

1 Friday, 23rd January 2009

2 (10.30 am)

3 SIR ROBIN AULD: Morning, ladies and gentlemen. Mr Misick,
4 I believe you are to examine Mr Hanchell.

5 MR MISICK: Yes, I am looking for him, sir. I will get
6 someone to try to locate him. (Pause)

7 MR SAUNDERS: Sir, before Mr Hanchell arrives, it may be
8 useful, I have a preliminary submission to make in
9 relation to the PNP accounts.

10 SIR ROBIN AULD: Which account?

11 MR SAUNDERS: The PNP financial accounts that we had
12 discussed two days ago.

13 SIR ROBIN AULD: This is preliminary to what?

14 MR SAUNDERS: This is preliminary to the cross-examination
15 today.

16 SIR ROBIN AULD: It has something to do with the expected
17 examination of Mr Hanchell, has it?

18 MR SAUNDERS: No, it is not. It has nothing to do with it.
19 It has to do with the arguments that were put forth two
20 days ago in relation to the accounts. Unfortunately at
21 the time, I was not prepared to deal with it. Having
22 considered the issues, I have now had a chance to
23 actually --

24 SIR ROBIN AULD: Have you talked to Mr Milne about it?

25 MR SAUNDERS: I have spoken to Mr Milne about it.

1 SIR ROBIN AULD: If Mr Hanchell is going to come in in
2 a minute, I don't want to delay that and it can be made
3 at the end of Mr Hanchell's evidence this morning,
4 unless anything that Mr Hanchell might be asked would
5 have a bearing on your submission?

6 MR SAUNDERS: I doubt anything will have a bearing on the
7 submission.

8 SIR ROBIN AULD: Just to save evidential time, and then we
9 can deal with it towards the end of the morning's
10 hearing, if that is convenient to you, or do you want to
11 leave?

12 MR SAUNDERS: No, I don't want to leave. I can stay.

13 HONOURABLE MINISTER MCALLISTER HANCHELL (continued)

14 A. Good morning. My apologies for being late.

15 SIR ROBIN AULD: Yes, Mr Misick.

16 MR MISICK: Mr Hanchell, you are still on your oath.

17 SIR ROBIN AULD: Give him a chance to get himself settled
18 in.

19 Re-examination by MR MISICK

20 MR MISICK: Mr Hanchell, you are still on your oath.

21 A. Yes.

22 Q. Now, I think it is right to say that during the course
23 of your evidence in the last day, you have acknowledged
24 that the declarations you submitted under
25 the Register of Interest ordinance were in some cases

1 incomplete?

2 A. Yes.

3 Q. You have also accepted that you should have been more
4 careful in compiling the information that you submitted
5 to the Registrar of Interests?

6 A. Yes.

7 Q. Now, whatever your feelings may have been, were those
8 feelings motivated by any desires to be corrupt or
9 dishonest?

10 A. No.

11 Q. Was it your intention to hide the existence or extent of
12 your assets from the public?

13 A. No, sir.

14 Q. You first became a member of the legislature in 2003, is
15 that correct?

16 A. Yes, sir.

17 Q. Prior to that, had you had any experience of working in
18 the public service?

19 A. Yes, sir, in 1985 I worked as a Customs checker for
20 under a year, I think. 1985 or 1984.

21 Q. That was the only position you held in the public
22 service?

23 A. Yes. As a Customs checker under a year, and that
24 entailed tallying off containers from cargo ships and
25 tallying cargo into the warehouse from cargo planes on

1 behalf of the government.

2 Q. Now, when you became a member of

3 the Legislative Council, you also immediately became

4 a minister?

5 A. Yes, sir.

6 Q. Were you given any written or oral guidelines as to

7 ministerial conduct when you arrived as a minister in

8 2003?

9 A. No, sir.

10 Q. Were you given any written or oral guidelines as to how

11 you were to complete your declaration of interest?

12 A. No, sir.

13 Q. I would like you to have a look at your declaration of

14 interest for -- that is in bundle 2. I think it is at

15 the back of bundle 2.

16 SIR ROBIN AULD: What page?

17 MS MISSICK: Tab 16, bundle 4.

18 MR MISICK: It is at the back of bundle 2.

19 A. What page?

20 MS MISSICK: Starting at 1003.

21 MR MISICK: I see at page 1004, under "Directorships" --

22 SIR ROBIN AULD: Let's just identify what we are looking at.

23 I am told -- we have now moved to bundle 2, have we?

24 MR MISICK: Yes, sir.

25 SIR ROBIN AULD: 1004?

1 MR MISICK: Yes.

2 SIR ROBIN AULD: What is the document we are looking at?

3 MR MISICK: These are the declarations that he actually

4 filled in for submission to the Registrar of Interests.

5 SIR ROBIN AULD: This is the second page of the declaration.

6 MR MISICK: Yes, for 2003.

7 SIR ROBIN AULD: For 2003 of Mr Hanchell, thank you.

8 MR MISICK: Now you provided or you gave the Registrar

9 notice that you had an interest in, a remunerated

10 directorship interest in AL Services Limited and

11 Caicos Shipping.

12 A. Yes, sir.

13 Q. What was Caicos Shipping?

14 A. Caicos Shipping was a company that was formed to provide

15 ocean freight shipping to the Turks & Caicos but it

16 never materialised.

17 Q. So at the time it is correct, is it not, that the only

18 company in which you held a directorship which was

19 carrying on any active business was AL Services Limited?

20 A. Yes, sir.

21 Q. Was your connection to AL Services Limited generally

22 known throughout the Turks & Caicos Islands?

23 A. Yes, sir, and every island.

24 Q. If you turn over the page to page 1005, under "Trade or

25 Profession", I will read the question out. It says:

1 "Below give details of any remunerated trade,
2 profession or vocation practised by you, your spouse and
3 any child of yours, whether as an individual or as
4 a partner."

5 Then under (a), there is a space for the declarant,
6 ie you, to put down your trade or profession, do you see
7 that?

8 A. Yes, sir.

9 Q. You put in there McAllister Hanchell?

10 A. Yes, sir.

11 Q. Now, McAllister Hanchell is not your trade or
12 profession, is it?

13 A. No, sir.

14 Q. So what does that tell you about the way you filled in
15 the declaration?

16 SIR ROBIN AULD: That is a matter for comment which I can
17 make perfectly well silently to myself. I have done it
18 myself very many times.

