paraphernalia. You know, hands(?)

8 SIR ROBIN AULD: Were you spending more than most of your

9 colleagues or --

10 A. I don't know what my colleagues were spending.

11 SIR ROBIN AULD: But if everybody was spending about

12 1.3 million, this was quite a party, really, wasn't it?

13 A. In two years' time you should come back. You can

14 observe it for yourself and see how -- it is a festive

15 time.

16 SIR ROBIN AULD: Yes, thank you.

17 MR MILNE: Excuse me one moment, please, sir.

18 Am I right, Minister, in thinking that your own

19 constituency is that of South Caicos North?

20 A. Number 5.

21 Q. Yes, number 5. That is the constituency in which you

22 would be ultimately elected. Obviously you may want to

23 assist your colleagues. You may want to assist others

24 who were standing in other constituencies.

25 You may want to work for the good of the party as

1 a whole. Yes?

2 A. I may.

3 Q. But as far as your constituency is concerned, it has

4 a total of registered voters of 318 souls?

5 A. Yes.

6 Q. Which means that you had the wherewithal to spend \$1,059

7 on every man and woman capable of voting in your

8 constituency?

9 A. I would not put it like that, but you have.

10 Q. That is a great deal of money to be able to spend, isn't

11 it?

12 A. I would not put it like that, but you believe it is

13 a great deal.

14 Q. Rather than flying them to Grand Turk, you could have

15 flown each of them probably to New York. You had

16 the money to do it.

17 A. Sir, with the greatest respect, I think you are out of

18 line.

19 SIR ROBIN AULD: You think he is what?

20 A. Out of line.

21 MR MISICK: There is no room for sarcasm here.

22 SIR ROBIN AULD: I am more interested in where this money

23 came from. A lot of these are big round figures coming

24 in by cheque, not always. 600,000. Am I reading this

25 correctly?

1 A. Where is that?

2 SIR ROBIN AULD: On page 149.

3 MR MILNE: 60,000, sir.

4 A. No, you are not reading it correctly at all.

5 MR MILNE: If I can assist, sir. The First Caribbean Bank,
6 when they print out on this form, they omit the decimal
7 point which makes it a little difficult because
8 the digits run together. The figures with which we are
9 dealing, although at first glance may look horrendous,
10 in fact are not quite that bad. The deposits, being in
11 the second column, November 28th, that is \$83,000.
12 December 1, again 83,000. The figure below is \$1,000.
13 This is on page 148. 75,000 twice over and 20,000 on
14 that page as well.

15 SIR ROBIN AULD: Then you go on down to 60,000 and 20,000,
16 yes?

17 MR MILNE: A further 50,000 came in on 1st March at
18 page 152.

19 SIR ROBIN AULD: These are all nice round sums. Many of
20 them coming in by cheque and your list will include, for
21 the purpose of the Commission only to start with,
22 the names of those who paid them?

23 A. Yes.

24 SIR ROBIN AULD: Thank you.

25 MS MISSICK: Sorry, sir, if I may assist again, in relation

1 to the January 10th amount, that was a cheque that was
2 written out of the account. That is not a deposit, sir.
3 I think you are construing that first line as deposits
4 in. That is actually a deposit out. The deposits in
5 are very scarce and it is the amount before that where
6 it starts with 75, that column are deposits into
7 the account. The first were deposits that -- payments
8 out of the account, sir.

9 SIR ROBIN AULD: Right.

10 MR MILNE: Sir, as we look at it, taking that page 149, we
11 have a date, description, a cheque or whatever, in one
12 case customer deposit. You then have, when there are
13 cheques, the cheque number.

14 A. Page, please?

15 (3.45 pm)

16 MR MILNE: This is page 149.

17 A. Thank you, sir.

18 MR MILNE: The middle column, if I may describe it as that,
19 are the debits. Those are the payments out of the
20 account.

21 SIR ROBIN AULD: Yes, that is what I have been reading them
22 as, but we have to put a decimal point in.

23 MR MILNE: You have to put decimal points in. The next
24 column, which has very few entries, obviously more
25 payments out than payments in, because the payments in

1 are large occasional sums, that is the deposits. So
2 looking at page 149, it is a column with only three
3 numbers in it.

4 SIR ROBIN AULD: Yes. The first of those is a customer
5 deposit. The next one is a cheque and the next one is
6 a customer deposit, all nice round figures.

7 MR MILNE: Yes. Forgive me if it appears sarcastic, I don't
8 mean to be sarcastic about this, but we are talking
9 about massive sums of money for what is by any
10 description a relatively small constituency. Why was
11 such large amounts of money raised? Is this merely
12 the generosity of the public?

13 A. The amounts reflect the generosity of the donors.

14 Q. Would you have encouraged the donors to give such large
15 amounts of money?

16 A. No I would not encourage the donors to give large or
17 small. That is discretionary. Donors are completely
18 discretionary at all times.

19 Q. We have been told that the election took place on
20 7th February or 9th February?

21 A. I don't know.

22 Q. It was early February --

23 A. I can't remember that, man.

24 Q. It must have had some significance at the time,
25 I assume, for you?

1 A. Pardon?

2 Q. The election must have had some significance at the
3 time?

4 A. I can't remember the date. I ain't good on dates.

5 Q. Because as at the date of the election, you are still,
6 and I am looking here at February 12th.

7 A. Okay.

8 Q. Still at that time, page 151, \$28,000, nearly \$29,000 in
9 the account?

10 A. Right.

11 Q. What would have happened to the balance of the money
12 which has since been spent?

13 A. Perhaps bills.

14 Q. So bills following on from the campaign?

15 A. Yes, perhaps bills.

16 Q. The campaign subsequently run down effectively,
17 obviously it is not necessary to keep campaigning once
18 you have won?

