

1 Thursday, 22nd January 2009

2 (10.30 am)

3 HONOURABLE MINISTER MICHAEL HANCHELL (continued)

4 Cross-examination by MR MILNE (continued)

5 SIR ROBIN AULD: Good morning, everyone. Mr Milne, could

6 you just give me a moment, please. Ms Missick,

7 I understand it has not been possible to produce

8 the various lists and supporting documents that we spoke

9 of yesterday afternoon before the Commission rose.

10 MR MISICK: Yes, I think some of the documents have been

11 available and some are in the process of being put

12 together. I think the exercise was probably a little

13 more difficult than Mr Hanchell may have indicated to

14 you yesterday but much of it is here and we are putting

15 it together.

16 SIR ROBIN AULD: I can imagine it might have been

17 a difficult task, the short notice that it turned out

18 unnecessarily to be.

19 But the result is that Mr Milne and those

20 instructing him haven't had the opportunity to consider

21 those overnight.

22 MR MISICK: I do appreciate that.

23 SIR ROBIN AULD: I think the result of that in addition to

24 the late provision of volumes 3 and 4 must mean that now

25 it will not be possible for us to reach the Honourable

1 Jeffrey Hall today who we listed not before 2.00. If he
2 and any of those instructed by him is here, I apologise
3 for that and we shall have to make arrangements to
4 re-list the hearing for Mr Jeffrey Hall at a date
5 suitable to his convenience. Thank you.

6 MR MISICK: I do apologise.

7 SIR ROBIN AULD: Well, these tasks when they are embarked on
8 in such circumstances are always difficult.

9 Just for a rough indication, I can see
10 Ms Akierra Missick working like blazes here, how soon
11 might we have the lists?

12 MR MISICK: In about 10 minutes, I am told.

13 SIR ROBIN AULD: Perhaps when they are ready -- don't rush
14 it too much now, Ms Missick -- perhaps surreptitiously
15 they can be passed around and those behind Mr Milne can
16 start doing some work on them. Thank you.

17 MR MISICK: Thank you, sir.

18 SIR ROBIN AULD: Yes, Mr Milne.

19 MR MILNE: Sir, might I also mention just for the record
20 that there have been some short further documents.
21 These documents that have been referred to before but
22 they have been inserted into volume 2, the Honourable
23 McAllister Hanchell's volume. They are at the end of
24 volume 2. They are behind a divider. In fact
25 the pagination starts afresh there, and we will be

1 coming to those in a few minutes' time and I will
2 explain as we go through the nature of the documents,
3 but some of them, indeed most of them, may well be
4 familiar to the minister.

5 SIR ROBIN AULD: They are from the Commission's papers,
6 these, are they?

7 MR MILNE: They are from the Commission's papers. In some
8 cases they are papers that we have received only within
9 the last few days.

10 SIR ROBIN AULD: Yes.

11 MR MILNE: Minister, we were dealing yesterday with
12 disclosure that had been made to the Registrar and
13 indeed disclosure made to the Commission. As part of
14 the exercise of disclosure, which you carried out, you
15 were asked to provide details of companies which you
16 owned or had part ownership of and parcels of land that
17 you had ownership or indeed part ownership of.

18 You were aware of that, I take it?

19 A. Yes.

20 Q. I would like to deal firstly, please, with some
21 documents that you provided to the Commission, and if
22 you take the first volume of your papers and turn near
23 the beginning to page 14. Do you have that, sir?

24 A. Yes.

25 Q. That is headed with your name, lists of assets and

1 liabilities as at September 2008, which is obviously
2 shortly after the first request was made. This was sent
3 to the Commission together with what has been termed
4 the reconstructed returns. But this is designed to be
5 your situation, in a sense your balance sheet at the
6 date of September 2008. It lists effectively three sets
7 of assets: the first being shareholdings, where you give
8 nine companies; the second list being real properties,
9 and there are nine in that list, although in some cases,
10 of course, there are parcels that are associated with
11 one another as single items; and thirdly, liabilities.
12 That is monies borrowed by way of mortgage or
13 loan, Scotiabank, Temple Mortgage, First Caribbean Bank.
14 Large organisations.

15 You understood, of course, that liabilities meant
16 money you owed anybody?

17 A. Yes.

18 Q. There is no mention in that list, is there, of
19 \$1 million or more owed to Saunders & Co or indeed
20 \$1 million owed to the Premier?

21 A. Yes.

22 Q. Turning over the page, page 15, your attorneys have set
23 out, no doubt on your instructions a spreadsheet, a sort
24 of chart of properties, and it is headed "Real
25 Properties Owned by McAllister Hanchell and Entities in

1 which he is Interested".

2 The Commission took it, because there was no note to
3 the contrary, that page 14 was a full list and indeed
4 that page 15 would be a full list of real properties
5 owned by you. Was that a fair assumption on our part?

6 A. Yes.

7 Q. So, any real properties, that is properties listed on
8 page 14, should also appear on 15, and this chart sets
9 out the precise ownership, that is whether it is in your
10 own name or through the name of a company,
11 a description, the state of development and then there
12 are columns for acquisition cost, current valuation,
13 which is not filled in at all, and encumbrances, it is
14 termed.

15 So page 14 really and page 15 will be very similar
16 as regards shareholdings and properties and to some
17 extent liabilities, would you agree?

18 A. Yes.

19 Q. We have one or two problems with it, though, and perhaps
20 you can explain or seek to explain these for us. I am
21 putting page 14 and page 15 side by side. On page 14,
22 real properties, parcel 6, you refer to a property where
23 the reference is 60810/59. You see that?
24 Leeward Highway, Providenciales?

25 A. Yes.

1 Q. That isn't on page 15 at all, is it?

2 A. Give me a moment please. (Pause)

3 I don't see it here but I know it is in the bundle

4 somewhere.

5 Q. It may well be but this schedule and the original list

6 don't appear to agree on that point. So it is on one

7 list but not on the other?

8 MR MISICK: If you look, it is evident that there is a typo

9 because there is a 60807/59.

10 SIR ROBIN AULD: Where is that, Mr Misick?

11 MR MISICK: Under 2006. Description 60807/59.

12 SIR ROBIN AULD: Which page?

13 MR MISICK: Page 15.

14 MR MILNE: So when we were told 60810, were we to appreciate

15 that that should have been 60807? Is that a typo or is

16 it a different parcel of land?

17 A. What we need to do is to refer to the bundle. Somewhere

18 in the bundle is the register -- there is a register

19 here. If my counsel can guide me to the register so we

20 can verify the correct number.

21 SIR ROBIN AULD: Mr Milne, help me about this, if it is

22 disclosed on page 14 and it is not on 15 for whatever

23 reason, and there are other documents in the bundle

24 relating to it, is there any significance in

25 the omission on the one document and inclusion on

1 the other?

2 MR MILNE: There are a series of omissions, sir, which I am

3 going to come to on page 15 and I am going to seek some

4 sort of clarification from the minister. That

5 particular property, no, there is no great significance

6 in it.

7 SIR ROBIN AULD: So we needn't worry about that. Thank you.

8 MR MILNE: Mr Hanchell, would you please turn to page 15 in

9 the bundle.

10 A. Okay.

11 Q. 60605/93 and 94 at the top of that page, which you say

12 you own. I am going to take these as a group, sir.

13 That doesn't appear on page 14 at all. That is 60605/93

14 and 94, other subdivisions in that group, yes, but not

15 those two. In the middle of the page, 60807/59,

16 60810/198, 50304/22. None of these appear on page 14 at

17 all?

18 SIR ROBIN AULD: These are all holdings of Caicos Oil.

19 MR MILNE: Caicos Oil, CaicosMart, Big South Limited.

20 SIR ROBIN AULD: You say they are not on page 14.

21 MR MILNE: They are not on page 14. The bottom of that

22 page, page 15, 60804/151, not on page 14 either.

23 Can you see that there are a series of confusing

24 contradictions here. We don't know which is the correct

25 list and which is not?

1 A. Those must be errors because if you refer to the bundle
2 and to the declarations, those properties are all
3 listed. In particular, the Caicos Oil and
4 the AL Services properties. Those properties are listed
5 throughout the bundle. So it must be errors in editing.

6 Q. Let's go on from there. Go back to page 15. Top line
7 of that, acquisition date 2000. AL Services Limited
8 60605/93 and 94, which is apparently land that has been
9 developed with buildings and storage. It would appear
10 from that that the property owner is AL, or in fact it
11 looks like A1, but we understand that is correctly
12 AL Services Limited.

13 So we are being told there that it is owned by
14 AL Services, yes?

15 A. I am following.

16 Q. The schedule you submitted said it is owned by
17 AL Services. Yes?

18 SIR ROBIN AULD: We can read it. It says that.

19 MR MILNE: Please turn to page 97. It is not always clear,
20 sir, whether he is looking at the same thing as me. Do
21 you have page 97 in the bundle?

22 A. I do, I do.

23 Q. Under land, you deal there -- this is a letter sent by
24 your attorneys on 29th October by e-mail, 60605/93, 94,
25 95:

1 "These parcels are owned by Mr Hanchell.
2 AL Services operates from these premises. There is no
3 formal arrangement between Mr Hanchell and AL Services."
4 So who is the owner? Is it yourself or is it
5 AL Services?
6 MR MISICK: It says "see register" and the register clearly
7 shows who is the owner.
8 MR MILNE: Forgive me, but it is not entirely clear which
9 register is being referred to here.
10 MR MISICK: Land register.
11 MR MILNE: Which page of the land register is it?
12 A. 105 through 110, I believe.
13 MR MILNE: So clarify for us please who actually owns that
14 property.
15 A. The register is registered to McAllister Eugene Hanchell
16 because that is how it was offered but one has to
17 appreciate and go to the back of the register and look
18 at the various charges that the bank has on the register
19 that relates to AL Services Limited.
20 Q. So who owns the property?
21 A. McAllister Hanchell and AL Services.
22 Q. You both own the property?
23 A. Well what happened and you have to -- rather than trying
24 to make a big deal out of it, you have to take it in
25 the context that it is. When land is offered from

1 the Crown, in this particular case, I made
2 the application at that time in 2000 and 1999, whenever
3 it was, under McAllister Eugene Hanchell. The land was
4 offered to McAllister Eugene Hanchell. I approached the
5 bank doing business as AL Services, so the bank has
6 loaned the money to AL Services and not to McAllister
7 Hanchell.

8 Q. Forgive me, sir, the question was who owned
9 the property?

10 A. AL Services and McAllister Hanchell.

11 SIR ROBIN AULD: In equal 50 per cent shares?

12 A. No, not in equal 50 per cent shares.

13 (10.45 am)

14 SIR ROBIN AULD: It is what we would call in England, maybe
15 not here, a joint tenancy. You both own the whole of
16 it?

17 A. On the face of the document we both own -- on the face
18 of the document. Looking at it now. As far as I am
19 concerned, AL Services owns the property. Now, that is
20 why I tried to give a background when the offer was made
21 to the Crown, the offer was made to me. I approached
22 the bank not as myself, as AL Services. For one reason
23 or the other, the register continues to show McAllister
24 Eugene Hanchell.

25 SIR ROBIN AULD: I suppose the Crown couldn't have offered

1 it to AL Services, could it? It had to offer it to you

2 as a Belonger, maybe?

3 A. Perhaps or perhaps not. I can't be certain but what

4 I can tell you is that the facilities on here, I have

5 a personal guarantee with the bank. So maybe that is

6 a legal reason why there is McAllister Eugene Hanchell

7 and AL Services.

8 SIR ROBIN AULD: I am not sure where, how much we need to go

9 into this because the registered owner of land is often

10 not the beneficial owner in fact and so on. There is

11 an important point in this, is there, Mr --

12 MR MILNE: It is one of a series of points that I have taken

13 in isolation. It is simply another example, I would

14 submit, of where there seems to be a blurring of the

15 lines and Minister, as far as I recall, you are minister

16 for land so you would understand the importance of who

17 owns property, who owns land.

18 A. I should, but you are dealing with a transaction that

19 was done in 2000, before I had any knowledge of the

20 workings of government.

21 Q. Let's move on, line 2 on page 15. This is property

22 60400/135.

23 A. Yes.

24 Q. You tell us there you acquired that in 2002. Is that

25 correct?

1 A. No. I entered into a sales agreement, I believe, in
2 the late 1990s.

3 Q. Can I assist you with that because if you turn to tab 9
4 of your new bundle, this is the bundle 4, you tell us
5 there that you got this in 1999. So not 2002?

6 A. I didn't tell you I got it in 1999. This page 123 is
7 an exhibit of the sales agreement to purchase the land
8 from 1999.

9 Q. Did you take three years to buy it or did you buy it in
10 1999?

11 A. No, I entered into the agreement in 1999. I would have
12 had to make a deposit and I believe I closed on the loan
13 in maybe 2007 -- I closed on the land in 2007 with
14 borrowings from the Bank of Nova Scotia. I believe it
15 is 2007/2006, I am not certain which year.

16 Q. So the 2002 acquisition is in fact 1999?

17 A. I entered into the agreement in 1999.

18 Q. Yes. So the chart is wrong on that point?

19 A. Yes.

20 Q. We are just trying to be clear, sir, because we have
21 a series of, as I say, contradictions.

22 Line 3 --

23 MS MISSICK: Sir, if I may assist counsel to the Inquiry.

24 Counsel wrote to us in our bundle 3, on October 6th,
25 asking us to clarify various items in this chart. We

1 responded on page 24 for the properties in trying to
2 give an explanation as to where the mix-up in the chart
3 came from.

4 At page 33 we list out the parcels that there was
5 some confusion and gave an explanation. I am just
6 trying to refresh counsel's memory to see if this can
7 facilitate moving this portion of the questioning on.

8 SIR ROBIN AULD: Tell us in a sentence what you said.

9 MS MISSICK: Basically we have answered these questions
10 already in our letter to counsel.

11 SIR ROBIN AULD: If there is anything sinister about this,

12 I want to hear more, but if there is not or if it is
13 just an error or sloppiness which has no other knock-on
14 significance, I am not sure it is very important, is it,
15 Mr Milne?

16 MR MILNE: It is the cumulative effect, I would submit, sir.

17 I will tick the remaining points, I hope, relatively
18 quickly.

19 SIR ROBIN AULD: Thank you, Ms Missick.

20 MR MILNE: With line 3, the property there, 60811.

21 A. Page?

22 Q. Page 15. 60811/10, it says that you acquired it in
23 2002. In your new statement you tell us you got it in
24 1998. Which is correct, is it 2002 or 1998?

25 A. I refer you to bundle 3, page 33.

1 Q. I am simply asking you a question, sir. Can you say
2 which year it was?
3 A. Are you going to allow me to answer the question?
4 I refer you to bundle 3, page 33, 1998 was the amendment
5 sent to the Commission.
6 Q. Right.
7 A. Thank you.
8 Q. So that is wrong as well?
9 A. Yes.
10 Q. Line 4, you say that Big South Limited owns
11 properties -- that should in fact be Big South Holdings
12 Limited. You now tell us Big South Holdings Limited
13 owns no properties, is that correct?
14 A. I think you need to refer to properties like Akita
15 Holdings Limited.
16 Q. In the schedule you put --
17 A. Page?
18 Q. Page 15.
19 SIR ROBIN AULD: Akita Holdings?
20 MR MILNE: Akita Holdings. It says Big South Limited, 60
21 per cent interest in Akita Holdings.
22 A. Sir, there is an explanation to that. If my counsel can
23 find the chart of companies that I have an interest in,
24 it clearly tells you that Caicos Oil sits on the top.
25 It tells you who Big South Holdings and Akita Holdings

1 --

2 MR MILNE: That is tab 15, yes.

3 A. They are all related.

4 MR MILNE: Big South Holdings, you told us owns no
5 properties, is that correct?

6 A. Big South Holdings owns no properties.

7 Big South Holdings has my interest in Akita Holdings.

8 Akita Holdings has interest in Caicos Oil as a trading
9 company. So I think it was a confusion in perhaps my

10 explanation at the time or the interpretation of

11 the structure of the companies.

12 SIR ROBIN AULD: Too many companies.

13 A. I would not say that.

14 MR MILNE: I submit, Minister, too many errors, error upon
15 error. You seem to be very vague as to what you own and
16 how you own it.

17 MS MISSICK: Sir, I must submit that question was unfair.

18 When this chart was originally provided to the

19 Commission, that was on a limited timescale. We then

20 went on and wrote an extensive letter, approximately

21 seven pages, clearing up the errors that the Commission

22 had raised in October 6th. I do submit that that

23 question is unfair. The minister did have a chance to

24 go back and clarify the position.

25 MR MILNE: Can you simply tell us this then, Minister, these

1 errors, these many errors that required a seven-page
2 letter to put them right, are you telling us that they
3 were your errors or were they errors by your attorneys?
4 A. Let me tell you what happened, and if you look at the
5 dates when this information was being asked for and
6 the timeframe, without looking at the bundle, I firmly
7 believe it was around hurricane time or hurricane times
8 or thereafter or there before. When I visited my
9 counsel, I sat and I gave them information to the best
10 of my knowledge so that the Commission could be -- it
11 could be clear to the Commission of my intention to
12 fully co-operate. After I had the opportunity, then
13 I went back to actually look at documentation. There we
14 have the seven-page letter of amendment.

15 SIR ROBIN AULD: This is 10th October? Or is that
16 the original letter?

17 A. I think 29th sets out on page 30 --

18 MS MISSICK: Yes, page 30 of bundle 4, sir.

19 A. -- sets it all out.

20 SIR ROBIN AULD: Yes. I don't think it is bundle 4. It is
21 bundle 3, isn't it? Or some other bundle.

22 MS MISSICK: Sorry, sir, bundle 3.

23 A. Bundle 3, page 30.

24 SIR ROBIN AULD: That is November 10th. The original letter
25 before that was 10th October.

1 MR MILNE: The issue, Minister, is simply this: that I would
2 submit you have been somewhat random in your
3 declarations. It is clear that there are items here
4 that have not reached the declarations of the Registrar
5 of interest, items that appear to just jump out of the
6 ether later on when you consider what you have been
7 telling your attorneys and what you have been telling
8 the Commission. Items that you simply forget about.
9 You forget about a lot of land.

10 A. No, I don't. I said yesterday, I made it very clear at
11 least ten times that there were errors made to the
12 submissions -- in filling out the form to the Registrar.
13 As it relates to the properties that are in question, we
14 have written and clarified those things. One has to
15 remember and put everything into context; that every
16 time you look at the news there is something that
17 the Commission is saying that we are not complying and
18 in the short timeframe, frame of time, I did my best of
19 my ability at that particular time to begin sending
20 information. I sat with my attorneys and I spoke,
21 I gave them information to the best of my knowledge.
22 Thereafter, I took the opportunity to go and do
23 a detailed search and hence we have this correction.

24 Q. Companies. Palm Breeze, you have disclosed now
25 information on Palm Breeze Limited which you say is

1 a company you owned 100 per cent?

2 A. Yes.

3 Q. Not in page 14, not in page 15. That one got missed out

4 altogether, did it?

5 MS MISSICK: It is at the bottom of page 15.

6 MR MILNE: Not on 14 but on page 15. Not disclosed to the

7 Register of Interests, is that correct?

8 A. I don't believe so but Palm Breeze again was a company

9 that was formed to do business and hadn't done anything.

10 Q. In the course of acquiring land, you received from

11 government a number of commercial conditional purchase

12 leases, CPLs, yes?

13 A. Yes.

14 Q. Those conditional CPLs are acquired in some cases in

15 the name of companies, yes?

16 A. Yes.

17 Q. If we turn, please, to page 24, in bundle 1. That is

18 a letter to Akita Holdings Limited, care of

19 Mr Elliot Hall, Providenciales?

20 A. Yes.

21 Q. Saying that it is signed by yourself referring to your

22 application for a commercial conditional purchase lease?

23 A. Yes.

24 Q. On parcel 50304/22?

25 A. Yes.

1 Q. "In accordance with the authority granted to
2 the minister of natural resources by Cabinet, the Turks
3 & Caicos Islands, I hereby approve a commercial CPL of
4 a survey lot that is listed."

5 A. Yes.

6 Q. Akita Holdings is you, so you were writing to yourself,
7 is that correct?

8 A. Yes, I have interests in Akita Holdings.

9 Q. So you write to yourself and although it is addressed to
10 Mr Elliot Hall, who is a partner with you in that,
11 effectively it is to yourself that you are writing?

12 A. I have interests in that, yes.

13 Q. If we turn to page 25 over the page. Similarly,
14 a letter from the ministry of natural resources to
15 Akita Holdings Limited, again Mr Hall, different Crown
16 land parcel. The previous one had been 31st July 2008.
17 These are not in chronological order. This is one of
18 27th March 2008, writing to Akita Holdings. So again to
19 yourself. Yes?

20 A. Yes, I have interests in Akita Holdings.

21 Q. Page 43 --

22 SIR ROBIN AULD: Did we identify what percentage interest
23 you had?

24 A. 60.

25 SIR ROBIN AULD: 60 per cent?

1 A. Yes.

2 MR MILNE: Page 43, you are writing, the office of the
3 ministry of natural resources to Palm Breeze Limited,
4 care of the Honourable McAllister Hanchell. It actually
5 says:

6 "Dear Honourable Hanchell, I refer to your request
7 for a freehold title. I am pleased to inform you in
8 accordance with Cabinet's decision, it has been agreed
9 freehold title shall be granted. Yours sincerely,
10 Honourable Hanchell."

11 SIR ROBIN AULD: What is the page number there?

12 MR MILNE: Page 43.

13 (11.00 am)

14 SIR ROBIN AULD: Yes.

15 MR MILNE: Is the expression "conflict of interest" one that
16 you have ever come across, Minister?

17 A. No, not at all. Page 43, just so that you understand
18 what happens is that sometimes the Cabinet decision is
19 communicated either by persons within the ministry or by
20 myself.

21 On this application here, I would have had to
22 declare my interests, of which I did in this particular
23 instance.

24 Q. Right.

25 A. And this must be a regular communication of

1 the decisions that is made. Sometimes I communicate
2 them to persons and sometimes others do. But, yes,
3 I own Palm Breeze Limited, 100 per cent.

4 SIR ROBIN AULD: And were Belize Bank going to be
5 instrumental in the passing of money for this
6 transaction?

7 A. Yes, I made -- I have a -- I made a proposal to build
8 a residential commercial complex and I had approached
9 Belize Bank as one of many banks around here for
10 possible financing. Belize Bank has indicated at that
11 time that they would look at the project financing
12 favourably. At that particular time the only way you
13 could qualify for a freehold title is that if --
14 the policy was that if a bank on your behalf makes
15 an application for a mortgage, or its intention to lend
16 or look at a project favourably or if you build at a
17 belt-beam level.

18 Today, the policy, it is different. Because of the
19 policies in place I had no choice but to talk to various
20 banks, Belize Bank ended up being the bank that said
21 that we will look at the project favourably. Today any
22 citizen and most of these people in this room, they can
23 walk into the office, because the policy has changed,
24 fill out a simple one-page form, apply for a freehold
25 title and it is granted.

1 SIR ROBIN AULD: This was a direct offer for the freehold?

2 A. Yes.

3 SIR ROBIN AULD: There was no intermediate conditional

4 purchase lease or anything like that?

5 A. No, no, sir. As a matter of fact, just for clarity,

6 the parcel of land, I have not even taken it up.

7 The offer is out there. I have not paid a dollar or

8 executed a lease or anything in relation to this.

9 SIR ROBIN AULD: Is that not unusual, then, for a direct

10 sale of Crown land into freehold tenure?

11 A. No, that is not unusual. You don't have to go into

12 the lease to -- before you go into freehold. The offer

13 comes first and the lease is optional because some

14 persons in this particular case, I was looking at the

15 project in totality. So I put the cost of the land,

16 the cost of construction and everything and looking at

17 a bank or the banks to finance it in its entirety.

18 SIR ROBIN AULD: Anyway, nothing came of this. It is not

19 some grand resort now. It is still undeveloped.

20 A. It is undeveloped, yes. It has not taken anywhere, not

21 yet.

22 MR MILNE: There is a distinction in the wording that is

23 adopted between the two sets of letters. If we turn

24 back briefly to page 24, the wording used in that letter

25 is:

1 "In accordance with the authority granted
2 to the minister of natural resources by Cabinet..."