19 MR MISICK: Thank you, sir.

20 You have told us in the course of your evidence that
21 you now understand that the purpose of the declarations
22 is to allow the public to know whether or not, in
23 relation to the discharge of your public duties, there
24 is any conflict or possibility of conflict?

25 A. Yes, sir.

1 Q. Do you remember saying that?

2 A. Yes, sir.

3 Q. In relation to the matters which you did not disclose to

4 the Registrar, were there any actual conflict of

5 interest, as far as you were concerned?

6 A. No, sir.

7 Q. Let me take you to your statement.

8 SIR ROBIN AULD: Would it help, Mr Misick, for Mr Hanchell

9 to be asked at this stage now that we are looking at his

10 statement to confirm, if it is the case, the entirety of

11 it as both truthful and accurate as part of his

12 evidence?

13 MR MISICK: Yes, sir, I think that would. This is probably

14 a good moment to do that. Do you have your statement?

15 A. Yes, sir.

16 Q. Have you read this statement before you signed it?

17 A. Yes, sir.

18 Q. Is it true and correct to the best of your knowledge?

19 A. Yes, sir.

20 Q. Do you adopt it as your evidence you give before this

21 Commission?

22 A. Yes, sir.

23 Q. Is that your signature at the back on page 11?

24 A. Yes, sir.

25 (10.45 am)

1 Q. Now, neither in this statement nor in any previous
2 communication to the Commission or indeed to
3 the Registrar of Interests did you disclose
4 the existence of a loan to Belize Bank. Do you remember
5 that came up for the first time yesterday?

6 A. Yes, sir.

7 Q. Is there any particular reason why you did not disclose
8 the existence of that loan?

9 A. The loan was paid off and I totally didn't regard that
10 as something that I would have disclosed.

11 Q. Turning to page 2 of your statement, under the heading
12 "Properties Held", paragraph 2.5(e), do you see that?

13 SIR ROBIN AULD: I think it is (c), isn't it?

14 MR MISICK: I am much obliged.

15 A. Yes, sir.

16 Q. It says:

17 "The properties held by me during the period 2003 to
18 2007 were disclosed to the Registrar of Interests,
19 except for parcel 60811/10 of which has never been
20 declared, parcel 60605/93, 94 and 95 which were not
21 declared for the years of 2003 and 2004, and parcels
22 20217/19, 24, 25, 26, 27, 28 and 39 which were not
23 disclosed for the year 2007."

24 Then you say:

25 "The nondisclosures were in error."

1 Can I ask you about parcel 60811/10?

2 A. Yes, sir.

3 Q. It is right, is it not, that you acquired that property
4 before you became a member of the Legislative Council?

5 A. Yes, sir.

6 Q. Your ownership of that property does not and has never
7 involved any conflict of interest in relation to your
8 public duties, is that correct?

9 A. That is correct, sir.

10 Q. You also own the house that you live in on Chalk Sound?

11 A. In Silly Creek, sir.

12 Q. You acquired that property in a private transaction, is
13 that correct?

14 A. Yes, sir.

15 Q. That property, or your ownership of that property, does
16 not and has never involved any conflict between your
17 private interest and your public duties, is that
18 correct?

19 A. That is correct, sir.

20 SIR ROBIN AULD: This was one of the properties undisclosed,
21 was it? Silly Creek, did you say?

22 MR MISICK: Yes, at Silly Creek. I can tell you the parcel
23 number. It is 60400/135. I am told that it was
24 disclosed. I apologise.

25 SIR ROBIN AULD: It was his home.

1 MR MISICK: It was his home, that is right.

2 A. Sir, while we are on this page, if I may, at 2.5(a),
3 remunerated directorships, I think it is a typo. It
4 says I have a 50 per cent beneficial interest in
5 Caicos Oil. I think the record yesterday shows that it
6 is a 60 per cent.

7 MR MISICK: Thank you.

8 SIR ROBIN AULD: Yes.

9 MR MISICK: You also never disclosed to the Registrar of
10 Interests the loan of just over \$1 million that you
11 borrowed from Saunders & Co, is that correct?

12 A. That is correct, sir.

13 Q. Leaving aside for the moment any perceptions of
14 conflict, was there anything dishonest or corrupt in
15 your obtaining that loan from Mr Saunders?

16 A. No, sir.

17 Q. In relation to that loan, you obtained that loan for
18 a specific purpose, is that correct?

19 A. Yes, sir.

20 Q. Were the proceeds of that loan used for that purpose?

21 A. Yes, sir.

22 Q. Do you intend to repay that loan?

23 A. Yes, sir.

24 Q. Will you ultimately be able to repay that loan?

25 A. Yes, sir.

1 Q. In relation to the loan that you obtained from
2 the Premier, which you also did not disclose, was that
3 obtained for a purpose?

4 A. Yes, sir.

5 Q. Do you intend to repay that loan?

6 A. Yes, sir.

7 Q. Will you also be able to repay that loan?

8 A. Yes, sir.

9 SIR ROBIN AULD: In what sum was that, can I be reminded?

10 MR MISICK: About \$1 million, sir. I think your evidence
11 was in 2003 you had filled in two declarations for that
12 year.

13 A. Yes, sir.

14 Q. That was because the Registrar had mislaid or thought he
15 had mislaid your first declaration?

16 A. That is my belief, sir, because he asked me for a second
17 time.

18 Q. At any time did the Registrar indicate to you that any
19 of your declarations were incomplete or inadequate?

20 A. No, sir.

21 Q. Were you ever asked to supplement any of your
22 declarations?

23 A. No, sir.

24 Q. Were you ever sanctioned for any incomplete or
25 inadequate declarations?

1 A. No, sir.

2 Q. Were you ever criticised in Parliament for not declaring
3 fully your interest?

4 A. No, sir.

5 Q. Can I ask you to look at the back of bundle 2, at

6 page 70, sir.

7 SIR ROBIN AULD: This is behind the divider, is it?

8 MR MISICK: Yes, it is the register of members of interest
9 as at March 2007 for the House of Commons in England.

10 If I can ask you to turn to page 71, it says:

11 "The purpose of the register is to encourage
12 transparency and through transparency, accountability."