19 A. No, that is not true.

20 Q. You would keep campaigning?

21 A. In your individual way, of course.

22 SIR ROBIN AULD: They are all going out in nice round sums
23 as well, aren't they? I only say that as I am following
24 through and just identifying the figures. Yes. So in
25 in round sums and out in round sums. Thank you.

1 MR MILNE: If we go to page 153. As late as 23rd April,
2 page 153, you transferred money into the account. In
3 fact \$2,000 was transferred, although it doesn't say
4 from which account it came. It was a transfer across,
5 and then 16,000 paid out in a round sum. Can you recall
6 now why you would be paying out \$16,000 two months after
7 the election?

8 A. No, I can't recall now, and I prefer not to recall any
9 specific transactions on this account at this particular
10 time because I have given the undertaking to try to
11 provide details as soon as possible.

12 SIR ROBIN AULD: Keep it to the list.

13 A. Yes, Thank you, sir.

14 MR MILNE: Simply this before I move on. Were any accounts
15 kept, any books kept or records in relation to payments
16 in and out of that account?

17 A. Say that again? I don't think I understood it.

18 Q. Is there any ledger for that account? Is there any
19 record of where the money came from or to what it was
20 donated, to what it was devoted when it was spent?

21 A. There is no ledger but there are -- I do -- I can find
22 the deposits that will enable me to identify the source
23 of funds.

24 Q. You can?

25 A. Yes.

1 Q. Would you do that, please?

2 A. That is what I committed to do a long time ago.

3 Q. Thank you.

4 I am going to move on in the time remaining to us

5 this afternoon to deal with just two aspects of the

6 declaration which have come also within the last day.

7 A. Page, sir?

8 Q. I am looking at present at your statement.

9 SIR ROBIN AULD: Page?

10 MR MILNE: This is page 4 of the statement, sir. It is at

11 2.5. In fact is the paragraph number. (h), top of

12 page 4.

13 In your declarations which you have made to the

14 Commission, you have provided details, you have provided

15 documentation and no doubt gone to some trouble to copy

16 documents relating to loans from banks, and matters of

17 that nature, overdrafts and the like, yes?

18 A. Yes.

19 Q. Yesterday for the first time, it was disclosed by you

20 that you had borrowed the aggregate sum of \$1,168,000

21 from the law firm of Saunders & Co?

22 A. Yes.

23 Q. Why was that not mentioned before?

24 A. If I may refer you, and I would lean on my counsel to

25 lead me to the right tabs, to --

1 MS MISSICK: Tab 8.

2 A. Parcel 61203/52, which has a caution, deals with that

3 loan from Saunders & Co. I regret that I was not

4 explicit as I am now in declaring that. In addition to

5 that, I believe this parcel of land was declared in

6 earlier submissions on request of the Commission.

7 MR MILNE: There had been references to this parcel of land,

8 but no reference to the fact you borrowed over

9 \$1 million from a firm of attorneys.

10 A. Sir, I really thought I -- I really just tried to give

11 my explanation to that.

12 Q. Why would you go to a firm of attorneys to borrow money?

13 A. Because they lend money.

14 Q. I beg your pardon, I didn't hear the answer?

15 A. Because they lend money.

16 Q. So they are in the money-lending business as well as

17 being attorneys?

18 A. Obviously. I have borrowed money from them.

19 Q. Is there a written agreement other than the caution?

20 A. There is a caution and to charge documents, I believe,

21 I don't have the right terminology. But there is

22 documentation, let me put it to you like that.

23 Q. Other than the charge that was posted on the land, is

24 there any documentation regarding repayment of that

25 loan?

1 A. No, there is no documentation regarding repayments of
2 the loan, because the loan is secured by the charge on
3 the property, and there is a caution, if you look at my
4 statement clearly in relation to that, as a matter of
5 fact -- where is it in my statement?

6 MS MISSICK: It is at 2.5(h).

7 MR MILNE: It is what we have been looking at all along. It
8 is referred to as a caution. I am asking you, is there
9 not some documentation setting out the terms of the
10 loan, other than the fact that it is secured?

11 A. No, because the terms of the loan, because the lender is
12 satisfied with the charge and the value of the land that
13 secures the loan, at any time, I can make payments of
14 any amount to bring the loan down and this is how this
15 particular transaction is done. I don't necessarily
16 have the -- I am finding difficulty giving you the legal
17 explanation of how this all works.

18 SIR ROBIN AULD: With which principal of Saunders & Co did
19 you negotiate this borrowing?

20 A. Norman Saunders Junior.

21 MR MILNE: Was there any correspondence between you in
22 writing?

23 A. I don't recall.

24 Q. Do you know how he paid the money? Did they pay
25 the money direct?

1 A. Yes, the money was deposited into my account in

2 the bundle, 131732.

3 MS MISSICK: Yes it can be found in bundle 1, page 173. We

4 have listed the page references in the paragraph of (h)

5 to assist the Commission.

6 SIR ROBIN AULD: Thank you.

7 MR MILNE: Why was there no correspondence? Why was there

8 no record?