3 That appears to suggest that there is, as it were,
4 a discretion that is handed down to the minister?

5 A. Yes.

6 Q. Under which he or she, in your case he, could make that
7 decision without referring the matter to Cabinet?

8 A. That is correct and let me expand on that so the public
9 understands before you go somewhere else. Cabinet has
10 a policy decision that after subdivisions are approved,
11 that the discretion lies with the minister for
12 distribution in accordance with the Crown land policy.

13 SIR ROBIN AULD: Should the minister be exercising
14 a discretion in those circumstances, where
15 the beneficiary of it is himself? Whatever the policy,
16 here you are writing to yourself, exercising your
17 discretion in favour of yourself. Is that the norm?

18 A. The policy clearly speaks about the issuing of land to
19 Belongers and Belongers only in accordance with the
20 policy. I see where you are going and on second thought
21 it perhaps should have been dealt different, seeing that
22 I had interests in Akita Holdings. But I consider
23 myself to be a Belonger and I was well inside the policy
24 as related to my interest. But I do see where you are
25 going and if I had another opportunity, I would perhaps

1 would have referred the matter to Cabinet, although
2 the policy allows me to do so, simply because I have
3 an interest.

4 SIR ROBIN AULD: I am not going anywhere in particular.

5 I was really talking aloud and perhaps shouldn't have
6 been. Is this something that you were able to do or did
7 do more than once? I mean, the idea of the sale of land
8 to Belongers is to enable individual Belongers to build
9 themselves a home and maybe a small business. But can
10 Belongers repeatedly acquire lands in title of their
11 Belongership?

12 A. Yes.

13 SIR ROBIN AULD: Did you exercise your discretion in favour
14 of yourself in a similar way in other transactions?

15 A. I believe. So I can't say for certain but I believe so.

16 SIR ROBIN AULD: Anyway, you don't quite like the sound of
17 it now?

18 A. No, and I did say, because it is raised now, thinking
19 about it, if I have another opportunity, even though
20 the policy allows me to do so, simply because I have
21 an interest in it, for reasons of transparency and for
22 the public, I would not do it in that manner, I would
23 perhaps not use the policy as it is and refer -- have
24 the matter referred to Cabinet, declare my interest and
25 have a decision made just because I have an interest in

1 it.

2 SIR ROBIN AULD: Yes.

3 A. But I was only going along because the policy allowed me
4 to do so and I did not run outside the policy in
5 relation to that.

6 SIR ROBIN AULD: Thank you.

7 A. Thank you.

8 MR MILNE: So what has changed that you now think it is
9 appropriate that you should have referred this to
10 Cabinet?

11 A. Because what has changed is that based on what is raised
12 here today, certainly you are giving an assumption to
13 the general public by that line of questioning, as if
14 I used my position as the minister of land and abused it
15 for my own personal gain, when in fact I do have
16 interests in those companies. I am a Belonger. I am
17 entitled to that land as well, but for the sake of
18 completeness and for the public, I should have not done
19 them that way. Mind you, I am well inside the policy
20 and it is my entitlement. So I think just for any kind
21 of scrutiny, if I have another opportunity, I would
22 not -- where I am empowered to grant land where I have
23 an interest in it.

24 MR MILNE: There were several aspects to that, Minister. Is
25 what you are saying essentially now that you have been

1 challenged on it, you decided that it was not a wise

2 thing to do?

3 A. No, I am not saying because I have been challenged on

4 it, it is a wise thing to do. All I am simply saying is

5 that it is very easy for the public to believe, based on

6 what you are saying, that I have abused my office for my

7 own personal benefit. I am saying that is not the case.

8 I am saying I am a Belonger. I was born in South Caicos

9 in 1969. I am entitled to Crown land just like every

10 other Belonger. I have not sold a piece of Crown land.

11 When I make my applications, I develop my Crown land.

12 Q. The idea of the grant of Crown land is to empower

13 people, isn't it?

14 A. Yes, and the track record will show when I build

15 businesses on Crown land, I employed Belongers. As

16 a matter of fact, I may have 40 plus Belongers employed

17 at this particular time.

18 Q. At the time of these letters in 2007, you were a man

19 with considerable wealth and quite a number of companies

20 to your name, quite a lot of land already in possession

21 and generating, as we have seen from your bank accounts,

22 handsome profits outside your salary as a minister.

23 Yes?

24 A. Considerable is something for you, me or anybody else.

25 I don't know what considerable means. What you are

1 talking about.

2 Q. Did you feel in 2007 that you were still in need of

3 a little bit of empowerment?

4 A. Empowerment has no end and you have to take empowerment,

5 as far as I am concerned, empowerment is not only for

6 yourself. I have demonstrated that in empowerment can

7 be trickled down and I have trickled down empowerment.

8 When I benefit from Crown land, the record will show

9 that I have built businesses, I have built businesses

10 and I have hired people. I have trained people who have

11 left my businesses to go into the same businesses, to

12 compete against me.

13 Ironically I find myself as the minister responsible

14 for land, and I can remember on a few occasions those

15 same people who I trained, who worked for me, now apply

16 for land and doing the same thing that I did. So my

17 estimate of empowerment is an ongoing thing. I don't

18 see it as just me benefiting and I am not the only one

19 who benefited. I am sure I am responsible for hundreds

20 of families, when you multiply the children and parents

21 and cousins that draw a salary from the Crown land that

22 was afforded to me under this country's policy. That is

23 how I see it.

24 Q. Is your evidence then that you were doing this for

25 the good of the country?

1 A. My evidence is that I was doing it for all of us.

2 Q. Right. Okay --

3 A. I would have been empowered along the lines and so would
4 others.

5 Q. Right. Because of course as a businessman, as a land
6 owner, property owner, a man who is generating money
7 from your businesses, it would have laid open to you
8 simply to buy land privately. There is land which other
9 companies own which you could have bought but you chose
10 instead to buy Crown land, didn't you?

11 A. You are absolutely not right, and for the sake of
12 completeness, you very well know that I have bought
13 private land because it is in the bundle. You very well
14 know that I bought private land on Leeward Highway for
15 \$750,000 last year.

16 MR MILNE: Forgive me, I am not suggesting you have never
17 bought private land, but these parcels are Crown land.

18 A. The thing is that in my business plan, just like
19 I wanted to do business on the highway, I went after
20 the parcel of land that is strategic to my business
21 plan. Whether it be Crown or private. And if it is
22 Crown I have to approach the Crown; if it is private
23 then I have to approach whoever the private owner is.

24 Q. The discount you get as a Belonger is not an influential
25 factor, particularly knowing that the ministry of

1 natural resources is likely to be sympathetic to your
2 grant?

3 A. No, you are not characterising that properly at all.
4 Crown land is there for us.

5 Q. Right.

6 A. Us meaning Belongers.

7 Q. Right.

8 A. My entitlement, sorry, is no different from all of these
9 people and I can bet you every one of them got Crown
10 land at some point in time. The majority of people in
11 this country got Crown land. My entitlement is
12 absolutely no different from these persons.

13 Q. The fact that you are entitled as a Belonger is not
14 fettered in your view by your responsibility to
15 the Territory as minister of natural resources? You
16 don't regard that as a conflict? Is that correct?

17 A. No, it is not a conflict because it even goes further.
18 The issuance of Crown land according to our policy, and
19 it has been and it is published in the Gazette. So
20 the public have an opportunity to know what grounds
21 I have from the Crown. It is in the Gazette and if you
22 need proof of that, perhaps I could take the undertaking
23 and bring you some Gazettes and show you where land is
24 published.

25 Q. No, I have seen Gazettes, sir, in this country, I have

1 seen them in London, and if I picked up the Gazette in
2 relation to this, it would tell me that a grant of Crown
3 land, 60804/151, The Bight and Thomas Stubbs,
4 Providenciales, was made to Palm Breeze Limited. The
5 Gazette would not tell me that that was a company owned
6 100 per cent by the Honourable McAllister Hanchell,
7 would it?

8 A. If you want to go further, you can simply do a companies
9 search and it will tell you who is Palm Breeze. There
10 is nothing hidden there.

11 Q. Clearly if I do as the Commission has done in this case,
12 spent many hours, indeed many days and a great deal
13 unfortunately of money pursuing it, we will manage to
14 get to the bottom of these things. But if a member of
15 the public picks up the Gazette and wonders, and it is
16 not, as I understand it, normal reading for most people
17 on the Turks & Caicos Islands, but if they do choose to
18 pick it up, unless they go to the trouble of visiting
19 the Land Registry, which I think is on Grand Turk and
20 unless they go to the trouble of going through a search
21 they will not know, will they, that you have granted
22 your company, that you own 100 per cent, some Crown
23 land? How is that, Minister, a transparent system?

24 A. It is transparent. It is not unusual that business is
25 done in this country other than in your personal name.

1 If one wants to go further, let me give you a prime
2 example -- if a development -- I see the newspapers all
3 the time, and developments are being advertised in
4 relation to planning applications for the general public
5 to give comment. I have rarely seen people's names.
6 I have seen names of companies. So if the public wants
7 to find out who is behind this development to make their
8 submissions on whether they agree or not, on what is
9 proposed to take place, the public do have
10 a responsibility as well to go further.

11 If something is declared, might it be Palm Breeze or
12 the Palms or whatever it is, the public I still think
13 have that responsibility to move forward.

14 There is no dodging and doing business as a company
15 other than my personal -- in my name.

16 (11.15 am)

17 Q. You think it is a public duty to keep an eye on you to
18 police your decisions?

19 A. I didn't say it is a public duty to keep an eye on me at
20 all. What I said, the public still have an obligation,
21 if it is interested in going further, to see things.
22 Because if you go to the companies register, it will
23 simply show that I own Palm Breeze 100 per cent. My
24 name will be there. McAllister Hanchell. So I am not
25 dodging at all.

1 SIR ROBIN AULD: You have got to go to the Land Registry

2 first and then the Companies Registry, do you?

3 A. No.

4 SIR ROBIN AULD: You go to the Land Registry and find who

5 the legal owner is in formal terms and if it happens to

6 be a company, you would have to go presumably to another

7 registry to find who owns the company?

8 A. No, only in the case if the land is registered. In this

9 particular case, if we are talking about Palm Breeze in

10 particular, nothing has taken place, so the land will

11 show that it is Crown, so you will be of the assumption

12 that the land is still that of the Crown where they have

13 a valid offer on it, but in cases where there is

14 a register, you will actually go to the registry and

15 obviously go to the companies register.

16 SIR ROBIN AULD: Just help me on this a little. I looked at

17 the policies some time ago. What edition of the Crown

18 land policy was in operation at the time we are talking

19 about, early 2007, which spoke of empowerment of

20 Belongers?

21 A. What edition was operational?

22 SIR ROBIN AULD: Yes, was there a formal policy at that time

23 for Crown land to empower Belongers?

24 A. Yes, in 2007?

25 SIR ROBIN AULD: It was a 2007 edition, was it?

1 A. No, I am not clear on the dates that you are saying,

2 sir.

3 SIR ROBIN AULD: I am not clear, that is why I am asking

4 you. I am asking you what edition or what form of

5 policy there was in operation, say, in July of 2008,

6 when you were being asked about these transactions.

7 A. Yes, there is a Crown land policy.

8 SIR ROBIN AULD: What does it say about empowerment?

9 Clearly you can empower people to buy their own homes.

10 That is good. Clearly you can empower the same people

11 to buy property over and over again to turn it one way

12 or another into a profitable concern and employ other

13 Belongers.

14 A. Right.

15 SIR ROBIN AULD: What is it that the policy is directed at?

16 A. The policy allows you -- a Belonger discount up to 10

17 acres.

18 SIR ROBIN AULD: I know about that. But what is the aim of

19 it as stated by the policy? The empowerment.

20 A. The empowerment is for, as far as I am concerned, my

21 interpretation is the empowerment is to enhance the life

22 of Belongers.

23 SIR ROBIN AULD: But what does the policy say if anything?

24 I will have a look at the policy --

25 A. I can't remember it verbatim but I am sure it is in

1 there.

2 SIR ROBIN AULD: We will have a look in the policy again.

3 It is some time since I have looked at it.

4 MR MILNE: Do you remember at any stage seeing a copy of the

5 code of conduct of ministers that was being drafted and

6 prepared?

7 A. Yes, sir.

8 Q. Do you remember that the Cabinet approved the terms

9 subject to a bit of re-typing which never seems to have

10 taken place?

11 A. I remember something came to Cabinet.

12 Q. Do you remember that one of the terms of that code of

13 conduct was the general principle at 7.1, and I am

14 looking at page 9 of the very first red bundle,

15 left-hand side, sir, it is, I think, section 9 --

16 page 9.

17 A. Page 9 of 73?

18 Q. No, it is page 9 of section 9 within red volume 1.

19 A. Yes.

20 Q. "Ministers should ensure that no conflict arises or

21 could reasonably be perceived to arise between their

22 public duties and their private interests, financial or

23 otherwise."

24 7.3:

25 "Ministers must scrupulously avoid any danger of

1 an actual or perceived conflict of interest between
2 their ministerial position and their private financial
3 interests. They should be guided by the general
4 principle that they should either dispose of the
5 interest giving rise to the conflict, or take
6 alternative steps to prevent it."

7 Do you regard that as being a sound guide to
8 ministerial behaviour?

9 A. First of all, let me put it in the right perspective.

10 This code of conduct, as far as I am concerned, has not
11 come into force. That is number 1. What you have just
12 read, I read the same thing. I understand what it says,
13 but as far as I am concerned at this particular time it
14 has no relevance, because this code of conduct has not
15 been adopted by the government of the Turks & Caicos
16 Islands to this very date.

17 Q. Do you regard that as a sound guide to ministerial
18 behaviour?

19 A. When this comes into effect, I regard not only that but
20 all of the points that if I am a minister at the time
21 that I would be subject to this code of conduct in its
22 entirety.

23 SIR ROBIN AULD: I don't understand your answer. Is it yes
24 to the question, do you regard the proposition in that
25 paragraph as a sound guide to ministerial behaviour?

1 A. When it comes into effect, the entire --

2 SIR ROBIN AULD: But not before?

3 A. It is not into effect.

4 SIR ROBIN AULD: Forget that it is in the code, there is

5 a proposition there. Do you regard that proposition,

6 looking at it in front of you, as a sound guide to

7 ministerial procedure?

8 A. Yes.

9 SIR ROBIN AULD: So the answer is yes.

10 MR MILNE: If it had come into force, when it comes into

11 force, would that mean you would behave differently in

12 relation to Crown land?

13 A. I can't say that because there was no intention when

14 Crown land was granted that I have an interest in to not

15 refer to that section as a sound guide.

16 Q. So are you saying that you would not regard granting

17 yourself or your companies Crown land as being

18 a potential or perceived conflict of interest?

19 A. Say that again.

20 Q. Can you not see that the public might regard it

21 potentially at least as a conflict of interest and that

22 you should for that reason alone avoid such purchases?

23 A. Yes, I think I said earlier that the public can't --

24 because I have an interest in those lands, can perhaps

25 regard that as a possible conflict, and perhaps if I had

1 an opportunity, I would not have dealt with it in that
2 manner simply because I have an interest, but at the
3 time of granting it, I put myself in the position as
4 a Belonger who has that entitlement very well knowing
5 that it is going to be published. Very well knowing
6 that nothing is a secret around here. Government
7 documents leak out left, right and centre. So as far as
8 that is concerned, I was not dodging from the public
9 knowing my interest. They would eventually know because
10 my intention is to build businesses every time.

11 Q. Let's move on, sir. One of the companies which you own,
12 we are told, or at least one of the companies in which
13 you have an interest is a company called
14 Sunset Beach Ventures Limited?

15 A. Yes, where is that?

16 Q. It is all over the place. It doesn't matter where it
17 is. I am simply going to ask you about it for a minute.
18 Sunset Beach Ventures Limited is a company that is
19 the holding company or a condominium of the
20 Regent Palms, yes?

21 A. No.

22 Q. What is it used for then?

23 A. Refer me to it please.

24 Q. Look at page 15 -- I beg your pardon, Regent Grand,
25 hirer. There are many Regents round here. I think we

1 are standing in the Regent Palms. If I said that
2 I apologise. The Regent Grand. It is a condominium,
3 yes?
4 A. Yes.
5 Q. Sunset Beach Ventures Limited, it says on the
6 schedule 100 per cent. You have disclosed
7 the background documents to that. Sunset Beach Ventures
8 Limited is in fact a company apparently held and run on
9 your behalf, we are told, by Chal Misick, the brother of
10 the Premier.
11 A. Yes.
12 Q. Is there a particular reason why he owns and runs that
13 company for you?
14 A. He represented me on the -- I chose him to represent me
15 on the transaction.
16 Q. Why didn't he simply transfer Sunset Beach Ventures,
17 which is a company, into your name? You have many other
18 companies in your name, why not that one?
19 A. So is my business not in my name, why not my business
20 not in my name. That is how business is done in
21 the Turks & Caicos Islands.
22 Q. I draw a distinction, sir. I think you understand what
23 I am getting at here?
24 A. No, I don't.
25 Q. Companies such as AL Services Limited, you have

1 a directorship, you have shareholdings in?

2 A. Right.

3 Q. In some cases you have directorships or shareholdings in

4 companies and that company in turn holds shares in

5 another company.

6 A. Yes.

7 Q. One can follow that. Sunset Beach Ventures Limited is

8 simply held by Chal Misick and by, I think it is

9 Windsor East Limited. Your name doesn't appear anywhere

10 on it, I am simply inquiring why it is that this

11 configuration is different to the others?

12 A. The proceeds -- the loan documents, I believe, from

13 First Caribbean Bank and throughout the documents talks

14 about me.

15 Q. Yes.

16 A. It is held in trust. In case if you don't know, I have

17 children and I am responsible for a Downs Syndrome

18 brother and my mother and I have to -- the way I work my

19 life, I have to plan if I am not here in the event I am

20 going to leave something in trust for someone to be

21 taken care of.

22 Q. Well, no doubt you would make appropriate arrangements

23 for your children and relatives, one doesn't doubt that.

24 That doesn't, I am afraid, answer the question, what is

25 different about Sunset Beach Ventures Limited that it is

1 held by Chal Misick? All the other companies are held
2 in a different format. This one alone, of yours, is
3 held in that fashion. I am simply asking why, is
4 Chal Misick to be a trustee after you pass away?

5 A. I have a will that Chal Misick will administer for me in
6 all of my dealings.

7 SIR ROBIN AULD: What, a single will, or? He is
8 an administrator, a proposed administrator of your will,
9 is he? Executor, really?

10 A. I don't want to say yes and then it is not like that.

11 I know I sat with him and said I need to prepare a will
12 and these are the things --

13 SIR ROBIN AULD: I don't want to pry unnecessarily into your
14 private affairs but is he a named executor of your will
15 which will affect the holding of this property after you
16 die?

17 A. I am not certain, sir.

18 SIR ROBIN AULD: Well, Mr Milne wants to know why he was
19 involved in this transaction.

20 A. I think I said earlier, I choose Chalmers & Co to
21 represent me on the transaction from the sellers and
22 I am trying to the best of my knowledge to explain to
23 you why it is not in my name and why it is in trust. It
24 is not something that I intend to use. It is
25 a potential income property. It is not on the rental

1 pool as yet. It is an income property and that is my
2 main reason for structuring it like that.

3 SIR ROBIN AULD: So he is not administering any rental
4 arrangements for you, but what is it, vacant?

5 A. It is vacant, and the condo development,
6 the Regent Grand, they will administer all of the rental
7 stuff --

8 SIR ROBIN AULD: I thought you said it is not in the rental
9 pool.

10 A. It is not yet.

11 SIR ROBIN AULD: What is it used for now?

12 A. We have been fighting -- not fighting, we have been back
13 and forth with an agreement. It is not being used at
14 all. I have only closed on it, I believe, late last
15 year if I am not mistaken.

16 SIR ROBIN AULD: Not yet in use?

17 A. Not yet in use.

18 MR MILNE: Minister, I am going to give you one last
19 opportunity to explain to me why this one company has
20 been dealt with in a different manner.

21 MR MISICK: That is not the case actually. There are other
22 companies, for example, there is another company which
23 owns a condominium that Saunders & Co does the same
24 thing for. So that is not fair.

25 MR MILNE: Why is Chal Misick administering that one, simply

1 because he helped you buy it?

2 A. No, really yesterday you were out of line and you are

3 going down the same nasty road today.

4 I said over and over I chose the firm of

5 Chalmers & Co to represent me and give me legal counsel

6 on the transaction.

7 Q. Does Chal Misick hold money for you?

8 A. No.

9 (11.30 am)

10 Q. Does he have any money of yours on account in any form

11 or fashion at all?

12 A. No.

13 Q. Has he done business for you on any other land

14 transactions?

15 A. No, just this condo.

16 Q. You have told us that when you borrowed money from

17 the Premier, it came from Chal Misick?

18 A. Yes.

19 Q. Into which account did that money go? Was that directly

20 to the credit card?

21 A. Yes.

22 Q. Did any of that come to you direct?

23 A. No.

24 Q. Did you invite him to move any of that money anywhere

25 else apart from the credit card?

- 1 A. Yes.
- 2 Q. Where was it you invited him to move that money?
- 3 A. I think he paid some other bills for me.
- 4 SIR ROBIN AULD: Payment to the credit card and other bills.
- 5 MR MILNE: Were those bills on the Turks & Caicos Islands or
- 6 bills overseas?
- 7 A. Those bills, I think, were overseas.
- 8 Q. Can you tell me which countries they were in?
- 9 A. In the United States.
- 10 Q. Do you have records of those bills?
- 11 A. Yes, I do.
- 12 Q. Do you have accounts in the United States, sir?
- 13 A. No, sir.
- 14 Q. Of the money that was borrowed or the money that was
- 15 agreed to be lent to you, has it all been expended or is
- 16 there some of that money still left?
- 17 A. No, it has all been expended.
- 18 Q. Are there any other borrowing arrangements between
- 19 yourself and Mr Chal Misick?
- 20 A. No, sir.
- 21 Q. Involving the Premier or indeed anybody else?
- 22 A. No, sir.
- 23 Q. Do you have any arrangements with the Premier other than
- 24 the borrowing that you have told us about, for borrowing
- 25 money?

1 A. No, sir.

2 Q. So the 1 million is all it is?

3 A. That is all I owe.

4 Q. Nothing else?

5 A. Nothing else.

6 SIR ROBIN AULD: This was an unsecured loan.

7 A. Yes, sir.

8 SIR ROBIN AULD: I am just asking you this once more so that

9 your answer is quite clear: do you say that

10 the ownership of the condominium at the Regent Grand,

11 held in the way you say, through Chal Misick, has got no

12 connection with any transaction between you and

13 the Premier?

14 A. No, sir.

15 SIR ROBIN AULD: Thank you.

16 MR MILNE: When you bought the condominium, you borrowed

17 a substantial amount of money. That has been disclosed

18 to the Commission.

19 You borrowed that money on commercial terms from

20 a commercial lender and indeed we can see from the bank

21 accounts that you have started to make repayments to

22 that commercial lender?

23 A. Yes.

24 Q. Those payments were made from your personal bank

25 account. The loan appears to be in your personal name,

1 yes?

2 A. I believe, if you can refer me to the document. I am

3 not sure how the bank set it out but I know I made

4 the application, I signed it.

5 Q. I think you referred to this earlier. You borrowed that

6 money against the condo from

7 the First Caribbean International Bank, I think it is

8 page 64 of the first bundle.

9 Yes?

10 A. Yes.

11 Q. Whilst the letter dated 18th June 2008 is addressed to

12 the directors of Sunset Beach Ventures Limited, in the

13 course of that letter it refers by name to yourself as

14 being the provider of a variety of items. You have to

15 provide a job letter just in case anybody didn't know

16 what you did for a living, a signed letter from

17 Caicos Oil Limited which is clearly your company and

18 a series of other documents. There is also in that list

19 confirmation of a contribution to the sum of \$230,899 by

20 yourself?

21 A. Yes.

22 Q. The sum being borrowed from the FCIB is substantial. It

23 is 618,000. It appears that one of the conditions was

24 that you should yourself put forward some capital?

25 A. Yes.

1 Q. Can you tell us from where that money, the 230,000,

2 nearly 231,000 was drawn?

3 A. Yes. I have been paying for the deposit, I have been

4 paying that over and I have been late every time.

5 I have been paying that over a period of time. From

6 different sources of my own personal funds.

7 Q. So you didn't pay the deposit in one sum. You were

8 paying contributions?