13 I think you now accept that, right?

14 A. Yes, sir.

15 Q. "It is to provide information of any pecuniary interest
16 or other material benefit, which a member receives,
17 which might reasonably be thought by others to influence
18 his or her actions, speeches or votes in Parliament or
19 actions taken in the capacity of a Member of Parliament.

20 The registry is not intended to be an indicator of
21 a member's personal wealth nor its registration of any
22 interests in any way an indication that a member is at
23 fault."

24 Then it goes on:

25 "Transparency is also promoted by the obligation of

1 members to declare in debates or in proceedings in
2 the Houses and dealings with other members and ministers
3 or Crown servants all pecuniary interests or benefits of
4 whatever nature, including indirect past and future
5 interests which are relevant to the business in hand."

6 Do you see that?

7 A. Yes, sir.

8 Q. Now, in relation to the business in which you had
9 a personal interest, did you declare those interests on
10 the occasion when the transactions or business was being
11 discussed in Cabinet?

12 A. Yes, sir.

13 Q. Just for the sake of completeness, while we are on
14 page 71, the paragraph just before the last one,
15 the one, service of the interests:

16 "The interests which are to be registered..."

17 Do you see that, sir?

18 A. Yes, sir.

19 Q. I am talking to the Commissioner. Page 71. It is
20 the one but the last paragraph. It says:

21 "The interests which are to be registered are set
22 out in the Code of Conduct and guide to the rules
23 relating to the conduct of members, first agreed in
24 July 1996 and revised in May 2002 and July 2005."

25 Do you see that?

1 A. Yes, sir.

2 Q. I think you have told us that here there is no code of
3 conduct and guide to the rules, is that correct?

4 A. Yes, sir, I have said that.

5 Q. Now, I am going to ask -- you can stop me if you want
6 to -- in retrospect do you think you would have
7 benefited from the existence of such code and conduct or
8 rules?

9 A. Yes, sir.

10 SIR ROBIN AULD: Presumably somebody told you you had to
11 leave the room when your own affairs were being
12 discussed. Somebody must have given you that much
13 guidance at least?

14 A. I observed that, sir.

15 SIR ROBIN AULD: I am not suggesting you didn't, but
16 somebody must have said when you were a new boy there,
17 one of the things, if anything arises which concerns you
18 in Cabinet meetings, you should leave.

19 A. No, sir, no one told me that. I observed that and I
20 just followed.

21 SIR ROBIN AULD: You saw it happening?

22 A. I think I am a quick learner, yes, sir.

23 SIR ROBIN AULD: Thank you.

24 MR MISICK: Just so that we are complete on this and we know
25 that the ministerial code of conduct is not in force,

1 but do you agree that it is a useful thing to have?

2 A. Yes, sir.

3 Q. In September, shortly after the -- or a couple of months

4 after the Commission was established, you received

5 letters from the Commission asking you to provide

6 certain information, is that correct?

7 A. Yes, sir.

8 Q. I think we have established that some of the information

9 you supplied were incorrect or may have been

10 inconsistent?

11 A. Yes, sir.

12 Q. Did you ever have any intention to mislead

13 the Commission?

14 A. No, sir.

15 Q. Was it your intention to make it more difficult for

16 the Commission to carry out its work?

17 A. No, sir.

18 (11.00 am)

19 Q. Can I refer you to bundle 3. It is a letter written on

20 behalf of the Commission on 15th August. Page 1. There

21 were three matters on page 1. I am not going to ask you

22 about item number 1. That was quickly overtaken by

23 events. Item 2 says:

24 "Whether or not you have made any such declarations,

25 the information and documents that you would now provide

1 in such declarations of interest, if made pursuant to

2 section 98.3 or any other law made under it."

3 SIR ROBIN AULD: Mr Misick, I know where you are going

4 because we debated this yesterday. If you are going to

5 put this letter and what you consider is its

6 interpretation, you should put paragraph 1 to

7 the witness as well.

8 MR MISICK: Okay. I will be more than happy to do that.

9 Let's start with paragraph 1. Let's start above:

10 "He has instructed me to write requesting you

11 voluntarily to inform and provide him with copies of the

12 following information: the date and contents of each

13 declaration of interest made by you at any time during

14 your tenure as a member of the legislature of the Turks

15 & Caicos Islands to the Registrar of Interests, pursuant

16 to your obligation to make such declarations under

17 section 98 of the Constitution for 2006 and/or its

18 statutory predecessor and/or any law made under either

19 instance."

20 What do you understand by 1?

21 A. My interpretation of that was and is to send copies of

22 the declarations that I have submitted to the Registrar.

23 Q. Okay. What did you understand by number 2?

24 A. I thought number 2 provided an opportunity in the event

25 the declarations was incomplete or was in error to amend

1 and forward on to the author of the letter for
2 the Commission.

3 Q. Can I refer you to paragraph 3. It says:

4 "If in any 12 month period during your period of
5 appointment as an elected member of the legislature, you
6 have not complied with your obligation to make such
7 a declaration pursuant to the provisions of
8 the statutory predecessor and/or any law made under
9 either instrument, why you did not do so and whether, if
10 any sanction, admonition or direction resulted."

11 Then it goes on:

12 "Sir Robin requests that you submit your most recent
13 periodic declaration of interest within the last
14 12 months. He therefore considers it reasonable to ask
15 you to provide the Commission with a current update of
16 that declaration, paragraph 2 above, along with copies
17 of all declarations to date by September 5th 2008.

18 The information and documentation should be sent to me
19 at the above address ..."

20 Do you still say that it was your understanding that
21 you were to give updates of all declarations submitted
22 to you?

23 A. Yes, sir.

24 Q. Can I ask you to look at page 6 of the same bundle, sir.

25 A. Yes, sir.

1 Q. That is the second paragraph. In the middle of that

2 paragraph.

3 SIR ROBIN AULD: This is a letter from the Commission

4 to Ms Akierra Missick, 15th September. Thank you.

5 MR MISICK: It says:

6 "I have examined the register from which it appears

7 that very little information was given to the Registrar.

8 My earlier letter also made clear that Sir Robin seeks

9 an up to date declaration of interests as would be made

10 if a return was being made now. There is no reason why

11 this cannot be done."

12 Then it goes on:

13 "Sir Robin has therefore asked me to inform

14 the Honourable Hanchell that a full and frank return for

15 the earlier years as well as for the years for this year

16 must be given."