9 A. Just to put it in context so you understand rather than

10 trying to answer you specifically why and why not,

11 I went into the office and had a meeting with

12 Mr Saunders and told him that I understand from time to

13 time that his firm, just like the majority of firms if

14 not all around here, lend monies, and that I was

15 interested in a loan. And he said that he needs some

16 security and I said I have a parcel of land, 61203/52,

17 I think that is the correct number, that is freehold and

18 he said that he would need to hold the land. That is

19 my way of trying to explain a charge or some sense of

20 security. And he did the relevant documents that

21 I can't recall what they are. I signed for it and

22 the monies was deposited into my account over a period

23 of time.

24 Q. What is the interest rate?

25 A. I can't recall what the interest rate is. He will have

1 to --

2 SIR ROBIN AULD: There was an interest --

3 A. I will have to get those documentation.

4 SIR ROBIN AULD: There was an interest chargeable.

5 A. Yes, there was an interest rate.

6 SIR ROBIN AULD: And there was a redemption period, was

7 there?

8 A. What do you mean by a redemption period?

9 SIR ROBIN AULD: When you have to pay it back.

10 A. They can call it back any time, but I have been asking

11 verbally for an extension of when I can have it all paid

12 back.

13 MR MILNE: If there is no final date, then this could go on

14 indefinitely, couldn't it?

15 A. No, it can't go on indefinitely. I believe they have --

16 what it is they have for me? I think -- I can't explain

17 what I am trying to explain, but they do have some sort

18 of documentation that they can call it at any time and

19 I got their money and they could take my land.

20 SIR ROBIN AULD: It is quite important that you should have

21 some corresponding documentation to protect your own

22 rights on this, isn't it? I mean, you must have some.

23 A. I can double check, but to the best of my knowledge

24 I don't. If I did I would have provided it when I was

25 trying to do my best to get all this information

1 together.

2 SIR ROBIN AULD: Did you not have an attorney acting for you
3 in the transaction advising you?

4 A. No, not at all. And that is normal around here. If you
5 are borrowing monies from one of the leading banks,
6 First Caribbean Bank and Bank of Nova Scotia, it is
7 normal to not have an attorney dealing with it unless it
8 is a different kind of matter.

9 SIR ROBIN AULD: Speaking just off the cuff, and I should
10 not be interrupting Mr Milne as much, I would be very
11 interested to see what documentation you have to vouch
12 for this transaction, to describe it, to show us what it
13 is.

14 A. Yes, I will undertake and try to bring that tomorrow, if
15 that is possible, sir.

16 SIR ROBIN AULD: Thank you.

17 MS MISSICK: Sir, the current bundle at page 120 to 122 has
18 some of that documentation.

19 SIR ROBIN AULD: It will tell us what it is, will it?

20 MS MISSICK: Yes, sir.

21 MR MILNE: You have told us, sir, you don't know
22 the interest rate on this loan. Is it written down
23 anywhere?

24 A. It should be, sir, but you are asking me something that
25 I really can't remember. Interest rates fluctuate --

1 SIR ROBIN AULD: We may find it all here.

2 A. I am sure you are aware of that.

3 SIR ROBIN AULD: There is a registration document but

4 nothing else.

5 MR MISICK: It is not here.

6 SIR ROBIN AULD: Anyway Mr Hanchell is going to produce

7 something to identify what the nature of the legal

8 transaction was. Thank you.

9 MR MILNE: So that is \$1 million that you borrowed off

10 Saunders & Co. There was another \$1 million that you

11 borrowed that you didn't tell us about until yesterday,

12 wasn't there, sir?

13 A. Yes.

14 Q. You borrowed \$1 million off Michael Misick?

15 A. Yes.

16 Q. You did that, we are now given to understand, 2007 was

17 that?

18 A. I think, yes. 07. I think that is what I say in my

19 statement.

20 Q. How did that come about, that you borrowed \$1 million

21 off the Premier?

22 A. Well, I borrowed \$1 million off the Premier over

23 a number of transactions.

24 Q. How did it come about that happened? Did he offer? Did

25 you ask?

1 A. No, I asked. Let me tell you, and you will talk about
2 this, I have, and is reflected in the bundle
3 an American Express card, has substantial billings and
4 I found myself in a very difficult position finding
5 the funds to pay American Express. I asked the Premier
6 at the time, I said: man, I run this card up high and
7 I need some funds to pay it.

8 Q. Right.

9 A. He said how much it is? And I told him, and over
10 a period of time, on maybe three or four invoices in
11 particular, that he loaned me the monies and at the end
12 of it, it amounted in total to about \$1 million. So he
13 round the number off to \$1 million so I owed the Premier
14 \$1 million.

15 Q. Who paid the money over to you?

16 (4.00 pm)

17 A. The money was not paid over to me. The majority of the
18 money went to American Express and the firm of
19 Chalmers & Co wired the money to American Express.

20 Q. Did any of it come directly to you?

21 A. No, not to the best of my knowledge.

22 Q. It all went directly to American Express?

23 A. No, all of it did not go directly to American Express.

24 Q. Who else did it go to?

25 A. Some of it may have paid some miscellaneous bills for

1 me. I believe the amount to American Express, it is
2 about -- just under or about \$800,000, that went to
3 American Express.

4 SIR ROBIN AULD: The word you used just now was
5 miscellaneous expenses, did you say the rest?

6 A. Yes.

7 MR MILNE: Did you discuss this with the Premier in the last
8 couple of days?

9 A. Discuss what?

10 Q. The fact that you were just about to tell the Commission
11 that you borrowed \$1 million off him?

12 A. No.

13 Q. No. You see, the Commission received an email either
14 last night or first thing this morning -- this morning,
15 from the Premier, saying he just remembered that he lent
16 you \$1 million. That is coincidence, is it? Or have
17 you discussed it with him at some point?