9 A. Yes, I paid the deposit in one sum. I paid the deposit

10 from the bank of Belize.

11 SIR ROBIN AULD: You have just said two different things,

12 unless I misheard you. I thought you said you paid it

13 in --

14 A. I --

15 SIR ROBIN AULD: Could you let me finish, please. I want to

16 make sure I made a mistake or got it right.

17 You said you had been paying it in instalments. You

18 had not always been on time and now you say you paid it

19 in one instalment and you are going to tell us about

20 the Belize Bank.

21 A. Right.

22 SIR ROBIN AULD: Which is it?

23 A. Right. The sellers receive their monies in one lump

24 sum. But I had to repay the Belize Bank for the deposit

25 over a period of time is what I am saying.

1 SIR ROBIN AULD: I see.

2 A. Which has been paid off.

3 SIR ROBIN AULD: You were paying instalments to

4 the Belize Bank, who had already discharged the single

5 payment?

6 A. Belize Bank charged a single payment because I bought it

7 at pre-construction. So it was a couple of years

8 dealing with that.

9 MR MILNE: So you have an account at the Belize Bank.

10 A. No, I don't.

11 Q. You have a loan agreement at the Belize Bank?

12 A. I had.

13 Q. When was that loan agreement entered into?

14 A. I can't remember. I believe it must have been two/three

15 years ago for the deposit.

16 Q. How long were you negotiating this purchase?

17 A. A couple of years. I think there is a purchase

18 agreement somewhere here. If my counsel can help me to

19 find it.

20 Q. The reason --

21 MS MISSICK: Page 47, bundle 1.

22 A. 2006. April 9th.

23 MR MILNE: That is the sale agreement.

24 A. Yes.

25 Q. This is a sale agreement that is signed in 2006?

1 A. Yes.

2 Q. The loan is taken out in 2008?

3 A. Yes.

4 Q. So are we to take it that the sale agreement was

5 the beginning of the period of negotiation?

6 A. Yes, we should take it as that.

7 Q. This wasn't the culmination of another two years. You

8 had not been negotiating for a year or more before. It

9 started around -- I am not holding you to a precise date

10 -- but around April of 2006?

11 A. I believe so.

12 Q. Am I to take it that you are buying, I don't know if you

13 use the expression in Turks & Caicos, buying off plan.

14 Do you understand what I mean by that? You were putting

15 a deposit down as the construction was going on with

16 a view to completing around the time that the building

17 itself was finished, is that the aim?

18 A. Correct.

19 Q. So you would have paid a deposit at some stage?

20 A. Yes.

21 Q. By the time of the loan that you took out in 2008, had

22 the loan from the Belize Bank been paid and completed?

23 A. Right around that time, the loan from -- or before

24 I closed the loan was paid, because when I went to

25 First Caribbean Bank to finish financing it, that was

1 made clear to them.

2 Q. So, you took out a loan from Belize Bank?

3 A. Yes.

4 Q. For 230,000-odd. You repaid the loan, you closed

5 the loan account.

6 A. Yes.

7 Q. Is it worth my enquiring whether you actually declared

8 that loan on any of your registered interests?

9 A. No. I don't think so.

10 Q. No, it is not worth asking, or no, you didn't declare

11 it, I am sorry?

12 A. No, I didn't. I think we were still in contract. I

13 didn't have title for it. I didn't declare it, no.

14 SIR ROBIN AULD: For how long did the loan account run, from

15 what date to what date?

16 A. You can say around two years.

17 SIR ROBIN AULD: From?

18 A. Around two years, 2006 to about 2008 because I figure

19 I closed in 2008.

20 MR MILNE: As far as the registered interests, you have

21 heard this before, sir, you may indeed hear it again but

22 there is a column that requires you to declare

23 liabilities. I will simply ask you, did you ever

24 declare as part of your liabilities the fact that you

25 owed money to Belize Bank?

1 A. I don't think I did. Unless you can refer me to the
2 page. I don't think I did.

3 SIR ROBIN AULD: Did that loan account accommodate any other
4 transaction of yours, apart from this?

5 A. No, sir.

6 SIR ROBIN AULD: Do you have the statements of that loan
7 account available?

8 A. I don't have them in my possession but I can seek to get
9 them.

10 SIR ROBIN AULD: I think you should try.

11 A. Okay.

12 SIR ROBIN AULD: I don't mean you should try. You should
13 get them. That is probably a good time for us to break.

14 MR MILNE: Thank you very much, sir.

15 (11.40 am)

16 (A short break)

17 (11.50 am)

18 SIR ROBIN AULD: Mr Milne.

19 MR MILNE: May it please you, sir.

20 Minister, can I go back please just briefly to one
21 point that we were touching upon this morning. You
22 recall that this was at page 43, the letter to
23 Palm Breeze Limited, care of yourself, written by
24 yourself, where you used the expression:
25 "I am therefore pleased to inform you that in

1 accordance with Cabinet's decision, it has been agreed
2 that freehold title should be granted."

3 I pointed out, I think, this morning the difference
4 between that wording and the earlier wording adopted,
5 which was simply "in accordance with the authority
6 granted to the minister of natural resources".

7 But on this occasion, February 2007, you appear to
8 be saying that there has been a Cabinet's decision. If
9 I follow your evidence correctly, you are saying this
10 matter went before Cabinet. Cabinet made a decision.
11 As a result you wrote the letter. Is that correct?

12 A. Yes. On this matter, and I remember this matter, this
13 matter went before Cabinet for the granting of the land,
14 the CPL offer. I remember I had to declare my interests
15 and leave the room, and this letter here, I believe,
16 the intention of the editor, I don't write the letters,
17 I sign them, the intention of the editor talks about
18 that Cabinet decision in this particular case.

19 Q. The letter is dated 2nd February 2007. How long before
20 the letter being signed would the Cabinet decision have
21 taken place, do you think?

22 A. Well, again, I don't think you understand what I was
23 trying to say. The Cabinet decision was for
24 the granting of the land. At that particular time
25 the freehold title would not have a need to go to

1 Cabinet because the freehold title, the policy is that
2 it established that once you have a letter of commitment
3 or a mortgage letter from the bank, then, that was --
4 once that is satisfied, that is enough to grant freehold
5 title loan.

6 Q. If the grant of the freehold title did not need to go
7 before Cabinet, why does the letter say "in accordance
8 with Cabinet's decision"?

9 A. That is what I am saying. I am not the author. I don't
10 write the letters, I sign them and I believe, it is my
11 interpretation that the author is trying to -- is making
12 reference of where the transaction originated. That
13 there was a Cabinet decision that first gave you
14 the letter. Because I know how it reads. How it reads,
15 it reads as if Cabinet decided on this freehold title.
16 But what I am telling you from my memory, that Cabinet
17 didn't decide on the freehold title because after
18 Cabinet grant the letter, the granting of freehold title
19 was purely on qualification.

20 And the qualification was you start the project at
21 the belt-beam level or you have a mortgage letter from
22 the bank or a letter of commitment from the bank.

23 Q. So the letter and I take on board what you say about it
24 being drafted by somebody else, but it was signed by
25 yourself?

1 A. Yes.

2 Q. The letter is potentially misleading because there was

3 no Cabinet decision in relation to the freehold, only

4 a Cabinet decision in relation to the original

5 conditional purchase lease, is that right?

6 A. There was no Cabinet decision in relation to the

7 freehold. There was a Cabinet decision in relation to

8 the CPL conditional purchase lease offer and the intent

9 of this letter, the way I read it refers to that

10 original decision from Cabinet to grant myself the land.

11 Q. When would you have received the original conditional

12 purchase lease --

13 A. Offer? Looking at the date, I don't know, it may have

14 been in 2006 or maybe -- anywhere between 2006 and

15 February 2007 I would have received it.

16 Q. You told us a few minutes ago you could remember

17 withdrawing from the discussion when that went on?

18 A. Yes.

19 Q. Can you be more precise as to the month in which that

20 grant was made to you and you had to withdraw from

21 the Cabinet?

22 A. No. I really can't be precise on the month. But there

23 is a Cabinet minute in relation to that, because

24 I remember clearly I had to declare my interests and

25 leave the room.

1 Q. As far as Palm Breeze Limited is concerned, obviously,
2 it couldn't have received the grant until such time as
3 it had been formed, could it?
4 A. Say that again.
5 Q. There couldn't have been a conditional purchase lease
6 granted until Palm Breeze actually existed, could there?
7 A. Ideally but not necessarily.
8 Q. Was the CPL granted to Palm Breeze or was it granted to
9 yourself?
10 A. I can't remember. I will have to see the documents to
11 remember how it was granted. But more than likely
12 Palm Breeze would have had to have been incorporated.
13 Q. So does it come down to this: that, provided certain
14 conditions are met, the grant of a freehold title is
15 effectively a formality, it does not require any further
16 executive decision?
17 A. Not -- executive meaning like a further Cabinet
18 decision.
19 Q. Certainly you have told us not a further Cabinet
20 decision. Does it require any further executive
21 decision from within your department?
22 A. Define executive? What do you mean by executive?
23 I want to be very clear how I answer that.
24 Q. Is there any discretion involved or is it simply you
25 tick all the boxes, therefore you can have it?

1 A. It is my interpretation that there is no discretion
2 involved in freehold title.

3 Q. There is not?

4 A. That is my interpretation, that freehold title is
5 a matter of qualification.

6 Q. Is there some particular reason then why the minister,
7 in person, signs the letter granting it?

8 A. The policy only allowed the minister -- you would know
9 that my signature is on all the freehold letters.

10 Unless, in the past, there is a Cabinet decision and
11 then if Cabinet makes that, someone from the ministry
12 will communicate the Cabinet decision.

13 Q. Right. Just a few more questions in relation to
14 property before I move on to a different subject. My
15 colleagues have received documents from your attorneys
16 this morning.

17 A. Yes.

18 Q. They have been looking at those. We may come back to
19 them if an issue arises. For the moment, can you simply
20 tell me this then, Palm Breeze Limited was given
21 the freehold option, buy the freehold for \$450,000. Did
22 it pay that money out?

23 A. No, no money is being paid for Palm Breeze at all.

24 Q. So the freehold has not changed hands?

25 A. No, it is still -- to the Crown.

1 Q. It is still in CPL stage, is that right?

2 (12.00 pm)

3 SIR ROBIN AULD: It has not reached that stage.

4 A. No, it is vacant on the register and it will say Crown

5 because I have not executed the CPL or taken up

6 the freehold. I have not paid a dollar on it.

7 Q. You don't have either but you have an option?

8 A. Yes.

9 SIR ROBIN AULD: What is the consideration for the option?

10 A. It says that the cost of freehold is \$450,000, which is

11 75 per cent of the open market value.

12 SIR ROBIN AULD: But you have a option but you have not

13 exercised the option. What is the consideration for

14 your contractual entitlement to an option?

15 A. Nine months.

16 SIR ROBIN AULD: Have you paid?

17 A. No, the offer is for nine months and if you don't -- if

18 the offer isn't executed within nine months, then it

19 automatically falls away. You are entitled to reapply.

20 SIR ROBIN AULD: So this is -- I don't know whether the word

21 "gratuitous" is right, but it is a voluntary offer of

22 an option to you for which you don't offer any

23 consideration yourself?

24 A. I am a little confused, I am sorry.

25 SIR ROBIN AULD: If somebody gives you an option to buy, you

1 usually give them something for that entitlement.

2 A. Correct.

3 SIR ROBIN AULD: There is no such requirement here with

4 Crown land.

5 A. You have to take up the option within nine --

6 MR MISICK: I think you are right, sir, yes.

7 MR MILNE: You made the request for freehold title. You

8 asked for it.

9 A. Yes, I made an application for freehold title.

10 Q. Why did you make a request for that and not follow

11 through when the offer was made, because you have

12 an inside line, you would have known what it was going

13 to cost?

14 A. Yes, I didn't follow through because the project never

15 got off the ground. The financing for the project was

16 included -- was to be included with the land and

17 the construction of the facilities. That is how

18 I propose -- that is how my proposal is for the overall

19 thing. So one doesn't come before the other.

20 Q. You told us that you have a condominium at the

21 Regent Grand?

22 A. Yes.

23 Q. Do you have a condominium at the golf course as well, is

24 that right?

25 A. Yes.

- 1 Q. Have you ever owned any other condominiums?
- 2 A. No.
- 3 Q. Have you ever been offered any other condominiums?
- 4 A. Define offered, what do you mean?
- 5 Q. Offered.
- 6 A. Offered, like how?
- 7 Q. Has anybody offered you a condominium?
- 8 A. Like they say: hey, let me give you this condominium?
- 9 Q. Possibly.
- 10 A. You mean like if somebody approached me and say: I want
- 11 to give you a condominium.
- 12 Q. Yes.
- 13 A. No.
- 14 Q. Has anybody approached you personally and said: I would
- 15 like to sell you or offer you a condominium at a reduced
- 16 price.
- 17 A. No.
- 18 Q. Not at all?
- 19 A. No.
- 20 Q. Never?
- 21 A. No.
- 22 Q. Would you turn within bundle 2 to new papers, which are
- 23 at the very back of that bundle.
- 24 A. Same bundle?
- 25 Q. No, second bundle, bundle 2. A new divider has gone in.

1 It is an unmarked divider. There are a series of
2 documents but I want you to go towards the very back of
3 that bundle, the final two pages, which are pages 29 and
4 30 in that section. 29/30, 31 in fact. If we look at
5 the very final page --

6 A. Wait a minute, I think I am lost. Volume 2?

7 Q. Volume 2. (Pause)

8 A. Yes.

9 Q. Let's just have a quick glance at page 31, which is
10 a photocopy in fact of an advertisement. Do you
11 recognise the gentleman whose face appears on that? His
12 whole body appears on it?

13 A. Yes, that is Gary Lightbourne, they call him Big Driver.

14 Q. Gary Lightbourne is a well known name, a very
15 distinctive man, I think he is very tall, yes?

16 A. He used to be a boxer but he ain't win a match yet.

17 Q. He used to be a boxer?

18 A. Yes, he used to be a boxer.

19 Q. Well, Mr Lightbourne was given a letter, dated
20 26th December 2006. We have that at page 29. And
21 a second letter the following day. December 7th 2006.
22 So two letters.

23 A. Yes.

24 Q. The first one is granting at page 29 his application for
25 a commercial conditional purchase lease on a parcel at

1 70300. That is a part of West Caicos?

2 A. Yes.

3 Q. Indeed, many parcels were granted in that division,

4 70300?

5 A. Yes.

6 Q. The second parcel, over the page, he was granted

7 a residential conditional purchase lease?

8 A. Yes.

9 Q. On a parcel at 60300 in Proggins Bay, that is obviously

10 in Providenciales?

11 A. Yes.

12 Q. As we understand it, those letters which were signed by

13 you were in fact handed by you to him personally?

14 A. Yes.

15 Q. The only curious aspect of this, Mr Minister, is, he

16 never applied for those parcels. We have been told that

17 he didn't make any application.

18 A. That is what he tell you?

19 Q. Yes.

20 A. He is a very lucky man. I have never seen people

21 receive land that didn't apply for it.

22 Q. Quite. We wondered if you had any light you could cast

23 upon it?

24 A. What I do remember is that this Proggins Bay parcel,

25 I think Mr Lightbourne -- and we will have to refer to

1 the ministry -- had a parcel of land in Chalk Sand.

2 SIR ROBIN AULD: This is the property on page 30?

3 A. On 30, yes. I am trying to talk from memory, sir. Bear

4 with me please. I think he had a parcel of land in

5 Chalk Sand of which the lease expired or he didn't take

6 it up or he didn't -- he was not interested in that area

7 or from time to time if a parcel -- if there was a lease

8 on land which is normally for three years, or if there

9 is an offer on land which is normally for nine months,

10 and an individual failed to take the offer up or

11 the lease expires, it goes back into the inventory.

12 I think what happened here is that particular parcel

13 of land was awarded to someone else and the only way he

14 would have gotten this parcel of land, if he made

15 representation to the ministry in one way or the other

16 or to myself as many people do for a renewal of that

17 offer, and what will happen in most cases of trying to

18 satisfy the Belonger's request, if they ask for

19 a particular parcel of land and there is something else

20 available, we would make them an offer so that at least

21 they are not disenfranchised. I take the view that if

22 someone asked for a residential parcel of land and that

23 specific one isn't available and you do have something

24 available, it is perhaps better than giving them --

25 making them an offer --

1 SIR ROBIN AULD: What are you saying, that Mr Lightbourne
2 applied for another piece of land, couldn't get that and
3 so you offered him this instead?

4 A. No I think Mr Lightbourne applied for a renewal. The
5 record will show he had a parcel of land. I think he
6 applied for a renewal on the previous parcel, or he was
7 not interested and he was awarded -- this is a new area
8 in Proggins Bay.

9 SIR ROBIN AULD: That is the same thing. Mr Lightbourne
10 applied for a parcel of land or a renewal on a parcel of
11 land and he could not have it for some reason or
12 another, and he was offered this instead.

13 A. Yes, thank you.

14 MR MILNE: Finish your answer, please, I don't want to cut
15 across you.

16 A. You mentioned two parcels on 29. I don't accept that
17 Mr Lightbourne was offered the parcel of land on page 29
18 without making an application. There is no reason to --
19 we are bombarded with tons of applications -- to give
20 anyone a parcel of land unless they apply for it.

21 Q. Quite. You are not forcing land into people's hands,
22 are you?

23 A. No, man, there is an abundance of applications. There
24 is more applicants than we can create subdivisions for.
25 So you don't have to force land in anybody's hand.

1 Q. But this particular -- I don't know if you would
2 referred to it as a division or subdivision, 70300, that
3 is West Caicos, lots of little parcels of that land seem
4 to have gone out to many people, many of those people
5 apparently related to one another and we understand and
6 we are still looking into this, that many of these
7 parcels are then charged to exactly the same onward
8 purchaser.

9 The Commission is being told essentially that this
10 is a scam. That this is a process -- let me make clear
11 so you understand and I will give you a opportunity to
12 deal with it.

13 A. Okay.

14 Q. -- whereby a foreign purchaser wishes to, as it were,
15 gather lots of land and that individual parcels are
16 being put through the names or put in the names of
17 Belongers, islanders, who will obviously get a discount
18 and who can then immediately sell it on. That is not
19 the purpose of any Crown land policy, is it?

20 A. The purpose of the Crown land policy, I believe, is to
21 empower Belongers, but if Belongers decide to choose
22 the route of selling their land as empowerment,
23 I personally don't believe that is empowerment. That is
24 a matter for those Belongers. If they want to sell
25 their land. I think it is a matter for those Belongers

1 if they want to sell their land or if they want to
2 improve it, build structures on it.

3 Q. If a Belonger wishes to sell the land on, they may do
4 that. If somebody applies for land in the name of
5 a Belonger, pick a name, any name, and then sells
6 the land on for them, that Belonger may not even know
7 that the land has passed through their hands, would
8 they?

9 A. How is it possible that you can apply for a land in
10 the name of a Belonger? I don't understand that.

11 Q. Because I would suggest, sir, that there is
12 a possibility here that there is effectively a fraud
13 going on whereby parcels are broken down into individual
14 names, nominally passed on to Belongers, and immediately
15 then transferred into the name of large conglomerates
16 and the Belongers, or indeed the person who has put up
17 their name, profiteer overnight?

18 A. I am not aware of such a fraud.

19 Q. You are not?

20 A. That is going on. I know we make subdivisions all over
21 the country and Belongers make applications and they are
22 granted in accordance with the policy.

23 Q. You see, of course, somebody from the --

24 MR MISICK: Sir, that is a very serious allegation to make,
25 and I assume my learned friend Mr Milne will have some

1 evidence to back it up?

2 MR MILNE: There will be evidence called in due course, sir.

3 We are not saying that this is necessarily the case but
4 this is a suggestion that has been put to us and we want
5 to give you the opportunity to address it at this point.

6 MR MISICK: With respect, sir, fraud, as you know, is
7 a very, very serious allegation to make and to put that
8 suggestion to this witness, just because he has been
9 told that by someone else, without any foundation,
10 I find that a little bit disturbing.

11 SIR ROBIN AULD: Yes, I think -- I have heard the expression
12 flipping, and I am sure it is not unknown in this room,
13 and there is some audit evidence that we have which
14 suggests a pattern in a number of cases and as
15 I understood it, Mr Milne is putting to this witness
16 that this was a possibility of such an exercise.
17 A number of similar purchasers or offerees, all for some
18 reason or another selling to the same developer. I have
19 to say, I didn't pick up the word fraud but if it was
20 mentioned, no doubt Mr Milne has made clear that he is
21 not alleging it against Mr Hanchell in this case but
22 indicating it as a possibility in general. Is that
23 right, Mr Milne?

24 MR MILNE: Yes.

25 MR MISICK: It came pretty close to alleging fraud to my

1 client. If he didn't allege that, he came pretty close

2 to it.

3 SIR ROBIN AULD: Mr Milne, make it clear.

4 MR MILNE: I will make it clear, sir. We cannot say,
5 Minister, who would be involved in that fraud or how far
6 it would go. I am simply asking if you, as minister for
7 natural resources, the minister essentially in charge of
8 land, were aware of that sort of activity taking place
9 or has it ever been suggested to you that it was taking
10 place?

11 A. No.

12 SIR ROBIN AULD: You have heard of the word flipping,
13 haven't you, in this context?

14 A. Flipping, what do you mean? Flipping land?

15 SIR ROBIN AULD: Purported sales to Belongers who
16 immediately sell on, often by pre-arrangement, to
17 developers, sometimes the same developer. Another term
18 is fronting, isn't it?

19 A. I have heard that -- I remember interviewing with
20 the chief auditor and yes, I have heard --

21 SIR ROBIN AULD: You are not suggesting these words are
22 strange to you, are you, in this context, flipping and
23 fronting?

24 A. No, I am saying I have heard both of those words before,
25 because the chief auditor asked me the same questions

1 and I said: where did you get that from. He said that

2 is the local word on the street, flipping.

3 SIR ROBIN AULD: You didn't know that apart from what was

4 said to you by the auditor?

5 A. He raised it and I believe I have heard -- I go round

6 the bars and people talk about stuff just like this

7 thing about Mr Lightbourne. This has been talked around

8 the bars that he said something to the Commission,

9 saying I give him land that he didn't ask for. So I was

10 very well waiting for this one.

11 (12.15 pm)

12 SIR ROBIN AULD: Flipping and fronting are known phenomena

13 here?

14 A. I can't say it is a known phenomena. I have heard it

15 before.

16 MR MILNE: I am going to move to a different

17 topic, Minister. That is the case that is Slovakia.

18 How many times have you been to Slovakia, please?

19 A. Two or three times I believe.

20 Q. All of them on government business?

21 A. No.

22 Q. When was your first trip there?

23 A. I don't know. It could very well be what I described

24 yesterday. It could very well be that that was my first

25 trip to Slovakia.

1 Q. The evidence you gave yesterday --

2 A. I think it was, I think so.

3 Q. You were unable to be precise as to when you had first

4 obtained an American Express card, but you thought that

5 your trip to Slovakia might have been around that time,

6 is that correct?

7 A. No. I think I said that -- I got my American Express

8 card in 2007.

9 SIR ROBIN AULD: One was with the Premier following which or

10 shortly after which you obtained such a card? That is

11 my recollection, anyway, of what you said.

12 A. No --

13 SIR ROBIN AULD: You were not sure where in east Europe it

14 was, but it was somewhere around there.

15 A. I think the question was asked if I got my card around

16 when the Premier got his card.

17 SIR ROBIN AULD: And you were not sure of that. I said

18 I don't know when the Premier got his card.

19 MR MILNE: Do you know when -- you may have answered this

20 already -- let me re-phrase it. You have said you

21 thought you got your card in 2007?

22 A. I said I became a member in 2007 and by becoming

23 a member, that is obviously when I got the card.

24 Q. So you got your card in 2007?

25 A. Yes.

1 Q. We have been given a letter from J&T Banka dated

2 11th May 2007, which is a request for payment?

3 A. Yes.

4 Q. Therefore, are you saying that that was around

5 the beginning of the time that you had the card?

6 A. Which page are you on?

7 Q. I am looking at page 29A in your subdivision 2 in

8 the big bundle. I think it is bundle 4.

9 That appears to be a demand in May of 2007.

10 A. Yes.

11 Q. Are there any earlier demands than that that you can

12 recall?

13 A. I don't recall. I think this may have been my very

14 first invoice.