17 My Lord, I am not going to read the next unless you

18 want me to.

19 Did that confirm your understanding --

20 SIR ROBIN AULD: Now, let him answer the question.

21 MR MISICK: Okay.

22 SIR ROBIN AULD: Put it to him in a way that you are not

23 giving him the answer.

24 MR MISICK: What did you understand by that?

25 A. My understanding of that is that if I had not, for

1 whatever reason, didn't declare anything in the previous
2 years, that the Commission was giving me an opportunity
3 to declare things that may have been omitted. That is
4 my understanding.

5 MR MISICK: When you received that communication, did you
6 endeavour to provide as much information as was
7 obtainable by you?

8 A. Yes, sir.

9 Q. I think you told us yesterday that you were hindered in
10 that process by the hurricane and I am not going to go
11 over that again.

12 A. Yes, sir.

13 Q. Before I move on, I just want to ask you one more
14 question in relation to the loan that you obtained from
15 Mr Saunders.

16 A. Yes, sir.

17 Q. It was suggested to you yesterday that as a government
18 minister, you should have at least made some effort to
19 ascertain that the funds that you were receiving as
20 a loan from Mr Saunders was coming from a legitimate
21 source. Do you recall that?

22 A. Yes, I recall that suggestion.

23 Q. What would you like to say about that?

24 A. As far as I was concerned, sir, the loan was coming from
25 Saunders & Co and identified Saunders & Co by trying to

1 identify Mr Saunders Junior who I dealt with and same as
2 I have borrowed monies in the past from First Caribbean
3 and Scotiabank and others, I have never been in a
4 position to acquire who the funds -- the source of the
5 funds. As far as I am concerned, they were the bank
6 funds.

7 So I assume that that was the same position and
8 the loan from Mr Saunders, that that would have been
9 a matter for him, if clients were involved in particular
10 other than him, of the source of funds.

11 MR MISICK: Can I ask you this: have you come across
12 the expression "know your client"?

13 A. Yes, I have.

14 Q. What does that mean to you?

15 A. That means that the person dealing with the other party
16 has an obligation, is my understanding to know their
17 client and any relevant details that may be associated
18 with who they are doing business with is a matter for
19 them.

20 SIR ROBIN AULD: Just before we move on, Mr Misick, I ought
21 to know the answer to this, Mr Saunders Junior is not
22 the Mr Saunders we have in court today, is it?

23 MR MISICK: Yes.

24 SIR ROBIN AULD: It is the very man?

25 MR MISICK: Yes.

1 SIR ROBIN AULD: Thank you. Forgive me for interrupting

2 you.

3 MR MISICK: Not at all. As far as you were concerned, did

4 you have any reason to doubt whether Mr Saunders knew

5 the source of the money that he was lending to you?

6 A. No, I have no reason.

7 Q. As far as the loan you obtained from the Premier, did

8 you have any reason to believe or suspect the source of

9 those funds?

10 A. No, sir.

11 Q. Can we turn to the question of your involvement in

12 the disposition of Crown land.

13 There is one matter I need to go back to with you,

14 can you go back to the register, which is at tab --

15 bundle 2 at the back dealing with -- 1001, I think it

16 begins with.

17 A. Black binder 2?

18 Q. Yes. (Pause)

19 The declaration that he personally signed. 1003.

20 It says under item 4:

21 "Financial sponsorship, gifts, et cetera."

22 Do you see that?

23 A. Yes. That is 1005?

24 Q. Yes.

25 It says:

1 "Below give details of any material benefits
2 received as a candidate or member of the
3 Legislative Council."

4 Then it puts down the nature of the benefit. Is
5 there any reference in that paragraph to political
6 donations?

7 A. No, sir, I don't see any.

8 Q. Were you ever -- I don't want to be chastised for
9 suggesting the answer. What was your interpretation of
10 the kind of gifts that you had to declare?

11 A. Things that someone may have given me as a substantial
12 gift other than the usual holiday, Christmas, birthday,
13 other than those kinds of stuff that your family -- you
14 know, little gifts under the tree. Anything of
15 a substantial nature that someone would have given me
16 and in particular that may raise public scrutiny to say,
17 well, probably they give you that for something else.
18 That is my understanding.

19 (11.15 am)

20 Q. Did you ever consider whether political donations were
21 included?

22 A. No, sir.

23 Q. Does that mean were never considered?

24 A. It is my understanding that political donations was not
25 included, and I don't recall seeing political donations,

1 because after years in getting a little more experience,
2 I have had opportunities to review past registers and
3 I have not seen any political donations by any past or
4 present members in the register as published by
5 the Registrar.

6 Q. Do you now accept that that view may not be correct?

7 A. Based on the Commission and the deliberations, I now
8 accept that there is a view that political donations
9 should be declared.

10 Q. Thank you. Let's turn to your involvement in
11 the disposition of Crown land.

12 When did you become a minister? When did you assume
13 responsibility for Crown land?

14 A. I believe there was a shuffle in ministerial portfolios
15 and I believe it may have been two years ago, two years
16 meaning, I believe, 2006. I stand to be corrected but
17 I know when there was a ministerial shuffle. Yes, that
18 is my memory.

19 Q. Was there a Crown land policy in place when you became
20 minister?

21 A. Yes. When I became minister --

22 Q. Minister for land?

23 A. When I became minister for lands, yes, there was a Crown
24 land policy in place and still been -- and being worked
25 on and as a matter of fact still being worked on for

1 further improvements. It is a continuing debate, how to

2 improve the Crown land policy.

3 Q. Do you accept the criticism, whatever the policy is,

4 that the procedure by which Crown land is being disposed

5 of may not be the most transparent?

6 SIR ROBIN AULD: Not the most what?

7 MR MISICK: Transparent.

8 A. No, I do not entirely, but I do agree that there is room

9 for improvement and that's why the Crown land policy is

10 ongoing review, one of the recommendations that -- has

11 been -- is in the process of being addressed is to

12 create a -- to create legislation to propose to

13 the House of Assembly for Crown land, and we thought and

14 we fully accept those recommendations that legislation

15 is perhaps the most transparent way that one can deal

16 with the disposition of Crown land.

17 Q. Perhaps I can ask you this: do you accept that at least

18 in relation to the policy as it pertains to Belongers,

19 there is room for abuse?