18 MR GOMEZ: If it pleases you, Mr Commissioner, I don't think
19 that the letter said exactly that. If my learned friend
20 is going to refer to it --

21 SIR ROBIN AULD: We have the memorandum. We can put it in
22 terms. Do you have the memorandum?

23 MR MILNE: I have it somewhere, sir. I will give
24 the precise words for my learned friend.

25 SIR ROBIN AULD: Would you like it read, Mr Gomez, as you

1 appear on behalf of Mr Misick?

2 MR GOMEZ: I believe I know what is in the e-mail, though

3 I didn't sign for it. I didn't say that.

4 SIR ROBIN AULD: Are you anxious that it should be read so

5 it is accurately recorded? You speak on behalf of

6 Mr Misick today.

7 MR GOMEZ: I speak on behalf of him today. I don't see that

8 it is necessary to read it to the --

9 SIR ROBIN AULD: Either you want the accurate contents of it

10 or you don't.

11 MR GOMEZ: If it is going to be referred to, I would like

12 the accurate contents of it to be referred to and not

13 for it to be mischaracterised.

14 SIR ROBIN AULD: Let's not mischaracterise anything. Have

15 you got the note?

16 MR MILNE: We have, sir, on screen. I can read this out.

17 SIR ROBIN AULD: Take it slowly now, please. The note

18 I have made: I didn't discuss with the Premier and you

19 are putting that he wrote to the Commission, was it

20 today?

21 MR MILNE: It is a letter attached to an email. It is on

22 the face of it undated, the letter. Addressed to you,

23 sir.

24 SIR ROBIN AULD: Arrived?

25 MR MILNE: By e-mail to myself, to Mr O'Dea and to

1 Bahar Ala-eddini, the assistant secretary, today:

2 "I hereby give notice of my wish to make a further
3 statement to the Commission to supplement my earlier
4 statement, dated 12th January 2009, and deal with the
5 following matters."

6 He goes on to deal at paragraph 1 then with the
7 receipt of political donations, this following on from
8 the declarations by the Deputy Premier. Paragraph 2:

9 "My counsel has informed me that on
10 19th January 2009, he received on my behalf from
11 the Commission certain documents produced by
12 the Honourable Mr Floyd Hall, which has been alleged to
13 be accounts of the PNP."

14 He goes on to deal with those. In paragraph 3:

15 "I also wish to disclose to the Commission
16 the existence of a loan in the sum of \$1 million which
17 I made to the Honourable Mr McAllister Hanchell."

18 That loan, as you will appreciate, sir --

19 SIR ROBIN AULD: Have you stopped quoting now?

20 MR MILNE: I have stopped quoting.

21 MR GOMEZ: That is precisely the point I am making,

22 Mr Commissioner. It doesn't say when he recalled it.

23 It just says --

24 SIR ROBIN AULD: You can make whatever comments you like on

25 it in due course. Mr Milne has raised the matter, he

1 has now put it accurately and he is now about to put
2 a question to Mr Hanchell but you can come back on it of
3 course.

4 MR GOMEZ: I am obliged.

5 MR MILNE: He now says that he made a loan to you. Not
6 a word of that was mentioned to the Commission, not
7 a word in any of the declarations, not a word throughout
8 the course of his evidence. But now he wishes to come
9 back and tell us that.

10 MR MISICK: This witness can't speak on behalf of the
11 Premier as to what motives or why, he can't speak to
12 that.

13 MR MILNE: Is it your evidence that you did not discuss this
14 with him, sir?

15 A. Discuss the loan, I had to discuss the loan in order to
16 get it from him, yes.

17 MR MILNE: Is it your evidence that you did not discuss
18 the fact that you were about to disclose this to
19 the Commission?

20 A. That is my evidence.

21 Q. Right. When you discussed the loan first time round,
22 was anything put in writing?

23 A. No.

24 Q. Has there been anything put in writing since then?

25 A. No.

- 1 Q. What are the terms of the loan?
- 2 A. Pay me back.
- 3 Q. When?
- 4 A. Pay me back as soon as possible without interest.
- 5 Q. How much interest?
- 6 A. I said without interest.
- 7 Q. Without interest?
- 8 A. Yes.
- 9 Q. So an interest-free loan to you?
- 10 A. Yes.
- 11 Q. Simply to be repaid as soon as possible?
- 12 A. Yes.
- 13 Q. \$1 million?
- 14 A. Yes.
- 15 Q. You had many loans of that nature?
- 16 A. Yes.
- 17 Q. From the Premier?
- 18 A. No.
- 19 Q. So is this the first loan he has ever made to you?
- 20 A. Yes.
- 21 Q. Why did you go to him with this problem? Why not go to
- 22 your bank with this problem?
- 23 A. Because when I couldn't pay the bill and just through
- 24 conversation I said: man, I got this high
- 25 American Express bill and I can't pay these people. And

1 he said: all right, let me see how I can help you; and
2 then he got back to me and I had the following invoice
3 coming in. At that particular time, I looked at all of
4 my matters that I was dealing with and we decided that
5 the loan -- he will round the loan off to me for
6 \$1 million.

7 Q. You see, the problem that you had, Minister, appears to
8 be in relation to a black Centurion American Express
9 card, issued by J&T Banka in Prague, is that right?

10 A. I would not put it like that. The problem that I had,
11 the difficulty that I had paying my American Express
12 card bill is -- the American Express, yes, it is issued
13 by J&T Banka.