15 SIR ROBIN AULD: Just a preliminary question from me, did

16 you pay for the card when you obtained it? Were you

17 asked to pay for it?

18 A. Pay what, for the card?

19 SIR ROBIN AULD: You normally have to pay -- I have

20 forgotten is it an enormous sum to buy the card?

21 A. No, no, when the card comes, there is a membership fee

22 that you have to pay.

23 SIR ROBIN AULD: Something like 25,000, isn't it? It is

24 quite a big --

25 A. I don't recall but I know there is a membership fee.

1 I don't think it is 25,000.

2 SIR ROBIN AULD: You had to pay anyway?

3 A. I had to pay a fee. If I refer you to 42 -- 42 is not
4 a membership fee. There is a membership fee but I can't
5 remember what it is.

6 SIR ROBIN AULD: It was quite a substantial fee to use
7 the card?

8 A. Not that I recall.

9 SIR ROBIN AULD: It seems substantial to me, perhaps.

10 A. Okay.

11 MR MILNE: The card statements in this bundle --
12 unfortunately these are the ones at division 3 -- are
13 not in chronological order.

14 So we are struggling slightly to tell when it is
15 that you first started with this. Can you tell us this,
16 some of these card statements refer to new transactions
17 for McAllister Hanchell?

18 A. Where are you referring to?

19 Q. I am looking for example at page 66. Do you have that?

20 A. Yes, I do.

21 Q. Then, page 69, it has a different notation. New
22 transactions for M Hanchell, A.C. What was that?

23 A. The card -- you are given two cards and -- you are given
24 two cards, it is the same card but one allows you to
25 differentiate; suppose you want an option of trying to

1 differentiate your personal stuff or if you were doing
2 business stuff or favourite purchaser. That is all that
3 does. It is the same card. So that is how it comes.

4 Q. It is the same account but different cards so that you
5 get a clearly delineated statement?

6 A. It gives you that option. Some people may do different
7 things with the card. So I think the cards give you
8 that option to differentiate what you are doing, rather
9 than having to go through an entire statement.

10 Q. Indeed, if this assists, page 64, we have a bill on
11 there, where the 7th May entry says:

12 "Welcome to American Express card membership.

13 Please pay the annual fee for McAllister Hanchell."

14 You are charged \$1,000.

15 SIR ROBIN AULD: Nothing like the figure I had in mind.

16 A. Okay.

17 MR MILNE: This is in dollars, not sterling, isn't it?

18 A. This is dollars.

19 SIR ROBIN AULD: So they take \$1,000 off you when you join.

20 MR MISICK: He says they owed him 24,000.

21 MR MILNE: Indeed, you were the -- one presumably gets

22 the bill for the annual membership close to the

23 beginning, although you have been spending on it since

24 19th April? So you had a couple of weeks' usage before

25 they added the card membership for the year. Does that

1 help to remind you of anything, or would that be about
2 right?
3 A. Help remind me about what? When I get the card?
4 Q. Yes.
5 A. Yes, I think I get the card around April or May, I think
6 so.
7 Q. Of 2007. Indeed we know that the Premier had been using
8 his for the previous year. So you appear to have got
9 yours at a later stage.
10 Now, when you got the card, how long was it from
11 your trip to Slovakia? How long between your trip to
12 Slovakia and the card dropping onto your doormat through
13 the post?
14 A. I can't recall because I can't recall the specific dates
15 when I went to Slovakia.
16 Q. Can you give us some sort of idea? Are we talking about
17 a few days, weeks, a year and a half?
18 A. No, it must be -- it has to be months. It has to be
19 months. From my memory.
20 Q. So your trip to Slovakia --
21 A. Months or maybe a year, I don't know.
22 Q. Would have been some time before this?
23 A. Yes.
24 Q. Did you make another trip on government business to
25 Slovakia after that?

1 A. I made another trip to Slovakia but it was not
2 government business.

3 Q. So you made a one further trip to Slovakia?

4 A. Yes, I think so. I did say one or two. I can't recall
5 but I did -- yes, I did visit there more than once if
6 that is what you need to know.

7 Q. The evidence from the Deputy Premier, which we heard
8 the other day, obviously -- I am assuming you were not
9 in the room. There is no reason why you necessarily
10 would have been.

11 A. No, I was not in the room. I was here for one hour of
12 his morning session and then I had to go to work.

13 Q. I can't say whether you would have covered this but I
14 will tell you what it is that he told the Commission.
15 He said, he was asked whether he had had many meetings
16 with Mr Mario Hoffman. He agreed he had met
17 Mr Mario Hoffman. "I have actually visited Slovakia
18 with Mario" were his words. He was asked:
19 "Question: When was that?
20 "Answer: It could have been in 2007 or probably
21 early 2008.
22 "Question: What was the purpose of that meeting?
23 "Answer: The purpose of the meeting was to get
24 familiar with his operations because he was to be
25 a permanent developer in the Turks & Caicos Islands and

1 the Premier had invited me along with him to see his
2 operations in Slovakia, and to also go to Dubai and see
3 some of the car racing that he was associated with..."

4 He spoke of car racing. The Deputy Premier was
5 asked who was travelling with him at the time.

6 "Answer: It was the Premier, myself and Honourable
7 McAllister Hanchell."

8 When asked if there was anybody else he said:

9 "Answer: There could have been others, I don't
10 recall. It could have been the Premier's personal
11 assistant. I am not absolutely sure. There would have
12 been other persons in the party, I am sure."

13 He went on to describe the trip being from the Turks
14 & Caicos Islands to Slovakia, the three of you and
15 possibly the personal assistant. A trip then from
16 Slovakia to Dubai in one of Mr Mario Hoffman's private
17 planes and then the trip back from Dubai to the Turks &
18 Caicos Islands.

19 Do you recall going on that trip with him?

20 A. I recall going to Brussels. I think it is called OCTA,
21 the Turks & Caicos participate in.

22 I recall going further, as you refer to Slovakia,
23 I am only saying that just in case there was another
24 name, Prague, or whatever the name, I know they are
25 associated. I do recall going to Dubai on a private

1 aeroplane. One can assume that it was Mario's. I don't
2 know for certain whose aeroplane or whether it was
3 a charter aeroplane. I do recall coming back to
4 Turks & Caicos on American via New York City.

5 Q. So you would agree that you went to Brussels and then
6 went to Slovakia?

7 A. That is my memory, yes.

8 Q. In company with the Premier and the Deputy Premier?

9 A. Yes.

10 Q. Can you put any more precise date on it than he did?

11 A. I really can't, I am sorry. I really can't remember
12 the date.

13 Q. Was it a formal meeting that you were attending in
14 Brussels?

15 A. Yes, I think it is OCTA. I think that is what it is.

16 Q. Do you know what that stands for?

17 A. I forget.

18 MR MISICK: Overseas Countries and Territories Association.

19 A. That sounds something like it.

20 MR MILNE: How long did that meeting last for?

21 A. I think we were in Brussels for a couple of days if I am
22 not mistaken.

23 Q. Just yourself or yourself and others?

24 A. No there were others. It was a large contingent from
25 the Turks & Caicos. As ministers, I know you are

1 interested in ministers, as ministers the Premier,
2 the Deputy Premier, myself and there were other
3 technical people who were there as well. There was
4 a sizeable group from the Turks & Caicos Islands who
5 were in Brussels.

6 Q. Presumably your office would have a formal record of
7 that meeting taking place and your attendance at it?

8 A. Presumably my office will, but that meeting does not
9 necessarily fall under my office.

10 So in case they don't have it, it doesn't
11 necessarily fall under my office. But if you are
12 looking for dates, somewhere we should be able to find
13 when those OCTA meetings took place.

14 Q. No doubt, but you may or may not attend every OCTA
15 meeting?

16 A. No.

17 Q. The issue is really whether you would have a work
18 record. No doubt you would have a secretary within your
19 office who would keep formal records of when you
20 travelled overseas on business, letters written, deals
21 struck if any, representations made. There should be
22 a formal record within the ministry of when you went on
23 that form of business to Brussels.

24 A. Hopefully there is, but I wouldn't keep, not me
25 personally.

1 Q. You may not keep one personally, and I wouldn't expect a
2 minister to keep his own diary, but you would have
3 somebody responsible for your diary surely?

4 A. It is not necessary, I am trying to -- and you are
5 beating me up on something that I am trying to be
6 straight up with you as much as possible. That I don't
7 know for sure if there is a record. That I went to
8 Brussels. But I am sure you can find the date when
9 I went to Brussels because the OCTA meetings, I think
10 they are annual meetings.

11 Q. I would invite you to find the date, sir, by checking
12 with your office and providing the Commission with such
13 details as are available from that?

14 A. No problem.

15 Q. So we can identify the date?

16 SIR ROBIN AULD: Is the purpose of this to date the onward
17 visit or the previous visit to Prague?

18 MR MILNE: Yes, sir.

19 SIR ROBIN AULD: That is the sole point of this enquiry?

20 MR MILNE: That would be the sole point, but standing alone,
21 we have no great interest in Brussels or OCTA with
22 respect.

23 SIR ROBIN AULD: Or indeed if Mr Hanchell went to Brussels
24 necessarily, but if that is the date he is saying he
25 did, that is the date he is saying he went to Prague.

1 Q. Presumably the official record would indicate that you
2 went on official business to Slovakia with the Premier
3 and Deputy Premier in order to speak with Slovakian
4 developers.

5 (12.30 pm)

6 A. I don't know what the official record says.

7 Q. Can you check?

8 A. Yes, I already gave you the undertaking to check.

9 Q. We will be seeking similar checks to be made by other
10 officers as well. No doubt that can be done relatively
11 promptly.

12 A. Okay.

13 Q. Do you have any recollection of what aircraft you
14 travelled in? You say you flew back American Airlines
15 from Dubai, via New York. Did you fly to Brussels by
16 American Airlines or did you fly by private jet?

17 A. No, I fly by private jet from Brussels to Slovakia,
18 whichever city, I can't remember.

19 Q. How did you get to Brussels in the first place,
20 scheduled aircraft or private jet?

21 A. No, scheduled aircraft. I flew scheduled aircraft.

22 Q. You flew by scheduled aircraft to Brussels?

23 A. Yes, I think I flew from here to Miami to London, if
24 I am not mistaken, to Brussels. I travelled American
25 and maybe BA over to Brussels or something.

1 Q. You would have been on that scheduled aircraft
2 presumably with the Deputy Premier and the Premier?
3 A. I am not certain if the Deputy Premier was on the same
4 aircraft. He may have been. He may have been on
5 the same aircraft. Because I think he had more matters
6 to the meeting, so he could have been there earlier
7 because I believe his team was there earlier.
8 Q. What about the Premier, was he with you on the scheduled
9 aircraft?
10 A. My memory tells me that, yes, the Premier and I flew on
11 the same aeroplane.
12 Q. Out via New York?
13 A. Either Miami, London, Brussels or Providenciales,
14 New York, Brussels, London. Something like that.
15 Q. And then on to Dubai, meetings with Mr Mario Hoffman?
16 A. We went to Dubai and we looked at a number of stuff that
17 was happening in Dubai, in particular sports tourism,
18 with the races. I think they have a formula F2 race and
19 those were the sort of things because Dubai, as you very
20 well may know, over the last recent years have had a lot
21 of attention into its development and the whole world
22 was looking at what they were doing.
23 Q. We have been told about NASCAR racing, is that correct?
24 A. I don't think they call it NASCAR. I think they call it
25 F2 or something like that.

1 Q. F2 or formula 2.

2 A. I think so. There was a new kind of race that was going
3 on there.

4 Q. A slightly different topic I would like to ask you
5 about, which is this, we were also told by
6 the Deputy Premier about the PNP annual meeting which
7 took place in 2006. Yes?

8 A. That is the convention?

9 Q. Convention.

10 A. Okay.

11 Q. Do you recall that meeting?

12 A. I recall a convention.

13 Q. Are you on the executive of your party?

14 A. I guess. Yes. I think yes. Yes. I am a caretaker,
15 yes, yes.

16 Q. Are you a trustee of the party?

17 A. No.

18 SIR ROBIN AULD: Did you say a caretaker?

19 A. Caretaker.

20 SIR ROBIN AULD: What --

21 A. What that does?

22 SIR ROBIN AULD: Yes, what do you do as a caretaker?

23 A. That -- and I am also a member of the NEC, the national
24 executive committee, but that separates me from any
25 individual executive positions like trustee, treasurer,

1 Chairman, co-Chairman. I would have a specific role.

2 My role is part of collective, when it is time for

3 a vote. Like nomination of officer of the party or

4 something. I am one of those executives who could

5 participate in that kind of stuff.

6 SIR ROBIN AULD: Yes, thank you.

7 MR MILNE: Were you aware that there was a second bank

8 account run by the PNP in the Belize Bank?

9 A. No, I am not aware of how many accounts the PNP has.

10 That was never a matter for me.

11 Q. Did you ever notice which accounts your payments came

12 from, that is your candidate's stipend?

13 A. No, I can't recall which accounts they come from from

14 memory.

15 Q. Were you aware of any discussion as regards what the

16 Treasurer's report would reflect, whether it would

17 reflect all of the bank accounts of the party?

18 A. No, I am not aware.

19 Q. I will leave that to one side for the minute.

20 Before we leave money altogether, forgive me, sir,

21 what I would do is I will perhaps come back to that at

22 a later stage. I need to check the figure more

23 carefully before I ask the questions I was hoping to.

24 SIR ROBIN AULD: You still have to examine the documents

25 that were provided this morning, haven't you?

1 MR MILNE: I do, sir, yes. I have looked briefly -- given
2 the time, I have some questions that will take us
3 through to 1 o'clock and for a short period after
4 the lunch break but it will give me a chance to look at
5 those over the lunch break.

6 SIR ROBIN AULD: You will come back to it after you have had
7 an opportunity to look at the papers.

8 MR MILNE: Yes, sir. Minister, I am going to ask you now
9 about a company you owned called Caicos Oil.

10 A. Yes.

11 Q. It is a company that you established with your brother,
12 is that correct?

13 A. Yes.

14 Q. The share ownership of that company rests entirely
15 between the two of you?

16 A. Yes.

17 Q. Am I right in thinking that you have the, as it were,
18 controlling share?

19 A. 60/40.

20 Q. 60/40?

21 A. Yes.

22 Q. For the record, remind us of your brother's name?

23 A. Elliot Hall.

24 Q. Elliot Hall?

25 A. Yes.

1 Q. Is he also referred to at times, does he use the name
2 Joe?
3 A. Yes, you have been doing a lot of work, yes.
4 Q. That company I think was founded in December of 2003.
5 A. Could you refer me, I don't want to say yes and then
6 there is something different in the bundle.
7 Q. It was established -- when did you think it started
8 operating? We know it was established in 2003. We can
9 give you a date from the documents if you wish.
10 The certificate of incorporation is at page 39.
11 A. Of bundle?
12 Q. The first bundle.
13 A. Yes.
14 Q. Set up or at least established as a company, it comes
15 off the shelf 18th December 2003.
16 A. Yes.
17 Q. Going over the page. It would appear at the outset
18 Clayton Been had one ordinary share for a day, that
19 rather suggests that Clayton Been was the attorney who
20 set up the company --
21 A. Yes.
22 Q. Put the share in his name and then transferred on, that
23 is a standard procedure, isn't it?
24 A. Clayton set it up for me, yes.
25 Q. In many, many cases I am not suggesting for a minute

1 there is anything extraordinary about this, we will find
2 that attorneys are the first shareholders of companies
3 for a matter of 24 hours in most cases before it is
4 moved on?

5 A. I understand that.

6 Q. However, once that had been done, on 9th August 2004 --
7 let's take this in order.

8 AL Services receive one ordinary share on the
9 establishment date, that is 19th December, so that
10 appears to be Clayton Been's share transferred to
11 AL Services Limited.

12 A. Yes.

13 Q. AL Services were also issued with a further 59 shares,
14 making it 60 in total, and Elliot Hall got 40 ordinary
15 shares.

16 A. Yes.

17 Q. So essentially from 18th/19th December, the following
18 day, the shares were split 60/40 between yourself and
19 your brother?

20 A. Yes.

21 Q. Right?

22 A. Yes.

23 SIR ROBIN AULD: You came in a bit later by the looks of it,
24 or have I misread this, Mr Hanchell?

25 MR MILNE: I think in fact, sir, what we see there is that

1 the two parcels of shares held by AL Services were held
2 in the name of that company from December 2003 until
3 the following August and then all of the shares
4 transferred to another company, Big South Holdings
5 Limited, 60 ordinary shares from 9th August.

6 SIR ROBIN AULD: So just remind me of the split of
7 shareholdings in AL Services?

8 A. Pardon?

9 SIR ROBIN AULD: Did you own all or a percentage of
10 AL Services?

11 A. 50.

12 SIR ROBIN AULD: Then what about Big South Holdings?

13 A. I owned 60.

14 SIR ROBIN AULD: Did your brother have any interest in
15 AL Services?

16 A. No.

17 SIR ROBIN AULD: You acquired initially at any rate
18 the whole corporate ownership of the company and then
19 passed out some of it to your brother.

20 A. Yes.

21 SIR ROBIN AULD: I see.

22 MR MILNE: Forgive me, sir, I think in fact the division --
23 nothing much turns on this because we know where we
24 stand today. There is nothing suspect --

25 MS MISSICK: Sorry, sir, just to make a correction,

1 the Honourable Minister owns Big South Holdings
2 100 per cent just for the record.

3 MR MILNE: That is what I was about to get at, sir.

4 SIR ROBIN AULD: But Big South Holdings only ends up owning
5 60 per cent. What I was interested in was whether
6 the acquisition of the corporate body, which eventually
7 was to become Caicos Oil or has remained Caicos Oil was
8 entirely in the corporate ownership of Mr Hanchell or
9 whether his brother had a share at that stage. What I
10 am interested in is to know what effective part his
11 brother played in the start up of this financially or
12 otherwise. Does that shortcircuit it for you,
13 Mr Hanchell?

14 A. Yes, do you want me to answer?

15 SIR ROBIN AULD: Yes, please.

16 A. You basically want to know how I started up Caicos Oil.

17 SIR ROBIN AULD: Yes. Was it just you effectively or was
18 your brother in with it, rowing with you, financially or
19 not?

20 A. I will just give you a short history. I think I won
21 the by-election at that time. I am sure you heard about
22 the by-election case where we had to take the opposition
23 to court for irregularities and we won.
24 Because of the Premier in his discretion has elected
25 me to be one of the ministers and I saw all

1 the potential in the Caicos Oil thing when I left to go
2 to work full-time, basically in politics. And what
3 I did, I called my brother in and asked him to take my
4 vision to grow the company and I made him a partner at
5 that time. To get to the point where I got the funding
6 to start the company, there is a Temple Mortgage fund
7 that is reflected, a Temple Mortgage liability loan that
8 is reflected here on my apartment buildings. So
9 I borrowed the money and mortgaged that to get, I don't
10 know, some 300,000 or whatever it was to start up
11 Caicos Oil. That is how we start Caicos Oil.

12 SIR ROBIN AULD: So it is all your money to start it?

13 A. I put all the money in.

14 SIR ROBIN AULD: Is it still all your money, whatever the
15 corporate structure?

16 A. No, he shares in 40 per cent.

17 SIR ROBIN AULD: Where did he provide the consideration for
18 the 40 per cent?

19 A. I gave it to him. I gave it to him as a managing
20 director and partner, but the monies came from the loan.
21 The mortgage that I mortgaged my partners with to start
22 the business.

23 SIR ROBIN AULD: The source of all the funds is you really.

24 A. The source of all the funds is me really and it came
25 from --

1 SIR ROBIN AULD: That is what I wanted to know.

2 A. -- these people.

3 MR MILNE: So I hope to avoid confusion, taking it quite

4 simply. The company is set up in December 2003.

5 The division is 60/40 between yourself and your brother.

6 A. Yes.

7 Q. You choose, as you are entitled to, to initially place

8 your shares in the name of one company and subsequently

9 change them into another company. That is not

10 the subject of criticism. It is simply how you choose

11 to do it.

12 They go from being in the name of AL Services to

13 Big South Holdings Limited. Presumably, from that day

14 to this, your 60 per cent share is in the wholly owned

15 company of Big South Holdings Limited, right?

16 A. I have to look at the structure.

17 Q. We just looked at it, sir, at page 40 if that helps you.

18 A. I assume you got it right.

19 Q. It is not that complex. I am sure if I have

20 misrepresented it, your attorneys will be able to

21 correct it later. You owned 60 per cent, you used

22 Big South Holdings to hold those shares?

23 A. Yes, yes.

24 Q. Your brother holds the other 40. He chooses to hold

25 them in his name, his choice?

1 A. Yes.

2 Q. Fine. Caicos Oil, for those of us who come from far
3 away, how many employees does it have?

4 A. I am not into day to day, I don't know, but I do have
5 a considerable amount of employees.

6 Q. Can you give me a rough idea, are we talking about 5,
7 50, 500?

8 A. Under 20.

9 Q. Under 20?

10 A. Yes.

11 Q. So less than two dozen, less than 20 who work for you
12 full-time, part-time?

13 A. I think it has under 20 full-time employees. I really
14 don't know.

15 Q. What exactly do you say that Caicos Oil does? What is
16 the nature of its trade?

17 A. Caicos Oil buys gasoline, diesel and oils and we store
18 it at bulk and then it is for resale. We basically sell
19 refined gasoline products, oil diesel and gasoline.

20 Q. For vehicle purposes or heating purposes?

21 A. Vehicle, heating, I guess you can relate heating to
22 the power plant. For whatever gasoline and diesel is
23 used for.

24 (12.45 pm)

25 Q. Do you have petrol forecourt outlets, retail outlets to

1 the public?

2 A. Yes, yes.

3 Q. How many do you have?

4 A. One.

5 Q. Just the one?

6 A. Yes.

7 Q. That is on Providenciales?

8 A. Yes, at South Dock.

9 Q. Other than that one petrol retail outlet, do you have

10 any commercial outlets that sell to commercial bodies?

11 A. Like a convenience store?

12 Q. No, I was thinking more in terms of do you provide, as

13 it were, corporate supplies of fuel if people have, say,

14 a fleet of cars or something like that?

15 A. Yes, we are open for business. We provide fuel to

16 whoever wants to buy fuel if that is what you mean.

17 Q. Perhaps we are at cross-purposes. You have a petrol

18 station essentially?

19 A. Yes.

20 Q. With 20 employees?

21 A. I didn't say 20, under 20 employees.

22 Q. I am not arguing about the precise number but we just

23 need to understand exactly what the nature of the trade

24 is.

25 All I want to know is, apart from that petrol

1 station, do you have other bases, do you have other
2 offices, other compounds, other places from which
3 the business works, just the one, more than one?

4 A. Just at South Dock and we buy and we sell.

5 Q. Is your petrol station based at South Dock?

6 A. Yes, the headquarters is at South Dock, yes.

7 Q. With offices for running the business?

8 A. Offices and a depot. You need to drive down there and

9 you get more familiar. The depot is there, the office

10 is there, that is headquarters.

11 Q. Your customers then are members of the public who stop,

12 fill up the vehicles, pay for it and go. It is a retail

13 business in the ordinary sense?

14 A. Retail and bulk. My customers are whosoever wants to

15 buy.

16 SIR ROBIN AULD: As I understand it, I assume that you are a

17 part importer, part wholesaler and part retailer. You

18 retail through the one garage outlet.

19 A. Right.

20 SIR ROBIN AULD: You probably supply your own garage as

21 a wholesaler?

22 A. Right.

23 SIR ROBIN AULD: And you probably supply all sorts of --

24 A. And bulk for other people to resale.

25 SIR ROBIN AULD: All over the place?

1 A. Yes.

2 MR MILNE: If I can pick up on the Commission's question.

3 Do you import that fuel yourself or do you purchase from

4 another importer?

5 A. We have a supplier in the US.

6 Q. Therefore they organise the shipping of the fuel and no

7 doubt it is delivered at dockside?

8 A. Right.

9 Q. Do you have petrol tankers for the movement of fuel

10 around the islands?

11 A. Yes.

12 Q. Presumably, therefore, you have bulk major customers who

13 buy on account, who run an account with you and fill

14 vehicles on a regular basis?

15 A. Yes.

16 Q. One of those I think is the TCIG, is that correct?

17 A. Yes.

18 Q. So you sell to the Turks & Caicos Island Government?

19 A. Yes.

20 Q. Within the Turks & Caicos, to the best of your

21 knowledge, how many other companies carry out similar

22 operations to yourself?