20 A. No, I don't think there is room for abuse by Belongers

21 because the policy is clear and it tells you what you

22 can have and what you can't and at what stages.

23 Q. You told us a few days ago that you personally would not

24 obtain Crown land and then re-sell it?

25 A. Yes, I did say so, sir.

1 Q. You told us that some Belongers applied for Crown land

2 and then sell it, and some of them then sell it?

3 A. Yes, sir, there was an audit report that highlighted

4 some of that.

5 Q. Have you ever personally participated in any such

6 arrangement?

7 A. No, sir.

8 Q. Have you ever encouraged or condoned such transactions?

9 A. No, sir.

10 Q. Have you received any personal benefits from any such

11 transactions?

12 A. No, sir.

13 SIR ROBIN AULD: Mr Misick, I was interested in

14 Mr Hanchell's information a moment or two ago: there's

15 work in process to legislate for improvement. I wonder,

16 Mr Hanchell, if you can tell us what stage has been

17 reached in that progress. Is there a draft bill or

18 a working party or what?

19 A. There is no draft bill to the best of my knowledge, but

20 my memory tells me and you can confirm this with

21 the Permanent Secretary because I see she is scheduled

22 to witness is that there is a terms of -- the terms of

23 reference that has been drawn up by a consultant, and

24 I believe at this particular juncture and I can be

25 corrected because I am talking from memory, that

1 the Attorney General's chambers will have some
2 involvement as to the next stage of the draft that is
3 going to deal with the issue and the management of all
4 Crown lands in the Turks & Caicos Islands.

5 SIR ROBIN AULD: Is this for a new Crown land bill?

6 A. I think a new Crown land bill, I think that is what is
7 entitled to be called.

8 SIR ROBIN AULD: We may well have this already, but I am
9 going to ask counsel for the attorney, who is not here,
10 to assist on this. We will do it in writing. Thank you
11 for your help.

12 A. I will make a note as well and remind my office.

13 MR MISICK: I understand there is someone here from the
14 ministry who might be able to help you.

15 SIR ROBIN AULD: Perhaps if he could have a word with
16 Mr Milne at the short adjournment. We may well have all
17 this. There is such a mass of material that I am not
18 always confident that I have read everything. But there
19 is a term of reference in preparation for a new Crown
20 land bill.

21 A. I am pretty sure that that is being concluded by
22 the consultants.

23 MR MISICK: You were asked yesterday about the parcel of
24 Crown land that was -- is under offer to you, I think.
25 That is perhaps the best way of putting it. Under offer

1 to you through one of your companies, Palm Breeze?

2 A. Yes, sir.

3 Q. I believe your evidence is the purpose of this is to --

4 is for a commercial and residential complex?

5 A. Yes, sir.

6 Q. On which island?

7 A. Providenciales.

8 Q. I believe you told the Commission that as of now, you

9 have not yet taken up the offer?

10 A. That is correct, sir.

11 Q. Does that mean that the project, that you no longer wish

12 to pursue the project?

13 A. No, sir, it doesn't mean that. I have engaged

14 consultants that have done a financial project proposal

15 for me and then that proposal deals with the financial

16 element of the land. I can only take that up if

17 the project, when I have some time to revisit it, will

18 be accepted by a financial institution willing to

19 finance it. At that particular time, it is my

20 experience that one of the first things that they would

21 do is to secure the land which they would put a charge

22 over the entire development. So because of that reason,

23 I have not taken up the offer.

24 Q. The properties that you have acquired from the Crown in

25 the past, have you always developed them?

1 A. Yes, sir.

2 Q. I want you to tell us something about, not specifically

3 in relation to you, but tell us something generally

4 about the procedure when a Belonger makes an application

5 for Crown land. Can you start from the beginning when

6 the application is made?

7 A. Yes. First, let me say that especially in the island of

8 Providenciales, sir, the demand for Crown land at all

9 times exceeds our ability to create subdivisions in

10 time. So if a subdivision is approved by Cabinet

11 persons through the offices throughout the islands may

12 visit --

13 MR MISICK: What offices throughout the islands?

14 A. The Commission of Lands' offices throughout the islands.

15 We now have an Assistant Commissioner of Lands in all of

16 the populated islands, North Caicos, take care of North

17 and Middle and so on.

18 Persons may come making specific enquiries into

19 parcels, whether something is --

20 Q. You mean inquire about specific parcels?

21 A. Whereabouts, where you may have commercial or

22 residential parcels of land. Sometimes persons may be

23 lucky that parcels may be available within that

24 subdivision, or they may just acquire in general and say

25 things and make oral representation along with

1 the application that: I simply need a piece of Crown
2 land, especially in residential purposes, for
3 residential purposes. Find me something.

4 The offices try to do their very best to service on
5 a first come, first served basis.

6 After that process is over, then there is a review
7 process with a number of applications where
8 recommendations are made by staff members in
9 the industry based on the representations received to
10 get Crown land.

11 Q. Can I ask you about the review process? Who is involved
12 in that process?

13 A. The review process involves the Permanent Secretary,
14 the Commissioner of Lands, the Assistant
15 Commissioner of Lands, the Deputy Commissioner of Lands,
16 and it also involved me. I come in sometimes during
17 the overall discussion of the allocations, or I may come
18 in very late when the letter is already prepared as
19 a recommendation, and I simply sign them, and
20 the persons are successful in the Crown land
21 application.

22 Q. So what is the review team looking for?

23 A. The review team, and especially when we came to power
24 there was an abundance of representation made for people
25 saying that they have not received a parcel of Crown

1 land after trying for years. The record will show and
2 the audit report will show that my government has
3 distribute --

4 Q. I think just stick to the purpose of the review team.

5 A. Well I was saying that to get to why, what is
6 the purpose of the review team. The review team tries
7 to ensure that every Turks & Caicos Islander has at
8 least one opportunity for a residential parcel of land.
9 We do have cases where individuals who have already
10 benefited from a parcel of land in a particular island
11 sometimes try to get a second parcel of land. When we
12 go through the bundle of applications, we may not grant
13 that person who the record will show have a residential
14 parcel of land. Instead we would grant to the new
15 applicant.

16 So the review team looks in particular for first
17 time applicants, and then they look to see if
18 the applicant is in compliance with the Crown land
19 policy.

20 Because the Crown land policy says in relation to
21 residential, it only allows you one residential property
22 at a time in a particular island, and you should develop
23 it, is my understanding.