14 SIR ROBIN AULD: Just before you leave, so the position is,
15 give or take 100 or so thousand either way, you owe
16 the Premier \$2 million at the moment?

17 A. No.

18 SIR ROBIN AULD: Not at all.

19 A. No.

20 SIR ROBIN AULD: I have got that wrong, have I?

21 A. No, 1.

22 SIR ROBIN AULD: What about the earlier loan?

23 A. It is the same thing we are talking about. 1 million.

24 I don't know where you are getting 2 from.

25 MR MILNE: Sir, we dealt with two loans, the earlier one to

1 Saunders & Co.

2 SIR ROBIN AULD: Yes, it was Saunders. I am confusing that

3 with the Premier.

4 A. Thank you.

5 MR MILNE: The Saunders loan during the period 2007 to 2008,

6 and the loan or loans from Mr Misick totalling

7 1 million, also in the period of 2007, was that into

8 the early part of this year as well?

9 A. What about the early part of this year, I lost you

10 a little bit?

11 Q. Early part of 2008.

12 A. What did you say about the later part of this year?

13 Q. Forgetting the year, were the loans that you took from

14 the Premier totalling 1 million all in 2007 or did they

15 cover the period 2007 to 2008?

16 A. I am not certain. I am not certain if the drawdown all

17 happened in 2007.

18 SIR ROBIN AULD: Anyway, you are left owing 2 million

19 between them to Saunders & Co and the Premier.

20 A. At that particular time?

21 SIR ROBIN AULD: Yes.

22 A. Yes, around that particular time.

23 MR MILNE: You see, have you paid the money back to him

24 since then?

25 A. To whom?

1 Q. To the Premier?

2 A. No.

3 Q. You see, yesterday, again, in the evening, again in
4 the same bundle, for the first time ever, we are told
5 about the American Express card that you have from
6 the same bank as the Premier in Prague.

7 A. Yes.

8 Q. Not a word, not a mention, not a hint in any of the
9 documentation that you had sent to us prior to that,
10 correct?

11 A. Yes.

12 Q. You had told us about other credit cards. You had
13 provided details of other credit cards, indeed
14 statements from other credit cards. Why not
15 the American Express? Why was that being kept hidden?

16 A. Could you go further for the sake of the public. Is
17 that in the same declaration I said to the Commission
18 that I feared that I did not declare
19 the American Express card. I did not declare also
20 a Horizon Mastercard, which is like a debit card but
21 just to put it in the right context, when the Commission
22 wrote asking for bank account numbers and the whole nine
23 yards, I was very concerned of giving my credit card
24 numbers and bank account numbers, not knowing if it was
25 going to be transmitted electronically or by mail and so

1 on.

2 So as a result I provided it -- because of my
3 concern, if you will notice in your earlier bundle where
4 in some cases we have only received statements, that
5 I have provided a printout from the bank acknowledging
6 that.

7 Now, when I visited my counsel at the time, I did
8 not bring a copy of any statement or a print-off from
9 the Horizon Mastercard or from American Express and in
10 preparing this declaration, counsel has advised me that
11 you have -- you know -- to please go and try to find
12 anything that you may have missed in error, so you can
13 declare it to the Commission. The only reason why that
14 those two credit cards were not declared to
15 the Commission, because I am multi-tasked every day.
16 And because of that, and my concern of giving those
17 numbers, it slipped me and as a result in preparing
18 the final, what I would call supplementary statement,
19 now you have those.

20 Q. When did you first get the American Express card?

21 A. I think in 2007. I am sure. 2007.

22 Q. Who introduced you to the J&T Banka and suggested
23 a credit card be obtained from them?

24 A. I was in Prague and I was introduced by Mr Mario Hoffman
25 to -- I am not good on names so I can't say exactly who

1 was the executive of the bank.

2 Q. That would have been at the same time that the Premier

3 was getting his American Express card, no doubt?

4 A. I can't say when the Premier got his American Express

5 card.

6 SIR ROBIN AULD: I have heard in the course of the Inquiry

7 that if you have a Centurion card and you mean to use

8 it, you are really committing yourself to a very

9 considerable amount of monthly expenditure. Is that

10 true? You didn't know that?

11 A. I am not sure I understand exactly -- can you repeat it.

12 SIR ROBIN AULD: I gather you don't get such a card unless

13 you commit yourself to a very large amount of monthly

14 expenditure. That is what I have heard.

15 A. Well, I am not aware of that. I am not aware that you

16 have to commit yourself to that.

17 SIR ROBIN AULD: Have I got that wrong, Mr Milne?

18 A. I am not aware.

19 MR MILNE: I think you have to be regarded as somebody who

20 is -- the expression "high net worth" before they will

21 consider you for the card, sir.

22 SIR ROBIN AULD: That is how it is put, is it?

23 MR MILNE: Presumably. We understand, this is on

24 recommendation or invitation only.

25 It is not a card you fill out a form on the back of

1 a newspaper and send it off, is it?

2 A. No, I didn't get my application from the newspaper. On

3 my visit there, we were -- I think the Premier and

4 myself and maybe others were shown a number of things in

5 Prague. Things meaning perhaps businesses that may be

6 interested in doing business in the Turks & Caicos

7 Islands, and I remember meeting the executive and one of

8 the things they mentioned was that the American Express

9 Centurion card is one of the services that they provide.

10 Before leaving Prague, I was invited to make

11 an application and I so did so and I received a card.