23 A. Before us it was Texaco. I think Texaco changed

24 the name but just for a better word and it was Shell

25 that had been here over the years and we are the first,

1 I would put it, independent fuel supplier to
2 the islands.

3 Since us, and I believe through greed and jealousy
4 of people -- you have never been the subject of the
5 media -- I know exactly where you are going -- and there
6 are other suppliers since we have gotten into
7 the business that bought tankers and they are doing
8 the same thing that we do, supply sort of in bulk.

9 I think there are three other providers that is out
10 there. Maybe they start up within a year of supplying
11 in tankers.

12 SIR ROBIN AULD: You are one of four wholesale suppliers
13 effectively?

14 A. We are one of the three main wholesale suppliers.

15 SIR ROBIN AULD: That is the question and that is
16 the answer.

17 A. I think there are three more that supply wholesale --
18 another three on a smaller volume. So there may be six
19 people in the business.

20 SIR ROBIN AULD: Thank you.

21 A. Three as of the last year.

22 MR MILNE: So there are yourselves, Texaco, Shell and then
23 three smaller operators, who are seeking to challenge
24 but not on the same scale that you are?

25 A. I don't know the scale that they are on.

1 Q. You have got competitors?

2 A. I got competitors, yes, yes.

3 Q. You are saying that the only major competitors are

4 Texaco and Shell and the other three are smaller --

5 A. They are small operators and they very new to the

6 market.

7 Q. In each of those cases, do those smaller operators have

8 petrol forecourt stations selling to the public or are

9 they on a different operational basis?

10 A. No, I think -- no, I don't think they have stations to

11 the best of my knowledge because I said they are about

12 a year old; very new.

13 Q. A vote was proposed that came before Cabinet within

14 the last few months which proposed that Caicos Oil

15 should be allowed to undertake oil storage operations in

16 the Turks & Caicos, is that correct?

17 A. Are you talking about the Cabinet minute that

18 Mr Butterfield presumably circulated on e-mails? That

19 is what you are talking about?

20 Q. I am not talking about anything circulated on e-mails,

21 sir, we have Cabinet minutes in any event.

22 A. I know, you are talking about that one though?

23 Q. I am asking about Cabinet discussions.

24 A. Refer me to the minute.

25 SIR ROBIN AULD: Mr Hanchell, I think you should know that

1 Mr Milne and I came over to the islands towards the end
2 of last year and we went through, with the permission of
3 the Governor and the Cabinet Office, the Cabinet minutes
4 up to date. And there we found the proposal. Whether
5 it is the same one that you are talking about, I don't
6 know. But we have seen the Cabinet minutes proposing,
7 as I believe, an effective long-term monopoly for
8 Caicos Oil. Maybe that is a misnomer, but we have seen
9 the proposal.

10 A. Right. If you can refer me to the bundle that I was
11 finally saying, so I can follow with you.

12 SIR ROBIN AULD: Yes, you need that.

13 MR MILNE: It is the red bundle. Turn your red bundles,
14 volume 6. If you take it out there are a number of
15 dividers but it is the first section. It is the first
16 divider, "Cabinet Minutes". If you turn within that
17 please to page 184.

18 A. Yes.

19 Q. That, in case it is not clear from the papers, was
20 a minute from a Cabinet meeting which took place on
21 8 October 2008.

22 A. Yes.

23 Q. It was the thirty-fourth Cabinet meeting of the year.

24 A. Yes.

25 Q. We are looking at the bottom part of the page, which is

1 minute 676.

2 A. I have it.

3 Q. What it says in there is:

4 "The Ministry of Natural Resources [which I would
5 take to be yourself] declared his interest in the matter
6 and vacated the room. The Premier introduced this paper
7 and Cabinet advised: (1) it approved in principle for
8 TCIG to enter into an agreement with Caicos Oil Limited
9 to establish extensive fuel storage facilities across
10 the Turks & Caicos Islands, provided that TC Invest and
11 the AG's chambers negotiate the terms of the agreement."

12 It goes on over the page:

13 "It further agreed the following in respect of
14 Caicos Oil Limited. As regards land, the Crown lands to
15 be identified adjacent to sea ports and/or airports
16 throughout the entire Turks & Caicos, with
17 the establishment of fuel duties, outright freehold on
18 Crown lands based on availability for the establishment
19 of service stations and long-term 99 years lease,
20 terminable in the event the facility ceases to operate,
21 over an uninhabited island or Cay for the purpose of
22 establishing a massive [and I quote the word used]
23 storage facility to be used for distribution of fuel,
24 domestically and internationally."

25 It deals with declared benefits:

1 "Exemption from any tax on profits, gains or
2 turnover attributable to the development for a period of
3 15 years. Any real property, tax, capital levy or other
4 tax on capital invested in development for a period of
5 15 years. Import duties, 5 per cent Customs duty on all
6 materials, equipment, furniture, fixtures and fittings
7 and up to 4 tanker trucks for the depots and storage
8 facilities for the initial construction and outfitting
9 of the development in any vessels to service and operate
10 the facilities. Royalties to be determined per barrel
11 of fuel for storage. Trans-shipment and distribution to
12 other countries shall be paid to TCIG. [And under
13 bond]. A customs bond facility for all fuels and oils
14 for domestic consumption must be established by
15 the Customs Department. His Excellency the Governor
16 concurred and ordered accordingly."

17 That minute, following the discussion of --
18 obviously you were not present for the discussion -- but
19 there was a paper placed before the Cabinet which bears
20 the reference 08439.

21 SIR ROBIN AULD: Now, are you going to be a little time with
22 this Mr Milne?

23 MR MILNE: Before we close, sir, I am going to say that
24 although we have the Cabinet minutes we do not have that
25 paper.

1 SIR ROBIN AULD: No, we don't.

2 MR MILNE: I was going to simply ask the minister, did he
3 have a copy of that paper from the meeting that took
4 place in October?

5 A. That paper would have been in my agenda, so I am sure it
6 is at the office.

7 Q. Would it be possible for a copy of that paper to be
8 provided to the Commission?

9 A. Yes, I will instruct someone to do so.

10 Q. Thank you very much. If that could be provided. If
11 that's an appropriate moment, sir. I will have to come
12 back to that.

13 SIR ROBIN AULD: You will be coming back to that this
14 afternoon?

15 MR MILNE: Yes, agreed.

16 SIR ROBIN AULD: Now, before we rise I should mention
17 something important. Yesterday in the course of
18 Mr Floyd Hall's evidence he referred to a company known
19 as Provident Management Limited in the context of
20 the PNP's headquarter offices on Grand Turk and also in
21 the context, if I remember rightly, of an account held
22 in that company's name to manage the premises there.

23 I should emphasise, because it has been drawn to my
24 attention, that Provident Management Limited is quite
25 different from Provident Limited, which is a company

1 which has been established in these territories or this
2 Territory since April of 1966.

3 There are apparently, and I can understand how it
4 happened, references in yesterday's transcript hearings
5 at page 20, at lines 3, 13, 15 and 18 to
6 "Provident Limited" when the references should be to
7 Provident Management Limited. Those corrections I have
8 asked to be made. They will be and I have written to
9 the directors of Provident Limited apologising to them
10 for the error.

11 (1.00 pm)

12 (The short adjournment)

13 (2.00 pm)

14 SIR ROBIN AULD: Mr Milne.

15 MR MILNE: May it please you, sir. Minister, before
16 the short break we were dealing with the issue of
17 Caicos Oil. We have since been given by your attorneys
18 a copy of the Cabinet minutes, the Cabinet paper
19 I should say, which accompanied the discussion.

20 This appears to be prepared on 25th September
21 2008, Cabinet paper 08-439. Of course, as is in
22 the nature of these things, the minute that we have
23 already read out reflects very closely much of what was
24 said in the paper.

25 Essentially the paper presented by the Premier

1 attaches to it a letter and a proposal from Caicos Oil
2 dated 9th June 2008. That letter is signed in the name
3 of Elliot Hall, Managing Director, Caicos Oil Limited.

4 That is your brother, Managing Director?

5 A. Yes, sir.

6 SIR ROBIN AULD: Do you have a copy, Mr Hanchell?

7 A. No, sir.

8 SIR ROBIN AULD: Do we have copies for Mr Hanchell?

9 MR MILNE: I was handed this --

10 MR MISICK: He can borrow my copy.

11 SIR ROBIN AULD: I think he should have a copy.

12 MR MILNE: Do you have that, sir, now?

13 A. Yes.

14 Q. First two pages, I think, first three pages, I beg your
15 pardon. Sir, I think you may be getting a copy as well.

16 (Pause)

17 Three pages which are the covering paper. A letter
18 from Caicos Oil, 9th June 2008. Behind that,
19 a presentation, also 9th June, 2008, it appears to be
20 part of the same letter, setting out the proposals.

21 The establishment of fuel depots and service
22 stations for Caicos Oil.

23 SIR ROBIN AULD: Could you just let me know who the paper is
24 submitted by?

25 MR MILNE: It was submitted by the Premier -- prepared by

1 the office of the Premier, submitted by the Premier.

2 SIR ROBIN AULD: Thank you.

3 MR MILNE: The conclusion of that paper is:

4 "This agreement will present a new revenue base for
5 government via royalties from fuel storage and
6 transshipment, a lowering of prices ... consumers and a
7 reduction in the overall cost of living. Additionally,
8 Turks & Caicos Islands will have a strategic fuel
9 reserve in event of emergencies."

10 There is finally, within this paper, a memorandum
11 prepared by the deputy commissioner of land, Mr Wesley
12 Clerveaux, this dated 6th August 2008, making a number
13 of comments on behalf of the department of environment
14 and coastal resources.

15 Essentially, what it is recommending is that details
16 of the proposed facilities should be included and he
17 suggests details that he requires and deals with a spill
18 prevention control and counter measures plan to be put
19 in place, together with operating procedures, control
20 measures and counter measures in the event of a spill
21 either on land or in water.

22 So the usual things that the DECR would be concerned
23 about, so no comment beyond that, then. To the best of
24 your recollection, is that the full extent of that
25 paper? Is that everything that was placed before

1 Cabinet at the time?

2 A. I can't recall because I was not part of the
3 deliberations. I cannot comment and say that is
4 the extent of the paper. I don't know if there were
5 other comments from other government agencies. Because
6 I was not a part of it, I would not remember
7 the deliberations.

8 Q. Were you part of the preparation of the document that
9 was put before the Premier though, the letter of
10 9th June?

11 A. From Elliot Hall?

12 Q. Yes.

13 A. Yes, I am aware of that proposal.

14 Q. As a 60 per cent shareholder, you could scarcely not be
15 aware of it?

16 A. I am aware of it.

17 Q. No doubt, understandably, you would be an enthusiastic
18 supporter of the idea that this should be granted to
19 your company.

20 A. Yes, that is the purpose of making the proposal.

21 Q. Apart from that presentation, that letter, were you or
22 your brother ever called to any meetings to outline your
23 plans in more detail?

24 A. No, and if you would note that the Premier's paper has
25 asked the Cabinet to approve this in principle and for

1 the benefit of the public, I don't -- I am not reading
2 the recommendations from the Cabinet minute but
3 the recommendations from the paper has asked Cabinet to
4 approve in principle for the Turks & Caicos Islands
5 government to enter into an agreement with Caicos Oil
6 Limited to establish fuel storage facilities across
7 the islands, provided that the details of the agreement
8 is negotiated by TC Invest and
9 the Attorney General Chambers.

10 I would hope that we all make note of the "approve
11 in principle", which means that this has so much far to
12 go. This is unusual for development agreements in my
13 experience.

14 Q. But the agreement in principle that the Cabinet minute
15 records is a very detailed agreement in principle, isn't
16 it, because they agreed in principle the waiver of
17 duties, the provision of free land?

18 A. Free land?

19 Q. Yes.

20 A. Where is that? Direct me to that. I never heard of
21 land being free. Where is that, sir?

22 Q. Page 185.

23 A. That is bundle?

24 MS MISSICK: Red bundle 6.

25 A. Tab?

1 MS MISSICK: It is in the back of the first tab.

2 MR MILNE: 184, first section, bundle 6.

3 A. Yes, where does it say land is free?

4 Q. "... land for the establishment of fuel depots, outright
5 freehold on Crown lands for the establishment of service
6 stations."

7 A. I believe you want to retract your statement of land
8 being free for the record.

9 Q. You are telling me that it would not be provided free
10 but you would be paying for it?

11 A. What is your interpretation of what that says?

12 Q. I am asking you what you were expecting to get from
13 this?

14 A. Land is never free.

15 Q. Right. Long-term leases, then?

16 A. Long-term leases is never free.

17 Q. Exemption from taxes on profits, gains or turnover?

18 A. That is a normal clause in every development agreement,
19 including this hotel that you are sitting in. That's
20 a clause in the Encouragement of Development Act since
21 1976, that every developer has benefited from.

22 Q. Exemptions also from real property tax, capital levy or
23 any tax on capital invested for a period of 15 years?

24 A. That is standard. Every development agreement in this
25 country, every developer, including foreigners who have

1 mainly benefited from this clause, of the Encouragement
2 of Development Act of 1976 is in the development
3 agreement.

4 Q. And 5 per cent Customs duty on all material, including
5 tanker trucks?

6 A. Club Med pays 0 per cent Customs duties. There are
7 developers benefiting now from 5 per cent. Some have
8 benefited from 0 per cent Customs duty. This is nothing
9 unusual or nothing in favour of Caicos Oil over others.

10 Q. Which other companies were invited to bid for this?

11 A. How can you bid on my proposal? This is not a bid. It
12 is a proposal.

13 Q. How many companies were entitled or invited to put in
14 a proposal?

15 A. Everybody. Anybody is entitled to put in a proposal.

16 Q. How many were invited, sir, to put in alternative
17 proposals?

18 A. You can't be invited to put in a proposal on my stuff.

19 MR MISICK: That is not a proper question based on the
20 contents of these documents. What these documents
21 demonstrate is that out of his own free will or Caicos's
22 own free will, they decided to make an application to
23 the TCIG to expand their business. This was not a case
24 where the TCIG was initiating any kind of bids to embark
25 on a project. It is completely unfair.

1 SIR ROBIN AULD: I know this wasn't quite the way in which
2 Mr Milne put it, this was clearly a proposal,
3 an initiative of Mr Hanchell.
4 MR MISICK: Correct.
5 (2.15 pm)
6 SIR ROBIN AULD: And it went to Cabinet as a private
7 proposal for confidential discussion in Cabinet.
8 MR MISICK: Yes.
9 SIR ROBIN AULD: I suppose the question might be, in
10 the light of this proposal, did Cabinet consider that it
11 should invite other proposals of a like nature in order
12 to balance them in the way one would as part of
13 a tendering process. That wasn't the question Mr Milne
14 asked but I think it is probably what he had in mind.
15 MR MISICK: I am not going to pursue, and I will leave it
16 for argument later on, but just to give you an example,
17 when someone decides to build a hotel on Providenciales
18 or North Caicos or Middle Caicos, they make a proposal
19 to the government and say: I would like to build a hotel
20 on this piece of land or a piece of land.
21 The government doesn't then go out and say: okay, I am
22 going to put your proposal out to tender.
23 SIR ROBIN AULD: Maybe it doesn't. Maybe that is
24 the answer. It is a fair comment. It is not an unfair
25 inquiry. It may have a complete answer of the sort that

1 you have just given.

2 MR MISICK: Except the implication is that for some reason

3 there is something untoward or underhand in which

4 the proposal came before the government and the way it

5 was dealt with.

6 SIR ROBIN AULD: I can understand your concern. Mr Milne,

7 maybe I have misinterpreted the thrust of your inquiry

8 here --

9 MR MILNE: Not at all, sir.

10 SIR ROBIN AULD: Mr Misick, I think, is rightly concerned

11 about what appeared to be the suggestion that in this

12 confidential proposal put to Cabinet, others weren't

13 also invited to a sort of tendering process at the same

14 time.

15 MR MILNE: Yes, I was asking the minister whether or not

16 anybody else was invited to tender or put in alternative

17 bids for this project.

18 A. As you know and as I have said that I declared my

19 interest in the matter when it was deliberated, and as

20 a matter of fact, I have no idea of what the

21 deliberations was in Cabinet. I have no idea whether it

22 was tendered. As a matter of fact because of my

23 interest in this particular matter, that is not a matter

24 for me whether it was tendered or not. But what I can

25 tell you is that government received proposals from time

1 to time and those proposals are dealt with on its own
2 merit. I can't imagine your suggestion that even in
3 a non-perfect world that if you yourself was to make
4 a proposal to anywhere, any government, any private
5 entity, that you expect that it should go public.
6 I don't know if it happens in London. It doesn't happen
7 here for sure. It doesn't happen anywhere I believe.
8 So I really think that is unfair to ask me of Cabinet
9 whether they decided to tender it, knowing well that
10 I was not part of the deliberations because I had
11 a declared interest.

12 SIR ROBIN AULD: Mr Hanchell, forgive me a minute. You had
13 two caps here and that is of course what is of concern
14 to Mr Milne.

15 I suppose just as in the building of roads, major
16 road projects, major public works proposals,
17 the government could, if it had taken the initiative,
18 have devised such a project itself and in such
19 circumstances it wouldn't have been it unusual for it to
20 put it out to tender, you, Shell, and the other Texaco
21 and so on, and then you could all have put in your bids?

22 A. Yes.

23 SIR ROBIN AULD: But this was your proposal.

24 A. Yes.

25 SIR ROBIN AULD: So the criticism is not possibly so much

1 one of you for getting in swiftly, but for
2 the government not pausing and saying, well, this is
3 a major project, it involves major national interest,
4 perhaps we should put it out to tender and that's not
5 a matter which you feel that you can comment on.

6 A. Sir, with the utmost greatest respect, in my imagination
7 I can't think that that line of thinking would be
8 appropriate for any developing country or any country
9 that is developed.

10 If an individual come up with the idea of a Sim card
11 for a telephone, you really think that that should be
12 tendered? Is your idea --

13 SIR ROBIN AULD: It is not my idea. I am trying to see what
14 happens when you have a major public project, which is
15 of importance nationally, it would not be unusual for
16 government, if it were considering it, whether of its
17 own initiative or put to it by a person like yourself,
18 to say, well, we ought to just see what is value for
19 money here and put this whole proposal out to tender or
20 for consultation or whatever. In other words, to give
21 it a wider market. Now they didn't do that, rightly or
22 wrongly. But your concern, of course, was that you were
23 putting this proposal in, it was a private matter.

24 A. Yes.

25 SIR ROBIN AULD: And if government took the stance that it

1 did, that it could deal with you and not proceed to

2 a tendering process, that was no concern of yours.

3 That is as I understand your position.

4 A. Okay.

5 SIR ROBIN AULD: Is that right?

6 A. I believe so.

7 MR MISICK: Sir, the other concern I have, and let's assume

8 what you say is right, that this is a major project and

9 perhaps on public policy grounds there ought to have

10 been some consideration in terms of value, and whether

11 this was the best project and the terms being offered

12 were the best ones. But I still don't see what that has

13 to do with corruption or dishonesty on his part.

14 SIR ROBIN AULD: I think we have exhausted the point. Your

15 point is well taken. It is a point that has to be put

16 in its context.

17 MR MISICK: Thank you, sir.

18 SIR ROBIN AULD: Mr Milne.

19 MR MILNE: I think I should make clear that although my

20 learned friend clearly has the duty to represent

21 the interests of his client, the questions asked are

22 questions that go towards corruption. I didn't say

23 corruption necessarily on the part of this individual

24 minister. It may be that we are looking at corruption

25 on the part of others or at least the possibility.

1 But given, I would --

2 MR MISICK: Sir, I have to get up again. I honestly cannot
3 see on what basis it could be possibly said, because it
4 means then that every time someone makes a proposal to
5 the TCIG on any matter which is capable of being
6 construed of being something which ought to be looked at
7 from the point of view of whether the public is getting
8 value or whether it is in the best interests of the
9 public, and if that proposal is dealt with on its merit,
10 without being referred to open public bidding, then
11 the suggestion will be that it is corrupt or dishonest.
12 I think we have strayed a long way from what we really
13 are getting into, which is whether there is substance in
14 this proposal which indicates the possibility of
15 corruption or dishonesty. I am looking deep but
16 I honestly, I am at a loss to see where we are going
17 with this.

18 SIR ROBIN AULD: I think the premise of your observation is
19 incorrect, if I may say so. It doesn't mean that every
20 time a proposal of this sort is made that it is
21 corruption.

22 The closing words of your remarks indicate
23 the relevance of the questioning here. There is
24 a possibility where one person owns a large -- there is
25 a possibility where one person owns a large corporation

1 and it has the means of making a proposal which is of
2 national interest to a body of which he himself is
3 a member, that corruption may, may arise. It is that
4 possibility that Mr Milne is exploring. He is not
5 saying every time something of this sort happens it is
6 corruption. If he were, we would not be here doing this
7 job.

8 MR MISICK: All I would say is that on the information that
9 I have seen and as I understand it, all of the
10 information in relation to this proposal, as far as
11 I can tell is before us.

12 SIR ROBIN AULD: You mustn't make speeches on what you have
13 seen. We have seen things too. Let's see how
14 the evidence develops. Mr Milne may get absolutely
15 nowhere with Mr Hanchell on this and Mr Hanchell,
16 I think, is quite capable of looking after himself but
17 I take your point. It is possibilities we are looking
18 at. Now, Mr Milne.

19 MR MILNE: Would you, Minister, have anticipated that there
20 would be two competing strategic reserves for the Turks
21 & Caicos Islands in terms of fuel?

22 A. Shell and Texaco have been here. Shell has been here
23 and in the hands of the oilfields in particular for
24 30 years. They had 30 years to propose what I did.
25 I don't anticipate anything in relation to my

1 competitors. They have their strategic business plan
2 and I have mine.

3 Q. Right. You, without embarrassment or perhaps you say
4 there is no need for it, regard this as a valuable
5 business opportunity?

6 A. Yes, as well as all of my business opportunities.

7 Q. You were seeking to promote the interests of Caicos Oil
8 which you are a majority shareholder in?

9 A. Yes.

10 Q. This would have been a very valuable deal for
11 Caicos Oil; it may yet be a very valuable deal for
12 Caicos Oil?

13 A. I was going to ask you, you may know something I don't
14 know, is it dead, you said would have been.

15 Q. I don't know where it has reached at present, sir. From
16 the understanding that you gave me this was merely
17 an agreement in principle so far. It has not been
18 finalised?

19 A. Yes, I believe there are benefits not only for me as
20 a shareholder in Caicos Oil, but also benefits for
21 the Turks & Caicos islands to bring the cost of fuel
22 down.

23 Q. Right. And you stressed, your stress rather than mine,
24 I would submit, it is an agreement in principle, there
25 is still a lot to be agreed; whether it is very valuable

1 or moderately valuable or whatever is yet to be decided;
2 is that your understanding?
3 A. That is what the minutes say. The minutes says to be
4 negotiated with the AG Chambers and TC Invest.
5 Q. But you would not have gone into it unless you thought
6 that there was, put bluntly, money to be made? It is
7 a reasonable business approach, isn't it? You are not
8 in business to do people favours, you are in business to
9 make money?
10 A. You take your chances and I have taken my chances.
11 Q. The point I make, Minister, with respect, is the same
12 point in relation to Crown land: that the request that
13 is being made is not being made of a bunch of strangers.
14 The people who will be deciding this are your friends,
15 your colleagues, your co-party members, your Cabinet
16 associates with whom you have been working for years.
17 Does it not strike you that even if not for you, there
18 might be a conflict of interest for the whole Cabinet,
19 in giving you such a business advantage?
20 A. No, it can't be a conflict of interest. The whole
21 Cabinet -- I am the only Cabinet member that has
22 interests in this proposal.
23 Q. And am I to understand then that that problem can be
24 resolved at the drop of a hat by you simply stepping out
25 of the room while they decide on this?