24 But we operate from a very manual system and while
25 I am at it, one of the other things we are working on,

1 talking about legislation, is the computerisation, in
2 terms of reference, of creating a computerisation system
3 to manage Crown land. I think that is very well on its
4 way, because most of that is going to derive out of a
5 system that we are implementing now for
6 the Land Registry in the Cayman Islands.

7 (11.30 am)

8 SIR ROBIN AULD: Pause there, please. The scheme as
9 I understand it is in the main or has been in the main
10 that when somebody applies for a piece of Crown land, it
11 is normally granted to them under a conditional purchase
12 lease.

13 A. Offer, yes, sir.

14 SIR ROBIN AULD: The conditions are that they do something
15 towards development of the plot.

16 A. The conditions are in the lease, yes, sir.

17 SIR ROBIN AULD: The second point I would like to ask you,
18 forgive me but I want to understand how the system
19 works, you say you have a review team, does that meet
20 regularly?

21 A. That's a daily basis. That is on a daily basis.

22 SIR ROBIN AULD: You mean it meets as and when required?

23 A. They meet in their own capacity on a daily basis to
24 review applications.

25 SIR ROBIN AULD: Every day?

1 A. Yes, not a set scheduled day.

2 SIR ROBIN AULD: How often would you say you participate in
3 such meetings?

4 A. Well, very, very rare. I participate in the review
5 meetings. At most times I simply sign --
6 the recommendations come with the letters prepared and I
7 sign them. Prime example --

8 SIR ROBIN AULD: Forgive me, I am sorry.

9 A. I say for an example, before I came here this morning,
10 there was an envelope of letters, recommendations made
11 and I just signed them.

12 SIR ROBIN AULD: Where do the meetings take place?

13 A. The meetings take place at mainly the office in
14 Providenciales.

15 SIR ROBIN AULD: Of?

16 A. Natural resources, ministry of natural resources or
17 the Grand Turk office.

18 SIR ROBIN AULD: Does somebody customarily chair it?

19 A. No, it is normally not a meeting of such where someone
20 chairs it. Most of the work is done prior to my
21 involvement and the majority of the times
22 the recommendations come forward --

23 SIR ROBIN AULD: I am asking about the meetings. Are
24 minutes kept of these meetings?

25 A. Not to the best of my knowledge. I know sometimes

1 the -- I have noticed throughout government that public
2 servants have their own notebooks, but there is no
3 minutes that would go to be reconfirmed for another
4 meeting and stuff like that.

5 SIR ROBIN AULD: So no record of the decisions day to day?

6 A. No records of the decisions, at least that --

7 SIR ROBIN AULD: Or the discussions leading to them.

8 A. That I am aware of unless they keep it independently.

9 MR MISICK: The only record would be the actual
10 recommendation?

11 A. Would be the recommendation. There is a recommendation
12 form and then the letter that I eventually sign. I sign
13 both the recommendation and the letter.

14 Q. Do you see that the procedure that you just told us,
15 particularly the absence of formal meetings and formal
16 record-keeping, could be the subject of criticism from
17 the public, since we are dealing with public assets?

18 A. Yes, sir, I do agree.

19 Q. Continuing on with land. So you received
20 the recommendations and you say you signed off, I get
21 the impression you sign off almost mechanically?

22 A. Mechanically, meaning?

23 Q. Do you ask questions, do you inquire as to how
24 the decision was made?

25 A. Sometimes I do ask questions because sometimes from

1 memory, you think that someone may be in contravention
2 of the policy and you just simply raise the issue and it
3 is confirmed or not and it is dealt with.

4 Q. So once the recommendation is -- has been made and you
5 sign off on the letter. What is the next step?

6 A. The next step is that person is either notified or they
7 come by and pick up their letter and then to the bottom
8 of the form, there is an acceptance because the offer is
9 for nine months before it expires. They sign
10 the acceptance and the person may require vouchers to
11 pay into the Treasury and they may require their lease
12 to be drawn up at the same time. All of that is done
13 from the office. Then that is forwarded on to
14 Grand Turk for eventual registration.

15 SIR ROBIN AULD: You say eventual registration. I think it
16 is common knowledge they have been running a bit behind
17 for the last few years, haven't they?

18 A. Yes, sir.

19 SIR ROBIN AULD: Up to two years before a transaction is
20 registered.

21 A. Yes, and we have taken action on that, sir. We are
22 building a computerisation system from
23 the Cayman Islands. We just build a brand new building
24 to house the Land Registry, so we are making very much
25 improvements on that, sir.

1 SIR ROBIN AULD: So what happens to transactions, onward

2 transactions before anything has reached the register?

3 A. The individual receives a letter. The office will give

4 them the vouchers and the lease. They would have

5 the lease. In the case of a lease or freehold they

6 would have it executed, pay their money into the

7 Treasury, documentations come back to the office,

8 whether it is Providenciales or through the islands or

9 Grand Turk. Then all of that is forwarded to

10 the Commissioner of Lands in Grand Turk.

11 The Commissioner of Lands go through that as a last

12 opportunity before it goes on to the Governor's office

13 for signature. Sometimes she finds errors of whatever

14 they are. She sends them back. It is amended. I think

15 after the Governor signs it, it goes to the

16 Land Registry or it goes to the Land Registry, then

17 the Governor's office, one of the two. Then it comes

18 back to the person.

19 SIR ROBIN AULD: Before it appears for public scrutiny in

20 the public registry and is filed and documented, until

21 recently at any rate, up to two years may go by?

22 A. Not necessarily, sir.

23 SIR ROBIN AULD: I didn't say necessarily, but it could

24 happen and it did happen.

25 A. It could happen --

1 SIR ROBIN AULD: I am interested in knowing what happens
2 then if the person who has acquired the conditional
3 purchase lease wants to dispose of it quite quickly and
4 that can be done presumably without that reaching
5 the register for some time.

6 A. In our Crown land policy, as part of the revision which
7 we have now adopted, the issuance of lands are to be
8 published in the Gazette. So what has been happening,
9 if one can find some copies of the Gazette, you would
10 notice that the Gazette speaks about office that I am
11 sure some persons haven't even taken up as yet. So as
12 soon as possible on a periodic basis. I think that
13 responsibility lies with the Commissioner of Lands, if
14 I am not mistaken or someone in the department to
15 publish in the Gazette who all have had lands.