12 Q. Why would you need the Prague-based American Express

13 card when you already had credit cards based in

14 perfectly good banks in the Turks & Caicos Islands?

15 A. An American Express base credit card did not invite me.

16 I was invited and I filled the application and

17 I received the credit card.

18 (4.15 pm)

19 Q. American Express can be found all round the world

20 though. They have bases far closer to home than Prague.

21 Why did you want this particular card?

22 A. I was invited. I have not been invited from

23 American Express anywhere else in the world.

24 I visited this banking institution, J&T Banka. Got

25 a brief history of some of the services that they

1 provide, investment banking and so on and so forth and
2 they said that the American Express Centurion card gives
3 some of the services that they provide and I was
4 invited -- and I really can't remember. I am not good
5 on names, the name of the executive on at the bank.

6 I was invited to make an application.

7 Q. Sir, your evidence is you were not aware the Premier
8 took out a Centurion card at the same time?

9 A. I know the Premier has a Centurion card. But I cannot
10 say that the Premier took out his American Express card
11 at that same time.

12 Q. Let's be precise about this. You went to Prague in
13 company with Mr Hoffman or did you go there and meet
14 Mr Hoffman while you were there?

15 A. No, as a matter of fact, my memory tells me that I was
16 a part of a delegation that was in Brussels to -- I
17 think it is Otto(?), are you familiar with Otto, some
18 European thing that Turks & Caicos deals with. We went
19 over to Prague at the invitation of Mario Hoffman.

20 Q. Who was in the delegation that went there?

21 A. The Premier was there. There may be some other staff.

22 Q. The Deputy Premier?

23 A. I believe the -- I think so, I think he was there.

24 Q. Can you put a time or date on that meeting roughly?

25 A. I told you, I am bad on dates and time.

- 1 Q. A month?
- 2 A. I don't know.
- 3 Q. You think it was in 2007?
- 4 A. I think it was in 2007 because I applied subsequently
- 5 and sent my form back via courier and I received a card
- 6 in 2007. I became a member.
- 7 Q. Did you go and meet people at J&T Banka?
- 8 A. When you say go and meet people.
- 9 Q. Did you travel to the offices of J&T Banka in Prague?
- 10 A. Yes.
- 11 Q. In the company of Mr Hoffman?
- 12 A. Yes.
- 13 Q. In the company of the Premier?
- 14 A. Yes.
- 15 Q. Deputy Premier?
- 16 A. No, because I think the Deputy Premier was still in
- 17 Brussels, attending a meeting.
- 18 Q. He has told us at some point he went to Prague. You
- 19 don't think that is the same occasion?
- 20 A. I am confused.
- 21 Q. He has told us he went to Prague with the Premier at
- 22 some point. Is it your recollection that it was not on
- 23 this occasion he stayed in Brussels and you went to
- 24 Prague?
- 25 A. I am not certain if it is that occasion. I am not

1 certain.

2 Q. So you went to the J&T Banka together with Mr Hoffman
3 and the Premier?

4 A. Yes.

5 Q. What was the purpose of the discussions that you were
6 having at the J&T Banka?

7 A. J&T Banka was explaining to us as the executives of the
8 Turks & Caicos Islands the services that they provide,
9 that they are an investment bank, and one of those kinds
10 of meetings that you may have from time to time with
11 persons who may be thinking of doing business in your
12 country. I can't say specifically that but I can only
13 assume they wanted to introduce or meet the leaders of
14 the country to say who we are and what we do. That was
15 the extent of it.

16 Q. J&T Banka --

17 MR SMITH: I hesitate to rise. I wanted to correct
18 something Mr Milne said. I do not think there is any
19 testimony from the Premier that he went to Prague. It
20 was testimony that he went to Slovakia. There is no
21 testimony at all that he went to Prague.

22 SIR ROBIN AULD: I thought that Mr Hanchell was just
23 agreeing that this was all in Prague?

24 A. If I may, sir, let me first admit that I am confused
25 with the names of the cities and the countries and all

1 that stuff.

2 SIR ROBIN AULD: Does it matter where it was? You went to

3 an office of J&T Banka with the Premier at least.

4 A. Correct.

5 SIR ROBIN AULD: You discussed matters of business.

6 A. Correct.

7 SIR ROBIN AULD: In a general way.

8 A. Correct.

9 SIR ROBIN AULD: One of those matters, was it, Salt Cay?

10 A. At that bank? No.

11 SIR ROBIN AULD: Did you not learn that they were interested

12 in investment in Salt Cay?

13 A. We didn't discuss Salt Cay with that bank. To my memory

14 the Salt Cay investment was not discussed at that bank.

15 The meeting that I was involved talked overall about

16 services, investment, financial services, whatever --

17 SIR ROBIN AULD: Generally?

18 A. Yes.

19 MR MILNE: Were you aware that J&T Banka were investing or

20 seeking to invest in Salt Cay?

21 A. At that particular time?

22 Q. Yes.

23 A. No.

24 Q. Have you since become aware of that?

25 A. I have not -- I am not aware categorically that

1 J&T Banka has invested interest in Salt Cay.

2 Q. We can only go on the website, sir, which announces they
3 are making investments in Salt Cay?

4 A. I have not been on their website, so I can't say I am
5 aware.

6 Q. So you are wholly unaware of any link between J&T Banka,
7 with whom you hold a card, and Salt Cay, Mario Hoffman,
8 not aware of any link there at all?

9 A. I am aware of Mario Hoffman investment in Salt Cay, but
10 I am not aware of where Mario Hoffman's finances for
11 Salt Cay comes from.