1 A. That is the rules. The rules is -- and I did so.
2 I declared my interest and I --
3 Q. I am not disputing. It says you withdrew from the
4 meeting while the discussion took place.
5 A. Yes. Let me add for the sake of the public because this
6 proposal, this confidential Cabinet minute has been
7 leaked from the government. There is an email going
8 around from an Aubrey Butterfield Junior. I suppose it
9 is him --
10 SIR ROBIN AULD: From whom?
11 A. There is an email that is going around this country with
12 the official Cabinet minute. It says private and
13 confidential Cabinet minute. There is an email that is
14 circulated in the community. The e-mail reads and it
15 comes from a Mr Aubrey Butterfield Junior from the
16 Butterfield group of companies. The Butterfields are
17 involved in Shell for 30 years. The e-mail refers --
18 this is the last stroke that will bring this government
19 back, this has to stop and so on and so forth. I have
20 no doubt, sir, that that same e-mail has raised this to
21 the Commission as if something was wrong. But
22 furthermore, for the benefit of the public, our proposal
23 has asked the government and the government has not
24 agreed entirely with our proposal, has asked
25 the government in particular, page 6 of the -- Mr Milne,

1 page 6, if I go to declare benefits. We asked
2 the government, subject to the provisions of the
3 Encouragement of Development Ordinance for a period of
4 50 years, from the date of this order, to exemption from
5 any tax or profit gains and any real property tax.

6 We further asked the government for zero per cent
7 import duty. We further asked the government for
8 a customs bond and all that stuff. The public needs to
9 know that the government did not agree with our
10 proposal. They granted us 15 years instead of 50 years.
11 If you understand the oil business, it is a long term
12 investment.

13 They decided not to give us zero per cent import
14 duty. They decided to grant us 5 per cent import
15 duties. I thought it was very important because I can't
16 say you conveniently -- I don't want to believe that --
17 but you have not mentioned the fact of the details of
18 our proposal and we were not granted what we asked for.

19 Q. Since the proposal was put in front of us a matter of
20 minutes ago, sir, I simply read from what we were given,
21 but that is the paper. We have heard the minute. Thank
22 you for your comment.

23 As far as Mr Butterfield is concerned,
24 the Commission has not relied upon Mr Butterfield. To
25 the best of my knowledge he is not to be a witness.

1 The minutes that we have here were provided from
2 the Cabinet and have been considered by the Commission
3 in that context. I think we should make that clear.
4 A. Thank you, sir, but it doesn't take away the fact that
5 he has an email going around on the Internet with
6 an official Cabinet minute.
7 MR MILNE: That may be the case. We are not concerned with
8 e-mails going round.
9 A. Okay, because I could have brought you a copy if you
10 wanted it.
11 (2.30 pm)
12 SIR ROBIN AULD: Can you help me on the structure of the
13 proposal and the approval in principle.
14 Understandably, there is no specific reference to
15 the price, if it is to be freehold. There is no
16 specific reference to the rental for the period of the
17 lease proposed. Which was what, 99 years, wasn't it?
18 A. Right.
19 SIR ROBIN AULD: But there is reference to royalties at G:
20 "Royalties to be determined per barrel of fuel ..."
21 What was contemplated, that you would pay a sum for
22 the freehold or pay a rental for a 99 year lease and on
23 top of that royalties? Or was all the payment going to
24 be made in the form of royalties?
25 A. Sir, if I may, you have missed out something:

1 "Neither has any land been identified by a parcel
2 number in this proposal."

3 Whatever the government prevailing policy is at the
4 time, in relation to freehold or a long-term lease, will
5 be applicable.

6 As relates to royalties, a part of the proposal
7 talks about transshipment. The idea was to create
8 a massive fuel storage.

9 SIR ROBIN AULD: My question was quite a simple one:

10 whatever the land, whatever the price, were you
11 contemplating paying for a sum for the freehold of
12 whatever it was and wherever it was.

13 A. Yes.

14 SIR ROBIN AULD: Or rental for 99 years, plus royalties, or
15 was it all to be paid for by way of royalties? I am
16 only asking a question. There is no bite in this at
17 all.

18 A. No, but I have to explain so you can understand. If you
19 would allow me, sir. Land is a separate issue, whether
20 it is freehold or long-term lease. Royalties would have
21 been a new measure of revenue for the government because
22 if we are talking transshipment --

23 SIR ROBIN AULD: It is a simple point: were you expecting to
24 pay rental for lease plus royalties when royalties
25 became due.

1 A. Yes.

2 SIR ROBIN AULD: Two elements.

3 A. Three elements, all freehold.

4 SIR ROBIN AULD: That is all I wanted to know.

5 A. Okay.

6 MR MILNE: Construction of long-term facilities would have

7 obviously been a big construction project. Were you

8 anticipating obtaining finance from commercial

9 organisations to cover that?

10 A. Yes.

11 Q. Have you made any initial investigation into that?

12 A. First Caribbean Bank.

13 Q. Had you put a figure on how much you expected to have to

14 obtain in order to finance the deal?

15 A. We have not put a figure on it as yet.

16 Q. I am going to leave that and turn to another subject of

17 money. In relation to money, this arises from

18 the documents that were served on us overnight, served

19 on us this morning.

20 SIR ROBIN AULD: I might have missed something there.

21 Clearly no figure because there was much yet to be

22 agreed. You would not know what the cost is. Did you

23 say you had approached somebody as a potential financier

24 here?

25 A. We talked to First Caribbean Bank.

1 Q. First?

2 A. First Caribbean Bank and told them of what we proposed

3 to do as the next phase of our business.

4 SIR ROBIN AULD: In principle they were at least not saying

5 no, they were interested in principle, were they?

6 A. They were not saying no or yes. We just apprised them

7 of what our next move is.

8 MR MILNE: Two aspects from the documentation which we have

9 now been provided with. You told us yesterday that

10 Mr Saunders of Saunders & Co had provided loans or

11 a loan in different tranches to you in relation to,

12 I think, Business Ventures.

13 A. Bundle, sir?

14 Q. Yesterday you told us you borrowed money from

15 Mr Saunders of Saunders & Co?

16 A. Yes.

17 Q. Although no precise figure was put on it, it was

18 a little over 1 million, is that right?

19 A. Yes, 1.1.

20 Q. When I say a little over 1 million, I am not talking

21 about a few dollars; 1.2, 1.3 million, something of that

22 order?

23 A. 1.1, I believe, I can't remember, it is somewhere in

24 the statement.

25 Q. We have various figures that are now within your

1 documents. It would appear from these that there were,
2 rather than one loan agreement, in fact a series of
3 separate loan agreements, similar but with different
4 terms?

5 A. Yes, because they were done at different times.

6 Q. We have put those into your bundle. I hope you have
7 that at the back of the second bundle. They have been
8 numbered to make it a little easier. That is individual
9 volume 2. After the divider at the back it was page 34
10 within that section. Do you have that, sir?

11 A. Yes, I do.

12 Q. The first of the loans appears to be 4th April 2007?

13 A. Yes.

14 Q. For \$300,000?

15 A. Yes.

16 Q. Between East Harbour Nominees Limited.

17 East Harbour Nominees is the company used by

18 Mr Saunders, isn't it?

19 A. I suppose.

20 Q. You understood you were dealing with Mr Saunders?

21 A. Yes.

22 Q. I think he signs on behalf of East Harbour Nominees, so
23 it may not make a lot of difference.

24 That, if we go to page 37, is in fact -- the term of
25 that loan is one year, at 9.5 per cent.

1 The little box is at the top on the left?

2 A. Yes, that is reflected.

3 Q. You borrowed on that occasion 309,000 in fact is what is

4 in the total borrowing box, although the front says 300.

5 No doubt there is a commission element or something of

6 that nature. 9.5 per cent for one year.

7 Over the page, 5th June. Page 38. Another 200,000.

8 A. Yes.

9 Q. Go to page 41, we see that loan, which with commission

10 becomes 206,000. This one is at 12 per cent.

11 A. Yes, I am with you.

12 Q. For three years. 12 per cent for three years. Page 43.

13 300,000?

14 A. Yes.

15 Q. This one at page 46 we see is again 309,000. This one

16 at 12 per cent for three years?

17 A. Yes.

18 Q. Finally, 22nd January, this is page 48, 380,000, which

19 with commission at page 51 is 391,400, at 10 per cent

20 over three years.

21 Would it be reasonable to say -- one can

22 characterise this as one loan, but this is effectively

23 four separate loans, albeit in each case with the same

24 persons, the same parties making the agreement.

25 A. Yes.

1 Q. No doubt somebody somewhere is getting a headache
2 figuring out exactly what interest payments, but there
3 are in fact charts of repayments with each of those
4 loans. Any of those documents where you get the term
5 period, we have what appears to be a repayment chart,
6 albeit each of them seem to reflect five years rather
7 than one or three. It doesn't matter. There are
8 different periods, different interest rates, different
9 sums.

10 Mr Saunders obviously was the party with whom you
11 negotiated but it was not your money, not his money, was
12 it, that he was lending to you? He was acting for other
13 parties.

14 A. I don't know. I approached him. I dealt with him.

15 Q. Let's look at the covering e-mail at pages 32 and 33.

16 As with e-mails one has to effectively read
17 backwards. The first e-mail was from yourself to him in
18 October, on October 16th at page 33 where you simply ask
19 him the status of your account with him.

20 His response which comes above that says -- this
21 presumably is the global figure still outstanding across
22 those various different loans at that time --
23 approximately 863,000, precise figure prior to interest
24 charges?

25 A. Okay.

1 Q. He goes to talk about registering some form of security
2 over the Water Cay property as a result of pressure from
3 lenders:

4 "Note also we are probably getting close to 50
5 per cent in the debt to loan ratio on the Water Cay
6 property and Royal Reef ... not doing much to instil
7 confidence in anyone, taking security over land."

8 He goes on to say he would be likely to be asked to
9 beef up the security:

10 "... and register the charge we are holding for the
11 Water Cay property."

12 He goes on to finish by saying:

13 "So we can sort out some other matters for you in
14 the next week or so, you should alleviate most of these
15 anxieties."

16 You respond to him:

17 "Okay, noted and understood. You have to protect
18 your investors. In the meantime could the 35K happen."

19 You were obviously looking for a little more money
20 from him?

21 A. Yes.

22 Q. So you understood that this was money that he was
23 investing on behalf of others with you?

24 A. I approached him because -- not only his firm but some
25 of the other law firms, I don't know, the internal

1 stuff, how it works but they lend money. So I went to

2 him and I dealt with him.

3 Q. You understood there were investors, sir, isn't that

4 correct?

5 A. According to this e-mail, it appears that there were

6 other parties' monies but I was dealing with

7 Norman Saunders.

8 Q. But you knew that there were other parties?

9 A. I never dealt with any other party. I dealt with Norman

10 Saunders.

11 Q. But you knew there were other parties?

12 A. No, I didn't know there were other parties. I didn't

13 speak with other parties, I spoke with Norman Saunders.

14 Q. You may not have spoken to them, you may not have met

15 them, but you knew that there were other parties. It

16 isn't that difficult a point.

17 A. No, how would I know, and I dealt with Norman Saunders.

18 SIR ROBIN AULD: That is a short range answer, is it not,

19 Mr Hanchell? He referred in this letter to having

20 pressure from lenders. I mean, was he acting, as you

21 understood it, as a money broker?

22 A. All I know is that he lent money and other firms lent

23 money. When I borrow money from First Caribbean Bank or

24 Scotiabank, I don't know whose money they are lending

25 me. As far as I am concerned I am dealing with the

1 person at First Caribbean Bank. I took Norman in the

2 same context that I was dealing with Norman.

3 Q. When you said you had to protect your investors, who did

4 you mean?

5 A. I am telling him -- he is telling me that he was holding

6 the charge because the loans are done in such a way that

7 they can call at any time. So he has it on registered

8 charge for me. Obviously he wants his money and I am

9 telling him, okay, noted and understood, you have to

10 protect your investors. I am telling him if you have to

11 register the charge then register the charge.

12 Q. Who were the investors?

13 A. I don't know.

14 Q. You knew that they existed?

15 A. No I didn't know.

16 Q. So you were talking about people you didn't know

17 existed?

18 A. That was not my concern --

19 SIR ROBIN AULD: This is your letter to him as I understand

20 it. Your response was that you had to protect your

21 investors, or have I it the wrong way round?

22 MR MILNE: No.

23 SIR ROBIN AULD: He says he has got lenders and you say you

24 have got investors, according to the correspondence.

25 I have just been listening. I have not got this

1 correspondence.

2 A. I am sorry, I am looking to see what he says.

3 SIR ROBIN AULD: Look on page 33 where the request comes on
4 16th October, requesting the security of a Water Cay
5 property as a result of pressure from lenders. That is
6 him to you. Then your reply, I think, is that you have
7 to protect your investors.

8 A. That is what I wrote him and tell him.

9 SIR ROBIN AULD: So you have some investors whom you must
10 know about, and he has some lenders of whom he must
11 know.

12 MR MILNE: Sir, it is page 32. It is the page before
13 actually has that e-mail on it which is what I am
14 reading from.

15 SIR ROBIN AULD: So you don't know who your investors are?

16 A. I don't know.

17 SIR ROBIN AULD: Oh.

18 MR MISICK: I don't think he has any investors. They are
19 Mr Saunders' investors.

20 MR MILNE: You are speaking in that e-mail to Mr Saunders
21 referring to his investors and you are telling us now
22 that you did not know he had investors?

23 A. Let me make it very, very clear. Sir, I do not know
24 the origin of the money. As far as I am concerned,
25 I borrowed the monies from Saunders & Co. Now, whether

1 Saunders & Co were lending me monies that they were

2 authorised to lend, I don't know. I dealt with

3 Norman Saunders and Norman Saunders only.

4 MR MILNE: Mr Saunders made clear to you in his e-mail that

5 he had borrowed the money from others and was acting on

6 their behalf and indeed protecting their interests, as

7 is no doubt his professional duty.

8 A. Yes.

9 Q. I don't wish to labour this point, sir, but I suggest we

10 are having to because I am asking a simple question to

11 which you seem very reluctant to give us a response?

12 A. I am answering you, but you are not accepting my answer.

13 I do not know of any other parties, sir, than

14 Norman Saunders. That is who I dealt with.

15 (2.45 pm)

16 Q. Let me make it clear, I am not suggesting that you would

17 necessarily know their names, addresses or identities

18 but I am suggesting that you knew they existed. You

19 knew they were people behind him and you made that clear

20 in the e-mail and you are now reluctant for some reason

21 to admit that you did know that?

22 A. I am not reluctant of anything. I talked to

23 Norman Saunders and negotiated the loan.

24 Norman Saunders wants his money and it is obvious that

25 he is chasing it up and that is my position.

1 SIR ROBIN AULD: Mr Milne, will you help me because like you

2 I have only seen these papers today and in my case in
3 the last minute or so. What's the importance of knowing
4 whether Mr Saunders was lending his own money to
5 Mr Hanchell or was acting on behalf of other people?
6 What's the significance of it or potential significance
7 of it in the context of my terms of reference?

8 MR MILNE: My concern, sir, is that a government minister
9 when borrowing substantial amounts of money has at least
10 notionally some duty to ensure that he is borrowing from
11 a legitimate source.

12 Obviously Mr Saunders is a respectable attorney,
13 there is no reason to believe otherwise, no reason for
14 anybody else to suggest that, but one would have
15 anticipated and I didn't expect, I must confess, sir,
16 the response that I have had today, that the minister
17 would have appreciated that others were essentially
18 investing in his business at one remove by lending him
19 money, that Mr Saunders was simply the, as it were,
20 the conduit, the negotiator on behalf of a group of
21 investors.

22 On the face of that, there should be no problem.
23 What I find slightly concerning is in fact the response
24 that I have now had since I expected simply
25 an acknowledgment from the minister, that he refuses to

1 acknowledge that he knew there were investors behind
2 Mr Saunders.

3 SIR ROBIN AULD: Yes. Mr Misick, you would like to say
4 something?

5 MR MISICK: Yes. When you look at the documents,
6 the arrangement is with Mr Saunders' company and
7 Mr Hanchell. He said that he is aware of the practice
8 of some law firms. He is aware of the practice that
9 some law firms lent monies on behalf of their clients.
10 In this case he said he was not -- he didn't know
11 whether this was Mr Saunders' money or whether these
12 were other people's money. That is the end of the
13 matter. There is no point in badgering the witness to
14 try to extract --

15 SIR ROBIN AULD: I don't think there will be much more
16 badgering if there was any to start with. I put this
17 very point to Mr Milne and you have heard his answer.
18 It may be the matter won't go any further, I don't know.

19 MR MISICK: I hope not.

20 MR MILNE: Simply this, sir, I would invite the minister to
21 look at the form and I am looking at page 34. The fact
22 of the matter is, would you not agree, you were not
23 borrowing from a firm of attorneys because it would be
24 Saunders & Co if you were, but in fact you were
25 borrowing from a shell company called

1 East Harbour Nominees limited.

2 MR MISICK: Sir, when Mr Milne first started this, he said
3 to Mr Hanchell that I accept that this nominee company
4 is the same as Mr Saunders. So he can't have it both
5 ways.

6 MR MILNE: No, no --

7 SIR ROBIN AULD: It is the holding out of the nominee
8 function, I think, which is the point that you are
9 making, isn't it, Mr Milne? I am not sure this is
10 getting us anywhere.

11 MR MISICK: No, exactly.

12 MR MILNE: I accept, sir, that East Harbour Nominees is
13 a shell company used by Mr Saunders and I don't use that
14 expression necessarily in a pejorative sense. But it is
15 a company that does no trading, to the best of our
16 understanding has no assets at all and is therefore
17 a front, it may be a front for good or for bad, but
18 a front for something else.

19 This is not a loan, I would suggest, from a law
20 firm. It is a loan nominally from a company set up by
21 a law firm, with parties behind it, who do not appear to
22 be the lawyer himself or any others. Indeed, the loan
23 appears to have had commission attached to it in each
24 case of a small percentage but presumably that was, one
25 must assume, the payment to the middle man and the money

1 was coming from elsewhere.

2 That is our understanding. I would simply invite
3 the minister to say whether he knows, I think we have
4 had this answer, whether he knows who the investors
5 were. I understand him to be saying he does not know.
6 Whether he at any stage enquired as to who the investors
7 were?

8 A. I don't know and I didn't --

9 MR MISICK: Whether or not he makes an (inaudible) it does
10 not take us any further, given your terms of reference.
11 Your terms of reference is to find out whether there is
12 the possibility of corruption or dishonesty. There is
13 absolutely nothing in this. We are wasting a lot of
14 time on nothing.

15 SIR ROBIN AULD: Mr Misick, I think --

16 MR MISICK: Sorry, sir.

17 SIR ROBIN AULD: Mr Misick, I understand your unease about
18 this. You must remember that we are looking at
19 documents only just provided to us. There may or there
20 may not be something there, but I think we should stop
21 this exchange now. If Mr Milne, when he has more time
22 to reflect on the documents and the others that came
23 with them, and others that we have, feels it necessary
24 to come back to the point, then we can look at it then.
25 But at the moment I share your unease about

1 the long-term relevance of this.

2 MR MISICK: Thank you, sir.

3 SIR ROBIN AULD: Mr Milne may find some relevance when he

4 has more time to peruse the documents.

5 MR MISICK: I appreciate that.

6 MR MILNE: Let's move to a different topic, Minister. You

7 yourself, I think, told us that you started your career

8 as a stevedore, is that right?

9 A. Yes.

10 Q. You will be aware that there were a series of

11 discussions in Cabinet in 2007 and the early part of

12 2008 in relation to a company called Provo Stevedoring?

13 A. Yes.

14 Q. Do you have any connection with that company at all?

15 A. No, sir.

16 Q. Do you know the people who run it?

17 A. Yes.

18 Q. Who are they?

19 A. Calvin Green, and Vernad Handfield.

20 SIR ROBIN AULD: Two men run it?

21 A. Yes.

22 MR MILNE: Have you ever had any business dealings with

23 them?

24 A. No, sir.

25 Q. Were you party to the discussions concerning

1 the stevedoring tariff that was eventually agreed by
2 Cabinet?
3 A. No, sir.
4 Q. Were you party to the discussions about an exclusive
5 licence being granted for stevedoring purposes to
6 Provo Stevedoring?
7 A. Party with who, with Cabinet?
8 Q. With Cabinet?
9 A. Yes, I was at Cabinet.
10 Q. You were present at Cabinet on 13th February 2008 when
11 Provo Stevedoring were given an exclusive licence to
12 provide stevedoring facilities at ports on this island?
13 A. I cannot categorically say I was at that meeting, but I
14 normally attend all of the -- most of the Cabinet
15 meetings.
16 Q. You were minuted as being present if that assists?
17 A. Okay, well, I was present.
18 SIR ROBIN AULD: Did you say they were given a --
19 MR MILNE: An exclusive licence for stevedoring facilities,
20 stevedoring provision on the island of Providenciales.
21 SIR ROBIN AULD: Thank you.
22 MR MILNE: There was subsequently, and if it assists I can
23 tell the minister that he was not in fact present at
24 this Cabinet meeting.
25 A. I was or was not?

1 Q. You were not. There was an agreement, approval of the
2 stevedoring agreement that took place on
3 19th March 2008. I want there to be no
4 misunderstanding. You have no connection with
5 Provo Stevedoring, no business dealing with them?
6 A. I have no interest in Provo Stevedoring, sir.
7 Q. Do they have any bearing or involvement in the
8 importation of oil for Caicos Oil?
9 A. No, sir. They provide --
10 Q. They don't provide any service to you?
11 A. They provide stevedoring services for all cargoes that
12 come through South Dock.
13 SIR ROBIN AULD: Does that include oil?
14 A. Yes, but --
15 SIR ROBIN AULD: Does it include your oil?
16 A. Yes, but -- wait a minute, sir.
17 SIR ROBIN AULD: I am simply asking. I am not drawing any
18 conclusions from that.
19 A. Yes, but they provide it as a third party operator
20 because we import our oil on one of the cargo vessels.
21 So they provide services on behalf of that company that
22 has our cargo and other people's cargo.
23 MR MILNE: Are you aware there is widespread concern in some
24 parts of the business community at the level of
25 stevedoring charges that have been approved by

1 the government?

2 A. I have seen some stuff in the newspaper.

3 Q. Have you been approached on a professional level about

4 that? Have any issues been raised with you or your

5 colleagues that you are aware of?

6 A. There is a minister responsible for that who is

7 Jeffrey Hall, who -- any concerns would go to him.

8 SIR ROBIN AULD: Are these high prices affecting you?

9 Presumably you are having to pay them like everybody

10 else, are you?

11 A. Sir, I really wouldn't want the record to show that

12 I categorise what Mr Milne referred to as high prices.

13 SIR ROBIN AULD: That was not the question I asked you.

14 The question I asked you is are you paying the same as

15 everybody else, high or low?

16 A. If I am paying Caicos Oil?

17 SIR ROBIN AULD: Yes.

18 A. Caicos Oil don't have any arrangements with Provo

19 Stevedoring. Caicos Oil pays the freight company so we

20 pay whatever the freight company charge us.

21 SIR ROBIN AULD: The freight company are charged by -- they

22 charge the freight company, I suppose, do they?

23 A. Yes, Caicos Oil has no direct imports if you want to

24 understand that.

25 SIR ROBIN AULD: You pay it somehow or other at the end of

1 the line.

2 A. I pay as well as every consumer somehow.

3 SIR ROBIN AULD: So if the rates are high, you suffer with

4 everybody else. If the rates are low you benefit with

5 everybody else.

6 A. I think that is a fair assessment.

7 SIR ROBIN AULD: That is all I want to know.

8 MR MILNE: Mr Hanchell, I am going to move to another topic

9 in a moment. I just want to clarify one point that has

10 arisen from documentation provided to us this morning.

11 Here I am turning, I am afraid, again to the

12 American Express card that we dealt with when it was

13 disclosed to us. The papers that we have been given for

14 clarity of record indicate this: there are three aspects

15 to the account, three cards as you have described it.

16 Yours, your business card and your wife's card.

17 A. Not my business card; one I said that they gave it to

18 you, you could use it to differentiate but not

19 necessarily a business card.

20 Q. You have clearly used in any given period both cards.

21 Presumably you were making a distinction of some sort

22 between two cards?

23 A. Whichever one comes out first.

24 Q. So in fact it makes no difference which --

25 A. No. It is one thing.

1 Q. You have provided us with a selection or a handful of
2 accounts from the card. Did you receive the card
3 statements yourself?

4 A. The statements came in the mail, yes, to my PO Box
5 number Provo.

6 Q. When the statements came to you, had you already by that
7 stage received a request for payment from the J&T Banka?

8 A. More than likely because the statements are sometimes
9 slow in the mail.

10 Q. Did the two not come together? Did J&T Banka not simply
11 forward the statement to you with a request that you pay
12 it?