16 MR MISICK: I think what the Commissioner is asking you is
17 is it possible, between the time that someone is given a
18 conditional purchase lease and the time when the land is
19 registered in their name, for there to be any dealings
20 by the offeree in the land?

21 A. I am not sure if I get it. Any dealings in the offeree,
22 meaning?

23 Q. Can you sell it to someone else or dispose of it?

24 A. No.

25 SIR ROBIN AULD: Are you really saying that, Mr Hanchell?

1 Think carefully about this. We have a great deal of

2 information on this.

3 A. I am thinking.

4 SIR ROBIN AULD: You are the Minister of Land.

5 A. If the offer is made to John Brown for the purpose of

6 the exercise, John Brown takes up the offer and I think

7 we are talking, if someone would sell their land to

8 someone else prior to him -- I don't see how it can

9 happen without them taking up the offer, because you can

10 only sell the land --

11 SIR ROBIN AULD: They can take up the offer. It is

12 registration really. If you feel that the picture

13 I have put to you is incorrect, then just say so and we

14 will --

15 A. No, I am really honestly trying to give the process as

16 I recall. If someone wants to dispose of Crown land,

17 they would have to have freehold title to dispose.

18 The lease, once they have signed the lease up, that goes

19 on to the Governor's office and the Land Registry has to

20 be registered as is.

21 If someone receives an offer for freehold title, and

22 that individual, that offer is in that individual name,

23 I believe the way I understand it that freehold title

24 would have to be registered before the individual can

25 then sell it on.

1 SIR ROBIN AULD: Granted or registered?

2 A. Registered.

3 SIR ROBIN AULD: All I am concerned with is the delay in

4 transactions, land transactions, reaching the public

5 register where it is viewable.

6 A. Yes, I am trying to work with you as to how I understand

7 it. I think it has to be registered. I think you may

8 know -- you may read in an audit report -- I think there

9 was an audit report that highlighted some sale of Crown

10 lands. I don't know the details. I can't remember

11 the details. But my memory tells me, the way

12 I understand it, not my memory, when a freehold is

13 offered to John Brown, John Brown has to take up his

14 freehold. The letter that grants the freehold,

15 the freehold documents for transfer comes from that

16 letter. So John Brown wants to sell that land. My

17 experience of the system is that that has to be

18 registered and then he sells it on to another party

19 because all of the documentation goes to the Governor's

20 office and the Land Registry.

21 When I say all, the offer, who the offer was made

22 to, so if I made the offer to John Brown, in the name

23 John Brown, John Doe shouldn't be able to pick it up,

24 because the Governor's office and the Land Registry,

25 they have an obligation, because we don't sign

1 the transfer to make sure that the transfer goes to
2 the person who my signatory based the offer.

3 SIR ROBIN AULD: Transfer is one thing. Registration is
4 another. Are you saying that until the matter is
5 formally recorded in the register, the transaction
6 cannot take place?

7 A. That is the way I understand the system.

8 SIR ROBIN AULD: Very well. Shall we break there for
9 a while.

10 (11.42 am)

11 (A short break)

12 (11.50 am)

13 SIR ROBIN AULD: Yes, Mr Misick.

14 MR MISICK: Thank you, sir.

15 Before I restart with Mr Hanchell, I have asked
16 the representative from the ministry, who has confirmed
17 that drafting instructions for Crown land ordinance has
18 been sent to the AG's chambers, and that it is in
19 the drafting process. The drafting is in process.

20 SIR ROBIN AULD: Thank you very much.

21 MR MISICK: Secondly, in case you were interested, I have
22 not seen it so I can't make any judgment on it, there is
23 another piece of legislation dealing with Crown land
24 which came into force on 15th -- 1st January 2009 called
25 the Crown Land Illegal Occupation Ordinance. I have no

1 idea what that is about, in case you want to have
2 someone look at it.

3 SIR ROBIN AULD: There are Parliamentary counsel here in
4 the Turks & Caicos, are there?

5 MR MISICK: Yes, they are called draftsmen.

6 SIR ROBIN AULD: In the attorney's chambers?

7 MR MISICK: Yes.

8 SIR ROBIN AULD: Thank you very much, Mr Misick.

9 MR MISICK: Just so we can clarify the last point you were
10 talking about, Mr Hanchell. In relation to all -- to
11 disposition of all Crown land, whatever size, whatever
12 value, however the decision to grant is arrived at,
13 the actual transfer that disposes of the land must be
14 signed by the Governor, is that correct?

15 A. Yes, sir.

16 Q. Tell us this, if you know the answer, if you don't, by
17 all means say so. When the transfer is sent to the
18 Governor for signature, do you know what documents
19 accompany the transfer?

20 A. Yes, I do. Obviously the transfer documents,
21 the receipts of proof of payment into the government
22 treasury, the offer letter for freehold is accompanying
23 the documentation, and I am saying that based on what
24 I have seen. If there is any additional documents,
25 I didn't omit them intentionally.

1 Q. In relation to large dispositions of Crown land, is that
2 the same process?

3 A. The policy, once a subdivision, sir, is created, in two
4 instances a residential --

5 Q. I was asking about disposition for commercial, large
6 pieces of commercial land.

7 A. We can only deal with up to ten acres of commercial
8 land, only if Cabinet has approved the subdivision.

9 Anything over ten is a matter for Cabinet and not the
10 ministry.

11 Q. When Cabinet approves disposition, what is the process
12 by which the transfer is eventually executed and
13 the land disposed of?

14 A. Yes. Once Cabinet approves a subdivision under ten
15 acres --

16 Q. I am talking about --

17 A. Generally?

18 Q. Yes.

19 A. Can you repeat the question? I think I am a little
20 confused.

21 Q. In those cases which requires Cabinet approval for
22 disposition of Crown land. Let's assume Cabinet has
23 decided to dispose a particular piece of land to
24 a particular individual or company, after that approval
25 process, what is the next stage and how does

1 the transfer get to the Governor for signature?

2 A. Okay, if Cabinet makes -- grants and approves

3 a particular parcel of land, at the time of approval,

4 valuations or the approval may be subject to evaluation,

5 and when that final letter of -- that includes

6 the valuation and the land may be subject to a further

7 mutation. That simply means it has to have a new parcel

8 number for the acreage that is approved. Then the

9 ministry will communicate that Cabinet decision, talking

10 about the value which is provided by the valuation

11 officer, and it talks about the acreage, and then if

12 Cabinet approves freehold title, the ministry will draw

13 up freehold documents in relation to that.