12 Q. Is it the case that whilst you were in this meeting,
13 whoever it was, and I won't hold you to a name, said: by
14 the way would you wish to apply for an American Express
15 card with us.

16 A. You must be not listening to me very carefully because
17 I did say thereafter, while and for the better use of
18 the word, I don't want to say Prague. I think
19 the country is called the Czech Republic.

20 Q. Prague is in the Czech Republic, yes.

21 A. I am confused about the city. Thereafter I was invited
22 to apply for an American Express card.

23 Q. So is your evidence that there was no discussion of the
24 American Express card at that time?

25 A. No.

1 Q. And you got a letter later on?

2 A. No, I am not saying that. What I am saying is that

3 the American Express card was not discussed at that

4 meeting and I did not get a letter later on.

5 SIR ROBIN AULD: How did you get the invitation, is what

6 Mr Milne is after.

7 A. Yes because --

8 SIR ROBIN AULD: How and when?

9 A. I think we had dinner or drinks with the -- whoever

10 the executive of the bank was and talking over dinner

11 about what the bank does and so on, he did mention that:

12 Will you be interested? I want to offer you to make

13 an application for an American Express Centurion card.

14 SIR ROBIN AULD: That was while you were there, wherever you

15 were in Eastern Europe?

16 A. Yes, in Europe. Correct.

17 MR MILNE: Subsequently to that, you started spending on

18 the American Express card and you felt that you got in

19 over your head, is that right?

20 A. I would not put it like getting over my head. I had

21 difficulties paying the bill --

22 Q. Because --

23 A. -- at that time.

24 Q. -- in 2007 you had racked up bills which required you to

25 borrow about \$1 million from the Premier?

1 A. Yes.

2 Q. You would have paid him back as soon as you could but

3 you have not yet paid him back?

4 A. I have not yet paid him back.

5 Q. That would have been in the 2007 period. We have been

6 provided with your American Express card statements and

7 the requests that have been made of you. Would you

8 agree that those are for very large sums of money?

9 A. What do you consider large?

10 Q. More than \$200,000 a month.

11 A. If you consider that large, then, I agree with you.

12 Q. You don't consider that a lot of money?

13 A. It is a substantial amount of money.

14 SIR ROBIN AULD: Is that what we are talking about, \$200,000

15 a month average? That is about right, is it?

16 A. No, that is not right.

17 MS MISSICK: That is an unfair assumption.

18 SIR ROBIN AULD: Somebody tell me what the figures are.

19 A. That is not right.

20 MS MISSICK: What I assume my learned friend is referring to

21 is at tab 2 --

22 SIR ROBIN AULD: Tab 2 of what, please?

23 MS MISSICK: Tab 2, bundle 4. They are requests for

24 payments from J&T Banka. The actual American Express

25 statements are at tab 3 of the same bundle, sir.

1 SIR ROBIN AULD: Just give me a broad figure, what sort of
2 monthly rate of bills were being run up on this card?

3 MS MISSICK: Sir, you will have to review the statements but
4 we are talking about 16,000, 25,000, 40,000, 57,000 for
5 the monthly statements that were sent to the minister.

6 Now, in relation to the payment requests from
7 J&T Banka, they reflect different amounts from 40,000.

8 One was for \$5,000. So it is a broad range. It is not
9 easy to put an average on the monthly spending on the
10 card. Each one would have to be taken into context.

11 SIR ROBIN AULD: Some people would regard it as a lot of
12 money, others wouldn't.

13 MS MISSICK: Yes, sir.

14 MR MILNE: Let's look at the requests, indeed the demands
15 from J&T Banka.

16 Tab 2. Are we to understand that you were not
17 paying the requests and that these were mounting up?

18 A. In some cases, yes.

19 Q. Because the requests appear to be for the last period.

20 A. When you say the last period?

21 Q. That is the expression that is used in the requests.

22 "We are asking you for settlement of a debit of the
23 charge card American Express of the last period"?

24 A. Yes.

25 Q. The figures in those demands, I am starting at 29A,

1 the last period amounting to \$40,564. That is the very

2 first one on 11th May, 2007.

3 A. 49A you say?

4 Q. 29A, 29B. 29B becomes 90,937. We have not had

5 the chance or opportunity so far to confirm those

6 demands against the statements.

7 A. Yes.

8 Q. But there appear to be lump sums being credited against

9 the account. Also it would appear that there are two

10 cards. You have one and a lady, who I take to be your

11 wife, Desrene?

12 A. She had one.

13 Q. She had one as well?

14 A. She didn't have one, she had a copy of my credit card.

15 Q. Two cards on the same account.

16 A. I think that is a better way of --

17 Q. Yes. Two people can be spending independently but

18 the bill will be combined and you will get a single

19 bill?

20 A. I am the sole responsible in that situation.

21 SIR ROBIN AULD: There are monthly debits going up to over

22 250, 300 and \$2,000, aren't there? Take 41 for example.

23 A. Where are you, sir?

24 SIR ROBIN AULD: I am looking at 41. I am flipping my way

25 through and seeing these monthly debits rising and then

1 they drop occasionally. The accumulation of money owed,
2 if I am reading them correctly. Take 41, does that
3 suggest that at the date of that, 15 September 2008, you
4 owed them over \$300,000 on the card?

5 A. I am lost. Yes, you can take it that that can be
6 an accumulative of different months.

7 SIR ROBIN AULD: It swings about a bit but there are some
8 big figures there.

9 A. In the aggregate.

10 MR MILNE: So is this a case that, having borrowed
11 the million dollars from the Premier, you then started
12 spending on the card again and not making payments off?