13 A. I am not certain. I believe so.

14 No. You just get the statements. Statements come
15 in a separate envelope.

16 Q. You received on a number of occasions requests for
17 payment. Now, the payment requests that we have seen
18 from J&T Banka appear in each case to say for the last
19 period. But if I follow your evidence correctly, you
20 did not always pay on time or perhaps on some occasions
21 you didn't pay at all?

22 A. Correct.

23 Q. Therefore, the subsequent payments or subsequent
24 requests, although relating to the last period in fact
25 related to more than one month, is that right?

1 A. That is possible.

2 Q. Okay. So when we see requests coming in from J&T Banka
3 for, on various occasions 200,000, 206,000, 259, 297,
4 escalating figures, these are in fact cumulative
5 figures, is that what you are saying?

6 A. Yes, in some cases.

7 Q. Whilst you were, I would suggest from the evidence of
8 the statements, still using the card, you were making
9 perhaps some payments but not necessarily full payments
10 each month?

11 A. Yes.

12 Q. There appear to have been transfers which we have
13 identified, where we have been given documentation
14 relating to Chal Misick's bank account.

15 A. Yes.

16 Q. Albeit it does not provide the number of the bank
17 account and those are transfers over -- that you
18 requested him to make?

19 A. Yes.

20 Q. How would you request him to do that?

21 A. Verbally I would pick up the telephone.

22 Q. After you had done it once, presumably he would know
23 the account he had to send it to?

24 A. I would assume there would be a record.

25 Q. There do not appear to be payments every month. Is

1 there any reason why you would only go to him

2 occasionally?

3 A. I pay when I could pay.

4 Q. You say you pay when you could pay but he was paying in

5 fact, on your behalf, but he was paying, wasn't he?

6 A. Pardon?

7 Q. He was paying on your behalf.

8 A. Don't forget that there was a loan, where I paid

9 J&T Banka for their American Express card and there were

10 two other payments, which came from my checking account

11 at First Caribbean, and then there was another payment

12 where it came from TCI Bank downtown.

13 Q. Where do we find those, please?

14 A. One moment. I made a note of that in bundle 2.

15 MS MISSICK: Page 187 of the red bundle and page 270,

16 volume 1.

17 MR MILNE: Which red bundle?

18 MS MISSICK: Not the core bundle, McAllister's bundle.

19 Black one though.

20 (3.00 pm)

21 MR MILNE: Page 187 of the first black bundle, is that?

22 MS MISSICK: Yes.

23 MR MILNE: Thank you, Minister. What was the figure you

24 wished to refer us to?

25 A. 92,000 on --

1 SIR ROBIN AULD: Let's just identify what we are looking at
2 here. What is this?
3 A. Cheque number 270.
4 SIR ROBIN AULD: What are we looking at? Bank statement
5 from who?
6 MR MISICK: From FCIB.
7 MS MISSICK: First Caribbean.
8 SIR ROBIN AULD: The dates?
9 A. 29th June, 92,000.
10 Cheque number 270. Then there's another one on
11 page 270 from TCI Bank on 8/8/8, where I draw a bank
12 draw of \$50,100.20.
13 MR MILNE: 50,100.20?
14 A. Those are bank charges that are included. That is just
15 showing the bank charges for the draft and all of that.
16 Q. You say that is also American Express payment?
17 A. Yes, that is an American Express payment.
18 Q. Which periods are they payments for?
19 A. If you go to the bundle of this morning --
20 SIR ROBIN AULD: You say this morning.
21 MS MISSICK: You should find it at bundle 4, page 29B,
22 the amount on page 187 of volume 1. The amount from
23 J&T Banka was for 90,000. The minister drew 92,000.
24 A. You find the actual wire transfer? (Pause)
25 I think the wire therefore is at page 65 of this

1 black one here. From First Caribbean.

2 MR MILNE: Which bundle is that?

3 MR MISICK: Bundle 2.

4 A. This one here, volume 2 of the black. All the way to

5 the end.

6 MR MILNE: The final section?

7 A. Yes, all the way to the end, 65 at the back. That

8 represents the 92,000.

9 The other one represents another payment. I don't

10 believe I have that wire transfer for the other one but

11 that represents a payment to J&T Banka.

12 Q. In any event, that is an example, you say, of transfers

13 made directly from your own accounts, yes?

14 A. Yes.

15 Q. But subsequently you relied upon the benefit

16 of essentially a loan -- almost like a credit facility

17 that was extended to you by the Premier through his

18 brother, and Chal would make payments as and when you

19 requested directly to the American Express card to

20 J&T Banka?

21 A. The Premier extended me a loan and that is where

22 the other monies came from, yes.

23 Q. And would continue over a period of time. When did you

24 stop asking Chal for payments?

25 A. When the money was done.

1 Q. When you hit 1 million?

2 A. When it was done.

3 Q. You were still using the card through 2008. Were you

4 still taking loans from Chal at that stage or Chal on

5 behalf of his brother?

6 A. At what period?

7 Q. Through 2008.

8 A. I believe I made some payments in 2008, yes.

9 Q. Did Chal make any payments on your behalf through 2008?

10 A. January, yes.

11 Q. Beyond that?

12 A. I am looking.

13 MR MISICK: 68 and 69, two payments in 2008, from

14 Chalmers & Co.

15 MR MILNE: I am sorry, which page are we looking at now?

16 MR MISICK: Black bundle 68 and 69.

17 MR MILNE: Bundle 1?

18 MR MISICK: Bundle 2.

19 MR MILNE: Can you put a date on the final payment that he

20 made on your behalf? If not, say not. I am not

21 necessarily expecting you to be precise.

22 A. Not at the moment. I don't want to hold things. Not

23 right in my hand.

24 Q. Would it be fair to say any expenditure that has been

25 incurred now -- do you still have the American Express

1 card?

2 A. Yes, but I can't use it.

3 Q. Right. Why is that?

4 A. It would bounce.

5 Q. Did you get any earlier complaints from American Express

6 if the payments weren't being made?

7 A. Well, I tried to use the credit card and I was

8 embarrassed and someone telephoned -- the telephone ring

9 and they say, sir, don't use this card, no charges are

10 going to go through.

11 Q. It is, strictly speaking, a charge card, isn't it,

12 rather than a credit card?

13 A. I don't understand the differentiation. I know credit

14 card. You mean like a debit card?

15 Q. No. Let me make clear. A debit card is the card that

16 usually draws directly from a bank account. If you use

17 it, your bank account will be debited immediately.

18 A credit card is a card where you have an upper limit,

19 maybe \$5,000, \$10,000, \$20,000, whatever, and if you

20 choose to pay at the end of the month then you pay no

21 interest. If you choose to let it run over, then you

22 pay interest. But the credit card don't mind because

23 they are making the interest out of you.

24 Charge cards strictly speaking, as I understand it,

25 is one where you don't have legally the option to run

1 the balance over. You should clear it each month. Our
2 understanding, and your understanding may be different
3 and tell me if that is so, my understanding is that
4 the American Express card we are dealing with was
5 a charge card where they expected clearance of the debt
6 each month and may well have imposed swingeing interest
7 charges if you failed to do so and sent a complaining
8 letter, I suspect. Did you get any such letters?

9 A. I don't recall. I may have. But I know I can't use
10 the card.

11 Q. Did you get any complaining letters from J&T Banka as
12 opposed to American Express?

13 A. I believe I had letters, yes, from J&T Banka. I believe
14 J&T Banka has sent me letters asking for their money.

15 Q. I am sure they would, but did they criticise the fact
16 that there had been a delay because as I understand it,
17 you had no account with them.

18 A. No, I don't have an account with J&T Banka. They want
19 their money.

20 Q. But you did have a loan effectively or an overdraft
21 because you were failing to pay them when they had paid
22 off the card.

23 A. All I simply did was make the application and I have no
24 documentation to support that I have a loan or for
25 an overdraft. I don't have anything like that.

1 Q. Finally, before I leave this topic, do you have bank

2 accounts overseas at all?

3 A. No, sir.

4 Q. Or any other credit cards that you have not mentioned to

5 us?

6 A. Overseas, no, sir.

7 Q. Or in this country.

8 A. No, sir, I have given you all of my credit cards.

9 Q. All of the credit cards, all of the bank accounts?

10 A. Yes, sir.

11 Q. And no money is being held for you in other bank

12 accounts by other persons on your behalf?

13 A. No, sir.

14 Q. Sir, I have one more topic to deal with. I am mindful

15 of the time and I will -- it will take more than five

16 minutes.

17 SIR ROBIN AULD: Shall we have break there for five or ten

18 minutes.

19 (3.10 pm)

20 (A short break)

21 (3.18 pm)

22 SIR ROBIN AULD: Mr Milne.

23 MR MILNE: Minister, before we move on to the final topic of

24 the afternoon, just something from earlier on. One of

25 the answers that you gave was in relation to Caicos Oil,

1 obviously you were importing petroleum, importing fuel.

2 I think we asked you about the rates that you paid and

3 you said you pay what the freight company charge you.

4 Is that right?

5 A. For -- you mean in relation to Provo Stevedoring

6 charges?

7 MR MILNE: No, in relation to importation of fuel for Caicos

8 Oil. You don't import it as Caicos Oil, do you?

9 A. Yes, there is a distinction. We imported it as

10 Caicos Oil, but there is no dedicated vessel that bought

11 for Caicos Oil. It comes in general cargo.

12 Q. It is brought in by a freight company?

13 A. Yes.

14 Q. And you pay the freight company charges.

15 A. Yes.

16 Q. Who is the freight company?

17 A. Believe it or not, it is not my freight company. I know

18 you find that funny. It is -- it comes through -- what

19 is the name of the company, what is -- ACL Shipping.

20 SIR ROBIN AULD: Who pays the duty is what I am interested

21 in.

22 A. Caicos Oil pays the duty, every cent.

23 SIR ROBIN AULD: Caicos Oil pays the duty and it does that

24 after it has paid its own ship to bring the stuff in?

25 A. Caicos Oil has to pay the duty before the goods is

1 removed from the government port.

2 SIR ROBIN AULD: And you pay what everybody else pays.

3 A. Yes, there is no special deals.

4 SIR ROBIN AULD: Caicos Oil imports its oil on ACL vessels?

5 A. Yes.

6 MS MISSICK: Sir, a copy of the duties that come in by

7 Caicos Oil can be found at tab 17 of bundle 4. That is

8 a letter from the Customs department in relation to

9 Caicos Oil. For the record. Black bundle 4.

10 Page 186.

11 SIR ROBIN AULD: That's not disputed, is it? Do we need to

12 look at it?

13 MR MILNE: No.

14 MS MISSICK: It is just for assistance.

15 SIR ROBIN AULD: I have made a note for the reference.

16 MR MILNE: We have been provided with some documentation

17 this afternoon, sir, concerning the earlier loan from

18 the Belize Bank to the directors of

19 Sunset Beach Ventures Limited. Is that correct?

20 A. Yes, that is a facility letter.

21 Q. Which is dated 5th April 2006 and it relates to a

22 \$200,000 loan, which I think you did touch upon earlier

23 as being a loan which would subsequently effectively

24 subsume. Those are pages 70 through to 84 and --

25 SIR ROBIN AULD: Can you give the volume number first,

1 please?

2 MR MILNE: They will go at the very back of volume 2.

3 SIR ROBIN AULD: Page?

4 MR MILNE: It is the final set. They are pages 70 through
5 to 84.

6 Minister, whilst we are in that section, we come to
7 the final topic that I wish to raise with you this
8 afternoon. That is in relation to Salt Cay.

9 A. Yes.

10 Q. Salt Cay is a controversial topic and it involves Crown
11 land. Therefore it touches upon your area of
12 responsibility, would you agree?

13 A. Yes, sir.

14 Q. It would appear that there has for some time been
15 discussion of the possibility of a cargo dock being
16 built at Salt Cay and indeed the idea, as the Commission
17 understands it, is that a dock of some nature is going
18 to be required if machinery, heavy plant, whatever you
19 wish to call it, is to be put on to the island in order
20 to do the work that is being proposed. Is that correct?

21 A. Yes, in addition to everyday people of Salt Cay, they
22 need that for imports.

23 Q. But this is perhaps more of a controversial topic
24 because clearly it relates directly to the development
25 of Salt Cay?

1 A. The development, meaning generally?
2 Q. Generally?
3 A. Generally development will benefit because at the moment
4 you are limited into what comes into Salt Cay because of
5 the draught situation.
6 SIR ROBIN AULD: The present controversy over the dock is
7 its precise location, whether it is too near
8 the White House and the old harbour and should be
9 further away.
10 A. Somewhat. That discussion was or is in the air.
11 MR MILNE: We have in that final section of volume 2, behind
12 the new divider and therefore the pagination begins
13 again, page 1, we have a series of documents relating to
14 the discussions that have taken place.
15 A. 21, right?
16 Q. No. Volume 2. New divider, towards the back, page 1.
17 A. I got it, thanks. Yes, I have it.
18 Q. It may assist if we just -- I am going to, as it were,
19 take a short stroll through these documents and follow
20 it. They are in chronological order, I hope.
21 Essentially, the discussion had been going on for some
22 time and various government departments are required to
23 have an input. The first of the government departments
24 that we come across is the department of environmental
25 and coastal resources, DECR.

1 On 3rd November 2008, this is pages 1 and 2, there
2 were comments provided by Mr Clerveaux, the director of
3 that department. They were addressed to the planning
4 department, the acting director of which at the time was
5 Carla Harrison. Yes?

6 A. Yes.

7 Q. Essentially there were -- they are not pro or anti but
8 there were a number of observations made by
9 the department of environment and coastal resources?

10 A. Yes, sir.

11 Q. Prior to the department of planning considering this
12 issue, yes?

13 A. Yes.

14 Q. On 12th August, 2008, in fact, a formal planning
15 application had been lodged with
16 the Department of Planning?

17 A. Page?

18 Q. I don't think the application is in here. It was
19 12th August. The date is probably not particularly
20 important. But it is acknowledged in the papers that
21 the process, the normal process was adopted. That
22 notice is placed in the Gazette. That notice is,
23 I think, placed in local press and individual notices
24 provided to people who lived very close by the proposed
25 development?

1 A. 200 feet radius, yes.

2 Q. I don't know if that is standard but that is clearly

3 the figure that was agreed as being --

4 A. That is what the law says.

5 (3.30 pm)

6 Q. What we then have is a document from

7 the Department of Planning, which is dated

8 28th November 2008?

9 A. Page?

10 Q. That is page 3 in the section you are looking at. This

11 is a document being provided by the -- in fact it was

12 the acting Director as I mentioned, Carla Harrison, and

13 sent to the land use planner/secretary, Ms Lichele Hue?

14 SIR ROBIN AULD: Pause there please. The document refers in

15 its first paragraph to a memorandum of Ms Lichele Hue of

16 7th November and 26th November.

17 Are they relevant? Have we seen them?

18 MR MILNE: I don't think we have those, sir.

19 SIR ROBIN AULD: It doesn't refer to the immediately

20 preceding memorandum in the bundle. We ought to

21 identify and obtain copies of the memoranda from

22 Ms Lichele Hue of 7th November and 26th November at some

23 stage.

24 MR MILNE: It may be that the minister's department would be

25 the ideal place to provide those.

1 A. As a matter of fact, sir, at the planning department,
2 every application should have all of the correspondence
3 on one file.

4 SIR ROBIN AULD: I am surprised we have not already got
5 this. It may be in some of the other papers we have got
6 but it is not here, that is all.

7 MR MILNE: The document we have here is a memorandum.
8 Obviously, if you wish we can read through it word by
9 word, but it is fairly lengthy.

10 Essentially what has happened is that the
11 Department of Planning have raised, I will put it
12 neutrally, concerns about the earlier environmental
13 impact assessment, which is usually abbreviated to EIA?

14 A. Yes.

15 Q. The gist of this is that the EIA does not go far enough,
16 that they have failed to consider certain aspects.

17 If I turn the page to 4, there is discussion of
18 location, cultural assessment and indeed the second
19 paragraph says:

20 "Since the proposed development is within an area of
21 historical interest, the report must include plans to
22 integrate the proposed development with the conservation
23 zone and indicate that the design of any structure
24 including the barge and buildings should be of high
25 cultural architecture."

1 Concern is being raised over the page on page 5,
2 further problems. They may not be terminal but problems
3 that need to be addressed.

4 We then on page 7 turn to a somewhat fuller report
5 that was prepared by the Department of Planning.

6 Again --

7 SIR ROBIN AULD: Date?

8 MR MILNE: This is page 7, sir.

9 SIR ROBIN AULD: Like many of these government documents,
10 they never seem to be dated.

11 MR MILNE: This is not, but we can be confident that this
12 post-dates the last one for the simple reason that the
13 lady who wrote the previous one, Carla Harrison, who was
14 Acting Director, was no longer Acting Director because
15 this is from the new Director, Mr Clyde Robinson.

16 It is signed by him sadly without date but it
17 appears to follow on.

18 It is a review of the Salt Cay barge landing dock
19 environmental impact assessment. Again, I hope I don't
20 do it any injustice by saying this is a rather more
21 critical, indeed positively pointed critique of the
22 earlier environmental impact assessment, disagreeing
23 with many of the things that it said. I take as
24 an example page 9. It describes the development and it
25 says:

1 "It is undeniable that the construction of a new
2 barge landing dock on Salt Cay will bring about
3 significant benefits to both the residents and business
4 community of Salt Cay."

5 It goes on:

6 "Internationally and within the Turks & Caicos
7 Islands, only in exceptional cases and after extensive
8 studies and implementation of rigid legal requirements
9 and enforcement controls would one find an industrial or
10 cargo seaport within the town centre of an island or
11 coastal town. The idea of planning an industrial port
12 within the centre of an established historic town and
13 immediately next to the Turks & Caicos Islands' most
14 important historical building seems preposterous."

15 He also goes on to say that, having described it as
16 preposterous:

17 "The planning for a dock in an established community
18 like Salt Cay must be within the island context.
19 The applicant appears to be under the presumption that
20 the location of a marina, which has been discussed, has
21 been finalised."

22 Which apparently it had not been. I take it just as
23 an example of the critique that is being put in here,
24 but the conclusion that is drawn by Mr Robinson is that
25 it would be inappropriate to recommend that this goes

1 ahead. The planning board ultimately make
2 recommendations, if I am correct in my understanding,
3 Minister, to you. The recommendation which appears to
4 be incorporated, we find at page 16, where it says:

5 "The physical planning board is recommended to
6 advise that in their recommendations to the honorary
7 minister of planning, the honorary minister must
8 recommend to Cabinet that subject planning application
9 [it gives the number] not be determined until such time
10 as the development plan for Salt Cay is complete and
11 approved and not until all outstanding matters arising
12 out of this environmental impact statement have been
13 resolved to the satisfaction of the Director of
14 Planning."

15 SIR ROBIN AULD: This was a memorandum for the planning
16 board initially.

17 MR MILNE: For the planning board.

18 A. This is a recommendation from the Director of Planning.

19 MR MILNE: To the planning board.

20 A. To the planning board.

21 Q. It is the planning board that then pass on their
22 decision to you?

23 A. And then I pass on my decision -- their decision to
24 Cabinet.

25 Q. So it is a long process but essentially it is designed

1 to be checks and balances, Director of Planning reports
2 to the board, the board make a decision whether to
3 recommend to say yes or no, obviously they then report
4 to you and you are provided with their recommendation?

5 A. Yes.

6 Q. The board met as is conventional. It was the 586th
7 ordinary meeting, so it is a planning board that has
8 been in place for some time, and that meeting took place
9 on Wednesday, 17th December in a conference room in
10 Providenciales, in the Department of Planning. Present
11 at the board were the chairman, various members,
12 the Vice Chairman. I beg your pardon, the vice chairman
13 was absent, but there were on that occasion a number of
14 members and some who gave their apologies. Also
15 Mr Robinson present and Mrs Carla Harrison, now deputy
16 Director of Planning, Lichele Hue, the senior
17 development control officer, and also in attendance
18 Mr Clerveaux, the Director of the DECR, and a scientific
19 monitoring officer from the DECR.

20 I am going to take this, I hope, relatively shortly.
21 At this meeting which started in the morning, I think,
22 at 10.05 and went on for over three hours, came to
23 a number of conclusions, but essentially recommended
24 along the lines put forward by Mr Robinson.

25 Page 21, having made that decision, the board draws

1 up a minute. The minute is signed by the secretary to
2 the board, Lichele Hue -- we see that on page 21 --
3 sending it on to yourself saying -- it is the standard
4 wording but halfway down that paragraph:
5 "The board considered the written advice from
6 the Director of Planning with respect to the subject
7 planning application and the findings by the director of
8 planning, Director of the DECR and Deputy Director of
9 Planning. After much deliberation the board decided to
10 recommend to the honorary minister of planning that he
11 recommend to the governor and Cabinet that planning
12 application ... be refused."

13 So that is where it got to. By 17th December it had
14 been considered, Director of Planning had given his
15 recommendations, and a considered decision had been
16 passed on to yourself.

17 Now that was 17th December, so not long before
18 Christmas. Minister, we now understand that on
19 9th January, which was a Friday a couple of weeks ago,
20 that same Director of Planning, Mr Clyde Robinson was
21 contacted by yourself and asked to go to the Premier's
22 office. Do you remember that?

23 A. Yes.

24 Q. When he got there he found that you were present
25 together with the Premier. There were also some members

1 of the planning board, including the Vice Chairman and a

2 man called itself Stefan Kral. Do you remember that?

3 A. Are you intentionally missing out the others? Did he

4 tell you of others that was there?

5 Q. I am telling you what we know, sir.

6 A. Do you want me to help you and tell you who was there so

7 we have it for the record?

8 SIR ROBIN AULD: Let's take it bit by bit. Who was there of

9 the people mentioned by Mr Milne?

10 A. I was there; the Premier was there; the Director of

11 Planning, Mr Robinson, was there; Mr Garnett Jolly was

12 there, Mr Colin Williams was there; Mr Otis Morris was

13 there; I invited Mr Stefan Kral and there was

14 a technical engineer or whoever it was, I don't know his

15 name but another representative from Salt Cay

16 development.

17 SIR ROBIN AULD: Did I miss you saying Premier there, you

18 did say the Premier, did you?

19 A. Yes, he was there.

20 MR MILNE: Mr Kral was with a colleague. We don't know

21 the precise name of that colleague.

22 A. Yes, I think he is a technical guy.

23 Q. But essentially the two men from Salt Cay Devco?

24 A. Yes.

25 Q. Mr Kral complained about the lack of progress on the

1 dock that he wanted as part of his development work?

2 A. Yes.

3 Q. Mr Kral, I think, subsequently left and the Premier

4 spoke to Mr Robinson, Clyde Robinson?

5 A. We had a meeting. We all spoke.

6 Q. Essentially he gave him, we would suggest, what appeared

7 to be a dressing down of some sort. Complained

8 vigorously. This is the Premier complaining vigorously,

9 saying that the planning board decision was unacceptable

10 and there was heated debate?

11 SIR ROBIN AULD: Let's take that in stages. Did the Premier

12 say that the decision of the planning board was

13 unacceptable?

14 A. No he did not.

15 SIR ROBIN AULD: What did he say?

16 A. What he said -- we had a discussion in relation to

17 the dock in Salt Cay and he asked the question, where

18 are we? What is the status of the Salt Cay dock.

19 SIR ROBIN AULD: Asked whom?

20 A. He asked the Director of Planning: what is the status

21 with the Salt Cay dock.

22 SIR ROBIN AULD: That is Clyde Robinson?

23 A. Yes, Mr Clyde Robinson.

24 SIR ROBIN AULD: Carry on.

25 A. That is what he asked.

1 SIR ROBIN AULD: Well what was the answer? What happened at
2 this meeting?

3 A. Well, it seems as if I got to go back, sir, just to get
4 the whole gist of it. I think in January --

5 SIR ROBIN AULD: Don't go back please. Mr Milne asked you
6 what the Premier said and he put to you that the Premier
7 complained, I think, about lack of progress. Now you
8 have told us one thing that the Premier did. He asked
9 what the status of the Salt Cay dock was. How did
10 the conversation proceed from there? Who spoke?

11 A. We all spoke. At the beginning, first of all, I invited
12 it by text message, a number of members, including the
13 chairman or the former Chairman as I learned from
14 the media, Mr Earl Handfield to attend the meeting at
15 the Premier's office to discuss the Salt Cay dock
16 project.

17 I subsequently invited Mr Stefan Kral. We all were
18 in the room before Mr Stefan Kral and his colleague got
19 there. I opened the meeting and say to Stefan Kral and
20 his colleague: here are the members of the planning
21 board, the Director of Planning, myself and the Premier;
22 can you please give us an overall view of what role that
23 you may play in the construction of this dock?

24 SIR ROBIN AULD: Who is "you"?

25 (3.45 pm)

1 A. Mr Kral, I am talking about. Mr Kral said that he had
2 an obligation in his development agreement to construct
3 a government dock and where the dock goes is a matter
4 for government but he needs some idea of when they are
5 going to be able to construct this dock.

6 Thereafter his technical guy, I suppose it was
7 drawings, wanted to speak and the Premier said: thank
8 you very much, could you please leave.

9 Thereafter is when the Premier asked Mr Robinson of
10 the status of the Salt Cay dock.

11 He told the Premier that the board had met. He also
12 said that there was still a debate of whether or not
13 the dock should go to the south of the island or on
14 the northern side of the island near to the White House.

15 Then the Director of the DECR made --

16 SIR ROBIN AULD: Director of?

17 A. The DECR, the department of environmental, coastal
18 resources.

19 SIR ROBIN AULD: Who is that?

20 A. Mr Wesley Clerveaux.

21 SIR ROBIN AULD: Yes, I know him. What did he say?

22 A. His comments were that the area on the northern side of
23 the island, as we know it as the White House, from
24 an environmental perspective, that there has been years
25 of impact in that particular area since the salt ages,

1 some 300 years ago up until the 1960s I believe; and
2 that it would only make sense from that perspective that
3 the dock be in that area versus going to the south side
4 of the island where there is a famous dive site and
5 having to cut new coral. In his professional opinion,
6 he don't believe that that area will be the best area,
7 saying that you already have impact at the White House.

8 Then there was a technical debate of which I can't
9 explain between the Director of Planning and
10 the Director of DECR in relation to that.

11 SIR ROBIN AULD: Technical debate between Mr Clyde Robinson
12 and Wesley Clerveaux?

13 A. There was a technical debate, and none of us could
14 understand it and certainly I didn't.

15 I said to them that this government dock is
16 important to the people of Salt Cay. I remember clearly
17 saying to them that the former Chief Minister,
18 the Honourable Derek Taylor has promised the people of
19 Salt Cay dock from 1991, Salt Cay is limited with air
20 lift because only a five seater can go into Salt Cay.
21 Only one container at a time can go into Salt Cay.

22 I said this is a government project. This is government
23 money even though the developers in their agreement has
24 an agreement with government to build the dock.

25 I said to them, why -- this is a government project,

1 why are you taking forever for this thing to get up and
2 going? Other members present at the board, namely
3 Mr Garnett Jolly, at that particular time I said that
4 the recommendations say that the -- basically nothing
5 should happen until the development plan is completed.
6 I say to them that the development plan in its own
7 respect, at the end of it, it is going to be what it is,
8 whatever the recommendations say. But why do you think
9 that the people of Salt Cay, and these are my words, to
10 hell with the Salt Cay developers. This is
11 the government dock for the people of Salt Cay. Why we
12 can't get to a stage where construction can begin, so
13 they can benefit primarily and the entire island in the
14 medium to long-term?

15 The Director of Planning himself suggested that they
16 should leave the meeting.

17 SIR ROBIN AULD: Who should leave?

18 A. Them, meaning the Director and the board members. That
19 was a very informal meeting to get a status.

20 SIR ROBIN AULD: Who was the board man, Mr Jolly?

21 A. Mr Jolly was there, Mr Williams was there and Mr Morris
22 was there. The others, I don't know why, no one
23 answered me, they just simply showed up by my text
24 message, but I did speak with the Director to confirm he
25 was there, and I believe at the meeting, one of the

1 board members made an attempt to try to call
2 the chairman, the substantive Chairman of the board.

3 However, the Director of Planning suggested that,
4 okay, there is nothing to be resolved at this particular
5 meeting, that we should leave this meeting and discuss
6 a formal meeting, meaning like a planning board meeting,
7 I suppose, in relation to Salt Cay.

8 That was the end of that.

9 SIR ROBIN AULD: Pause there, please. The Premier was
10 present throughout this?

11 A. Yes.

12 SIR ROBIN AULD: Did he contribute to the discussion?

13 A. The Premier, yes, he contributed to the discussion.

14 SIR ROBIN AULD: What in a nutshell was his contribution?

15 A. His nutshell was the same as mine: how long does
16 the people of Salt Cay have to suffer for a dock? What
17 is the problem? It was my meeting, sir, at his office
18 and I chaired the meeting.

19 SIR ROBIN AULD: So he also expressed impatience at the
20 delay?

21 A. Yes.

22 SIR ROBIN AULD: Now, Mr Milne, I have been too long there
23 and you have matters I know you want to put, but it
24 seemed to me we ought to try and get some coherent
25 account of what took place at least through the memory

1 of Mr Hanchell.

2 MR MILNE: If I follow correctly because Mr Hanchell has

3 said quite a lot in that statement, the members of the

4 board who were present in that morning were Mr Morris,

5 Otis Morris.

6 A. Yes, sir.

7 Q. Colin Williams?

8 A. Yes, sir.

9 Q. And Garnett Jolly?

10 A. Yes, sir, as I remember, I don't think I miss any.

11 Q. Just three? Was Mr Everette Greene present?

12 A. I don't think so. I can't remember him being there.

13 Q. So three members of the committee which in fact is made

14 up of ten members in total?

15 A. I guess. If ten is the number, I will have

16 the ordinance in front of me --

17 Q. We have that from the memorandum from your department.

18 I take it that is the case.

19 A. Okay.

20 Q. I can give names if need be but there appear to be ten

21 or there were ten prior to the resignation of the chair.

22 So you had a planning board which had performed its

23 function but you felt it was appropriate to seek to call

24 together that planning board on 9th January. What was

25 the urgency of 9th January?

1 A. What happened is that I received the December decision
2 in January and -- not the 17th. I received -- I recall
3 receiving something, I can't refer to the date of
4 a decision by the board or a recommendation, one of the
5 two, that say basically until the development plan is
6 completed that that is basically it. I don't have it in
7 front of me to quote.

8 The purpose of calling the meeting, because I wanted
9 it as minister for planning, to get a clear
10 understanding of what that really meant. Not
11 necessarily why but what that really meant. And what
12 I gathered out of the discussion was that there seems to
13 be some technical issues to be resolved, whether it is
14 opinions or not I don't know, between the Director of
15 Planning and the Director of the DECR, who are
16 the technical experts, who makes recommendations for
17 the board's decision. Mr Garnett Jolly said that in
18 most cases or if not all cases, there is
19 a recommendation that comes before the board from
20 the Director of planning and it is approved as
21 recommended.

22 I said to him: are you telling me that you guys are
23 just here rubber stamping, you are not going into
24 the details. He said: if you want to call it rubber
25 stamping, you can, but in most cases we take

1 the recommendation from the Director of Planning and we
2 don't really deliberate the details. It seems to me
3 that, and I can only say what it seems to me, that
4 the board members were not fully informed of the back
5 and forth, whether the dock should go on the south side
6 or go on the north side. It was never a preference for
7 the government where it should go. The government left
8 it up in their hands to decide the best place the dock
9 should go in Salt Cay for environmental impact reasons.

10 Q. Mr Clerveaux had been present at the earlier meeting,
11 hadn't he?

12 A. On the Friday?

13 Q. On the December meeting.

14 A. To the official board meeting?

15 Q. Yes.

16 A. I would not know that. I don't attend board meetings.

17 Q. It is recorded in minutes that he was there?

18 A. Okay, if it is recorded he was there, but I would not
19 know that.

20 Q. You see, I am not sure I follow the rationale here. You
21 want to find out what goes on at the board meeting, so
22 rather than ask for the minutes of that meeting or speak
23 to the chair, you start ringing around the members and
24 get them all to come to the Premier's office?

25 A. No, no, no. Don't take what I said different.

1 I said I sent a text message.

2 Q. You start texting round the members and get them to come
3 to the Premier's office?

4 A. I text all the members' numbers that I had, including
5 the chairman. Neither of those members to my
6 recollection text me back and say okay. I believe
7 Mr Jolly said okay or he telephoned and say okay. I
8 believe so.

9 Q. Did you invite Mr Kral to the meeting?

10 A. Yes, I did.

11 Q. So you knew Mr Kral was going to be there. Why was
12 the Premier there?

13 A. The Premier is the leader of this country. And
14 the Premier in his view, he sometimes say: I have
15 the overall responsibility. Something as important as
16 a piece of infrastructure like a dock that would change
17 the lives of people in Salt Cay, I thought it was
18 fitting. Rather than me having to give a third or
19 second-hand report of the status, I wanted him to hear
20 exactly what was going on, so I invited him.

21 Q. So, so overwhelming was the demand for a dock on
22 Salt Cay from the ordinary residents of Salt Cay that
23 you felt it couldn't wait until the next scheduled
24 meeting of the planning board. You wanted to get one
25 going straightaway. Is that your --

1 A. No, you are absolutely wrong. You are 110 per cent

2 wrong.

3 Q. Right. Tell me how I am wrong.

4 A. The Director of Planning, and I can look him in his eye,

5 suggested that we should leave this meeting, we meaning

6 him and all of those members who was on the board, and

7 that we should have a formal meeting of the planning

8 board to discuss this. Not me. I never once.

9 Q. Whose job is it to call meetings of the planning board?

10 A. The ordinance sets out whose job it is to call meetings

11 and before I put my feet in my mouth I would ask

12 counsel, my counsel if they can assist me to that part

13 of the legislation, who calls meetings.

14 Q. Would you accept from me it is not the job of the

15 Director of Planning to call a planning board meeting?

16 A. I would not accept anything until my counsel can refer

17 me to what the law says.

18 SIR ROBIN AULD: Let's move on. We will come back to that

19 later if it is important.

20 MR MILNE: If it assists, sir, we have in fact a letter

21 written by the attorneys on behalf of the Chairman,

22 which is page 26, Mr Minister.

23 A. Thank you.

24 Q. Towards the bottom of the page:

25 "A meeting of the board shall be convened by the

1 chairman, or in his absence from the Islands or in his
2 inability for any reason to act, by the Vice Chairman."

3 So the Chairman is the only person who can call
4 the meeting unless he is physically unable for any
5 reason to act or he was out of the Islands. But you
6 were well aware that he was within the Islands, wasn't
7 he?

8 A. I don't know. I sent a text message and he never
9 responded. Neither had he called me, neither had he
10 answered my telephone call.

11 Q. The meeting was not being proposed by the Director of
12 Planning because Mr Robinson refused to attend when
13 a meeting was called, you would say unlawfully [sic],
14 that afternoon by the Vice Chairman?

15 A. Mr Robinson refused to attend the meeting on Friday?

16 Q. Yes, in the afternoon because a meeting was convened
17 that afternoon following the pressure that was brought
18 to bear, I would suggest.

19 A. Which meeting? The meeting at the Premier's office?

20 Q. Yes.

21 A. Mr Robinson was at that meeting at the Premier's office.

22 Q. No. Listen to me again, sir, please. There was
23 a planning board meeting convened by the Vice Chairman
24 that afternoon. Mr Robinson refused to attend it.

25 A. Which afternoon, on Friday?

1 Q. On Friday.

2 A. Really?

3 Q. Yes, really because you have the minutes of that
4 meeting. Normally the meeting would be called well in
5 advance, an agenda would be circulated. It was, I would
6 suggest, cobbled together that afternoon with a handful
7 of members from the board, fresh from the meeting with
8 yourself and the Premier in order simply, instead of
9 an earlier decision, to put together a decision that was
10 suitable to yourself and the Premier.

11 A. So you are saying that the -- you are saying --
12 basically you are telling me I lied, number one, and you
13 are saying that the Director of Planning, according to
14 these minutes on page 23, did not attend the meeting?

15 Q. He did not attend the 587. Mr Robinson refused to
16 attend.

17 A. I can't tell you what to do, but I would suggest that
18 you find out from the Director of Planning if he was at
19 this meeting at any stage.

20 Q. Let's look at page 23. That is the minutes of that
21 meeting. People in attendance: Mr Everette Greene (Vice
22 Chairman), Otis Morris, Willard Williams, Garnett Jolly
23 and Colin Williams. So the same people from
24 the morning, plus Willard Williams and Everette Greene.
25 Members absent: the Chairman, Mr Joseph Robinson

1 Mr McLean Gardiner, Mr Sean Gardiner and Mr Carnin
2 Gardiner?
3 A. I see that yes, sir.
4 Q. Department of Planning staff: the deputy director of
5 planning attended and Mr Clairveaux was there.
6 A. Yes.
7 Q. Mr Clyde Robinson declined to attend.
8 A. I suggest to you that the Director of Planning was at
9 that meeting and he left.
10 SIR ROBIN AULD: Were you there?
11 A. No.
12 MR MILNE: So how do you know that he was there?
13 A. Because the letter -- this letter from Swann
14 Trowbridge McKnight, on behalf of Mr Handfield, signed
15 by Wendal Swann, for some reason this information has
16 been talked around the local bars and I remember being
17 there -- I can't remember exactly which one of the
18 planning board members. They were saying that -- we
19 call him Earl C -- resigned from the planning board and
20 that he is going to go to the media and go to the
21 Commission of Inquiry and all this kind of stuff. And
22 one of those members I recall them saying that: that is
23 funny, the Director of Planning came to the meeting and
24 he left.
25 SIR ROBIN AULD: Who said that?

1 A. One of the members.

2 SIR ROBIN AULD: What was his name?

3 A. I don't remember which one it was. It could either be

4 Mr Jolly or Mr Williams because -- I tell you why it can

5 only be two of those because we were having drinks at

6 Mr Williams' bar.

7 SIR ROBIN AULD: Now Mr Milne is going to put to you what he

8 suggests happened by reference to the minutes and you

9 listen to him.

10 MR MISICK: Before he does that, I wonder if Mr Milne can

11 point out to me where it says that the Director of

12 Planning refused to attend?

13 MR MILNE: It does not say in the minutes that the Director

14 of the planning refused to attend. We have spoken with

15 the Director of Planning and he will be called, in due

16 course, to give evidence.

17 MR MISICK: Sorry?

18 MR MILNE: The director of planning we hope will in due

19 course give evidence.

20 MR MISICK: I just want to make sure you are not relying on

21 this document and saying that he refused to attend.

22 I couldn't find it, I am sorry.

23 MR MILNE: No, it is not on.

24 The minutes, in fairness, are a formal record.

25 The meeting we can see from these minutes lasted between

1 4.26 pm and 4.50 pm. So 24 minutes from prayers to
2 closing.

3 In that minute, essentially, the minute of the
4 meeting, the minutes prepared, on this occasion
5 the Director DECR, that is Mr Clerveaux, who is not
6 recorded as having said anything at the earlier meeting
7 in December, makes recommendations and the board adopts
8 the idea of the dock being built, contrary to their
9 earlier decision. Do you have those minutes in front of
10 you, sir?

11 A. Page?

12 Q. Yes, it is pages 23, 24 and 25.

13 A. Yes I have them.

14 (4.00 pm)

15 Q. On this occasion it is the Deputy Director, page 3 of
16 those minutes, page 25. Essentially, although it says,
17 "after much deliberation on the subject", and I would
18 suggest that could not be more than 26 minutes,
19 the board comes to the opposite conclusion to that on
20 the previous occasion and they approve, subject to
21 planning application for regularisation of navigational
22 aids, that the dock be allowed. Essentially it is
23 a direct reversal of the previous situation.

24 So what we have is this, the planning board, which
25 we are told meets twice monthly and therefore would have

1 been due to meet relatively soon after this, in any

2 event --

3 A. They can call special meetings at any time.

4 Q. The Chairman can call special meetings at any time. But

5 the board is convened by the Vice Chair, who, on

6 the face of it, doesn't have the power to do that,

7 following an impromptu get together in the Premier's

8 office, which you have brought about by texting round

9 the various different parties.

10 Where Mr Kral, who, whatever one's view of the

11 Salt Cay development project, clearly has some interest

12 in this dock going ahead, makes his case and the Premier

13 makes his case, I suggest, and rather than referring

14 this matter back through ordinary channels, asking

15 the planning board formally to consider it again in

16 the ordinary course of events, there is a rushed meeting

17 put together that afternoon after hearing vehement,

18 I would suggest, representations from interested

19 parties.

20 Do you not regard that as undermining the proper

21 process which is in place for planning applications?

22 A. That did not happen.

23 Q. That is not your view of what went on?

24 A. As a fact, that did not happen.

25 Q. Because we now know and indeed the letter is in here,

1 that Mr Handfield, chair of the board, chairman of the
2 planning board, was so outraged by what had gone on that
3 he tendered his resignation. And he attributed that
4 resignation and his inability to continue -- I am
5 looking at the final paragraph at page 28 -- he said:

6 "As a matter of conscience [his lawyers saying it on
7 his behalf] he is no longer able to serve in the
8 capacity of chairman of the physical planning board
9 under conditions where ministers are pressurising
10 members to hold meetings in contravention of the very
11 legislation under which the board's and the ministers'
12 decisions must be taken."

13 That, whatever you take the Commission's view to be,
14 appears to be his condemnation of your behaviour, would
15 you not accept that?

16 A. I do not accept what he says.

17 Q. You don't accept what he says?

18 A. No.

19 Q. I would suggest, Minister, and invite your comment upon
20 this, that what we have here is, may be in subtle form,
21 it is a form of pressure, it is a form almost of
22 bullying. You have decided to put pressure, you and
23 the Premier, upon three board members by bringing them
24 face to face with the person who most wants this dock,
25 a representative from Salt Cay Devco to make sure that

1 they come up with a decision that you want. Is that not
2 the case?

3 A. That is not the case. The Salt Cay developers don't
4 want that dock. The former Chief Minister,
5 Derek Taylor, promised the people of Salt Cay that dock
6 from 1991. And the (inaudible) records could reflect
7 that. My government also promised the people that dock.
8 That dock in Salt Cay has been rided as a budgetary line
9 item for almost the entire time we were there. This
10 dock is nothing new. That dock was on the table to the
11 best of my knowledge before the Salt Cay developers.

12 Q. Can you just answer me this then?

13 A. Yes, sir.

14 Q. If Salt Cay development company don't want that dock,
15 why did Stefan Kral fly over from Salt Cay in order to
16 address this impromptu meeting?

17 A. I don't know where Stefan Kral fly over from. I invite
18 Stefan Kral to come to the meeting to give a brief
19 overview of his role, simply so there will be a clear
20 distinction that this is the government dock and not
21 Salt Cay development dock.

22 He was there for maybe three minutes. He had one
23 statement and he was asked to leave the meeting because
24 as far as I was concerned, the meeting, other than his
25 interpretation and a brief overview of what his role

1 was, that was all he should have been involved with at
2 the meeting and he left the meeting and we spoke.
3 SIR ROBIN AULD: Mr Hanchell, were any minutes taken of your
4 meeting?
5 A. No, sir, no minutes. It was an informal meeting, sir.
6 SIR ROBIN AULD: Was any attendance note made at the end as
7 to the outcome of the meeting?
8 A. Sir, no meeting.
9 SIR ROBIN AULD: Nothing, no record?
10 A. No record. It was a very informal meeting.
11 SIR ROBIN AULD: Mr Milne, I didn't see it or hear it but
12 I understand that Mr Handfield was interviewed on
13 the television this morning and no doubt made
14 a statement about these matters. There ought to be
15 a transcript of that statement available, shouldn't
16 there?
17 MR MILNE: I have not seen the television at all, today.
18 SIR ROBIN AULD: Nor have I, but I understood that he was --
19 MR MISICK: It was yesterday, sir.
20 SIR ROBIN AULD: We ought to obtain, if necessary put it in
21 fairness to Mr Hanchell or anybody else, whatever he
22 said, which is of relevance, in that television
23 interview, I think.
24 MR MILNE: I am sure that can be done, sir. The only
25 question I have remaining in relation to this is simply

1 this: the minister has told us that this matter has been
2 outstanding for years. What was the rush?
3 A. The rush was the same as it was at the beginning.
4 The truth of the matter is that the Turks & Caicos
5 government is no different from any government in the
6 world. For whatever the reason is, the government seems
7 to do things a little bit slower, whatever the reason
8 is. And at the time the EMS department were busy with
9 a number of stuff that was going on and because
10 the Salt Cay -- the proposed Salt Cay development had
11 envisaged to the government that if things go well, and
12 meaning the necessary processes, they want to start
13 construction.
14 We identified, and I am sure they perhaps did too,
15 that nothing could happen in Salt Cay unless there was
16 a dock. There was also, I believe, a line item in
17 the budget to resurface the runway in Salt Cay. That
18 didn't happen because you needed a dock. Nothing can
19 happen in Salt Cay unless a barge of a certain size,
20 larger than a one container barge can get into Salt Cay.
21 So the rush wasn't on Friday of that meeting.
22 The rush has been for years to try to get the dock for
23 the people of Salt Cay. It is the government dock.
24 Now, whether Salt Cay developers came or not, sir, that
25 dock had to be built. I think it is long overdue and

1 the people need it. There was a hurricane, you could
2 not get supplies there, because there was no dock.

3 SIR ROBIN AULD: Mr Hanchell, the Commission was about to
4 arrive that weekend to start work. Had there been any
5 communication of which you are aware from Mr Hoffman to
6 the Premier or to anybody else concerned with this
7 matter?

8 A. This particular matter?

9 SIR ROBIN AULD: Yes, and --

10 A. Not to the best of my knowledge. I called the meeting.
11 I have not spoken or had any communication with
12 Mr Hoffman. I called the meeting, sir.

13 SIR ROBIN AULD: But you are not aware of any communication
14 at all from him preceding that?

15 A. I am not aware of any communication from Mr Hoffman and
16 I certainly didn't speak to Mr Hoffman.

17 MR MILNE: So the rush to get the matter looked at again had
18 nothing to do with the imminent arrival of the
19 Commission --

20 A. Sir, I didn't suggest the planning board meeting. Let's
21 make that very, very clear. I didn't suggest that the
22 board hold a meeting and turn the decision.
23 The director of planning suggested that there is nothing
24 further for us to discuss here, we -- any discussion
25 should take place in a formal setting.

1 I had no idea that they had a meeting to deal with
2 the matter. That is not a matter for me even though
3 the law say that I can give general directions. That is
4 not a matter for me.

5 MR MILNE: Sir, that is all the questions I propose to ask
6 at this stage, thank you.

7 SIR ROBIN AULD: Now, are you likely to have further
8 questions of Mr Hanchell when you have had a chance to
9 read and digest the information which has been produced
10 in the last two or three days?

11 MR MILNE: I never say never, sir, but I think that it is
12 unlikely that there will be any other major areas that
13 I would need to explore.

14 SIR ROBIN AULD: Thank you. Mr Misick, how long do you
15 think you might be in examination of Mr Hanchell? I ask
16 you that only because of programming.

17 MR MISICK: I understand, sir. I would think probably no
18 more than two hours.

19 SIR ROBIN AULD: Yes. Thank you very much. Now, Mr Smith,
20 will you be having any questions, do you think, of
21 Mr Hanchell?

22 MR SMITH: No, Sir Robin.

23 SIR ROBIN AULD: Mr Wilson?

24 MR WILSON: No, sir.

25 SIR ROBIN AULD: Counsel for the attorney?

1 MS BROOKES: No, sir.

2 SIR ROBIN AULD: So we ought to allow the morning anyway.

3 MR GLINTON: Sir Robin, I might be having one for him.

4 SIR ROBIN AULD: I am so sorry, Mr Glinton, yes.

5 How long do you think you might be, just one

6 question or?

7 MR GLINTON: Probably just one or two depending on his

8 reply.

9 SIR ROBIN AULD: Forgive me, I was bunching you together

10 there for the moment and forgetting. So the best of the

11 morning.

12 Now, the programme for tomorrow. I think we have

13 already dealt with the immediate programming problems

14 for tomorrow. Mr Jeffrey Hall has been taken out of the

15 list tomorrow so we will have the morning at least for

16 work in the Inquiry. Any other matters? 10.30

17 tomorrow.

18 (4.16 pm)

19 (The court adjourned until 10.30 am

20 on Friday, 23rd January 2001)

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