13 A. No, I have made payments independent of the monies that
14 I have borrowed. I can give you a prime example. If
15 you go to bundle 1, page 184. A payment for -- I think
16 the numbering is different. The numbers change in here?

17 Q. Not that we are aware of, sir. What is it you are
18 seeking to point to?

19 A. I am seeking to show you that payments were made to the
20 American Express independent of the money I borrowed
21 from the Premier. I have paid it with my own monies.

22 SIR ROBIN AULD: You are going to be some time with this,
23 I imagine, Mr Milne, aren't you?

24 MR MILNE: It may be we will need to explore this further
25 but certainly I will need some time to go through

1 these documents.

2 SIR ROBIN AULD: This might be a good moment to break,
3 mightn't it? Before we do, there is some housekeeping
4 and you have some to start with Mr Gomez.

5 Housekeeping

6 MR GOMEZ: During the course of the examination of this
7 witness, my learned friend Mr Milne had asked
8 the question about the issuance of the card,
9 the Centurion American Express card to the Premier.

10 I am shown a document, which I believe is part of
11 the record but I am not sure where, which clearly shows
12 that as of 6th April 2006, he had been receiving
13 statements from the American Express company and at
14 least that particular statement in the case that, on
15 15 February of that year and onwards, monies had been
16 advanced on his behalf. So it is reasonable to infer --

17 SIR ROBIN AULD: On whose behalf?

18 MR GOMEZ: The Premier. So it is reasonable to infer that
19 well before 2007, when this witness would have gotten
20 his card, that the Premier already had
21 an American Express Centurion card.

22 SIR ROBIN AULD: Fine. Thank you.

23 MR GOMEZ: It may be difficult when we come to summing up if
24 confusion is created --

25 SIR ROBIN AULD: I don't understand the point you are

1 making. You are saying Mr Milne has got it wrong in
2 suggesting these two cards were issued at about the same
3 time?
4 MR GOMEZ: Yes.
5 SIR ROBIN AULD: He had one before then?
6 MR GOMEZ: Yes, on record it was clear he had one before
7 then.
8 SIR ROBIN AULD: Thank you Mr Gomez. Mr Hanchell, we had
9 hoped to be a little more advanced than we are today.
10 You can see we are running behind, so I am going to see
11 how long we are likely to detain you tomorrow.
12 Mr Milne, how much longer do you think you might be
13 with Mr Hanchell.
14 MR MILNE: I would anticipate being a substantial part of
15 the morning, sir.
16 SIR ROBIN AULD: Yes. Mr Ariel Misick, I imagine you will
17 be attending tomorrow on behalf of Mr Hanchell?
18 MR MISICK: Yes.
19 SIR ROBIN AULD: How long do you think you might require?
20 MR MISICK: Based on the way things are progressing today,
21 assuming Mr Milne is finished by mid-morning or
22 thereabouts, I would anticipate we ought to be finished
23 with Mr Hanchell by lunchtime.
24 SIR ROBIN AULD: Thank you very much. That leaves the other
25 parties. Mr Gomez, Mr Fitzgerald may be back tomorrow?

1 MR GOMEZ: He won't be back until tomorrow evening.

2 SIR ROBIN AULD: So you will be fielding for Mr Misick
3 tomorrow. How long do you think you might require to
4 have if you have any questions for Mr Hanchell?

5 MR GOMEZ: I might be as short as two minutes as long as
6 five.

7 SIR ROBIN AULD: That is the sweetest speech I have heard
8 today. Mr Smith, will you have any questions for
9 Mr Hanchell?

10 MR SMITH: Hardly.

11 SIR ROBIN AULD: Any other member of the bar?

12 MS BROOKES: No.

13 SIR ROBIN AULD: It doesn't sound as though you might be
14 provoked into much further examination at the end, at
15 this rate, Mr Milne. The reason I ask all these
16 questions is to ask you whether we should continue to
17 list Mr Jeffrey Hall tomorrow, certainly not before
18 2.00. Should we list him at all? I don't want him
19 coming unnecessarily.

20 MR MILNE: I would hope to be finished during the course of
21 the morning with my questions for the minister at
22 present. Sir, there is a reasonable chance that we will
23 reach the Honourable Jeffrey Hall at some point
24 tomorrow.

25 SIR ROBIN AULD: All right. We will leave Mr Jeffrey Hall

1 listed, but mark not before 2.00. We will notify -- who
2 appears for Mr Jeffrey?
3 MR WILSON: Yes, sir.
4 SIR ROBIN AULD: You will notify your client and give him
5 our apologies while you are at it.
6 MS MISSICK: Sir, before you rise, just for a matter of
7 clarity, may we request the assistance of
8 the secretary -- the assistant secretary of the
9 Commission to confirm the further disclosure documents
10 that Mr Hanchell has promised to provide later tonight,
11 first thing in the morning. I do have a note but for
12 the sake of clarity if we can be on the same page.
13 SIR ROBIN AULD: Make sure we are all talking about the same
14 list.
15 MS MISSICK: Yes, sir.
16 SIR ROBIN AULD: They will do their best. They have lots of
17 things to do but they will certainly help the best they
18 can on this. I gather there is a good e-mail liaison
19 between you and the secretary to establish ... 10.30
20 tomorrow.
21 (4.33 pm)
22 (The court adjourned until 10.30 am
23 on Thursday, 22nd January 2009)
24
25

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