14 In the case of land that the Cabinet may grant, that

15 may be subject to a development agreement,

16 the Attorney General's chambers will draw that out, and

17 simply because there may be other conditions in

18 the development agreement that they may be subject to as

19 relates to the drawdown of Crown land.

20 Q. Thank you. Now I want to ask you about Caicos Oil.

21 A. Yes.

22 Q. You told us in evidence yesterday that Caicos Oil was

23 your vision, is that correct?

24 A. Yes, sir.

25 Q. You brought your brother in as a shareholder?

1 A. Yes, sir.

2 Q. That is also the case that Caicos Oil has an agreement
3 with TCIG to provide gasoline?

4 A. Yes, sir.

5 Q. Fuel to government vehicles on Providenciales?

6 A. Yes, sir.

7 Q. Is Caicos Oil the only company that has such
8 an arrangement?

9 A. No, sir.

10 (12.00 pm)

11 Q. If I can refer you to bundle 4, tab 6, at page 93.

12 There are two other companies that are referred to
13 in this document, which provides fuel to government
14 vehicles?

15 A. Yes, sir.

16 Q. One is called Ideal Petroleum?

17 A. Yes, sir.

18 Q. The other one is called Durham Service Station.

19 A. Yes, sir.

20 Q. Sorry, on Providenciales, the other one is

21 Ideal Petroleum. Just to be absolutely accurate about

22 it, your company provides gasoline to government

23 vehicles on Providenciales and Ideal Petroleum provides

24 diesel, is that correct?

25 A. Yes, sir.

- 1 Q. Do you have any connection with Ideal Petroleum?
- 2 A. No, sir. Ideal Petroleum is connected with Texaco.
- 3 Q. That is one of your competitors?
- 4 A. Yes, sir, one of my major competitors. I have quite
- 5 a bit.
- 6 Q. Does Caicos Oil sell diesel oil?
- 7 A. Yes, sir.
- 8 Q. In Grand Turk we see that Durham Service Station
- 9 provides petrol to government vehicles on that island?
- 10 A. Yes, sir.
- 11 Q. Do you have any connection with Durham Service Station?
- 12 A. Durham Service Station sometimes, they are
- 13 an independent service station, they sometimes buy fuel
- 14 from Caicos Oil and from another provider in Grand Turk,
- 15 I believe.
- 16 SIR ROBIN AULD: Is that the one just outside Cockburn Town?
- 17 A. In Grand Turk?
- 18 SIR ROBIN AULD: On the left as you go towards the airport.
- 19 A. I don't know.
- 20 MS MISSICK: Yes.
- 21 MR MISICK: My recollection is it is the one when you are
- 22 going towards the North Ridge, towards the community
- 23 college.
- 24 SIR ROBIN AULD: Thank you.
- 25 MR MISICK: Can I refer you to the Cabinet paper and

1 the Cabinet decision which relates to the proposal --

2 A. Page, sir?

3 Q. -- that Caicos Oil submitted to the government.

4 I think it is in the back of --

5 MS MISSICK: Sorry, bundle 6, page 184.

6 SIR ROBIN AULD: Core bundle 6 do you say?

7 MS MISSICK: Core bundle 6.

8 A. That is the red one?

9 MS MISSICK: Yes.

10 MR MISICK: Before I look at the paper itself and

11 the proposal, as far as you are aware, was there any

12 reason why Shell Oil or Texaco could not have submitted

13 a similar or any other proposal to TCIG?

14 A. I am not aware of any reason why the two you name or any

15 other should not have submitted a proposal. I can only

16 assume that it is not part of their business plan.

17 Q. Is there any reason why, had they submitted -- when any

18 one of them had submitted such a proposal, why it would

19 not have been received and considered by TCIG?

20 A. I can't think of any reason why TCIG should not have

21 considered a proposal from anyone similar like ours,

22 especially knowing the fuel crisis that we have had over

23 the years, where the power company has only had up to

24 24 hours of fuel. Otherwise Providenciales would have

25 been in darkness. I can't consider any reason why they

1 should not have.

2 Q. Was there any event or had anything occurred around
3 about the time when you submitted the proposal?

4 A. In terms of natural disasters?

5 Q. Whatever, any event.

6 A. In relation to our business, are you talking, or any
7 event because there is lots --

8 SIR ROBIN AULD: Do you want to talk about the hurricane, is
9 that it? Did that cause particular demand for fuel
10 oils? That is something on which if it is the case, you
11 could reasonably lead Mr Misick, if that is what you had
12 in mind.

13 MR MISICK: Was your proposal submitted around about the
14 time of the hurricane?

15 A. No, I believe our proposal was submitted before
16 the hurricane, at least it should have been, or else
17 I need to fire Joe because this was something -- this
18 was part of our overall vision and this is something
19 that we have been working on for a very, very long time.

20 Q. So the answer is there is no particular event or
21 circumstance, this was part of your vision?

22 A. This was -- absolutely. This was part of our vision and
23 one of the things that really pushed us for the sake of
24 completeness is that from time to time our competitors,
25 Shell or Texaco, whoever supplies the main consumer,

1 PPC, they ran out of fuel and we were called in to
2 supplement, to keep power going. So it really pushed us
3 as to getting our proposal in so we can go to the next
4 phase.

5 Q. Assuming that your proposal were to move forward and you
6 were to embark on this venture, is there any guarantee
7 that you will be successful or profitable?

8 A. There is no guarantee. It is a business risk.

9 Q. Page 184 is the Cabinet minute, page 184. It deals with
10 several things: the land, the benefits, the duties,
11 the royalties and so forth. Turning first to the land.
12 Crown lands to be identified, adjacent to sea port
13 and/or airports, throughout the entire TCI for
14 the establishment of fuel depots, and then outright
15 freehold on Crown land and then long-term leases.

16 My first question to you is what would have been
17 the first step?

18 A. In relation to this --

19 Q. In relation to the land, in relation to your acquiring
20 an interest in the land?

21 A. The first step would be that we would have to do our
22 research and identify possible available Crown land and
23 submit that to government as -- for government
24 consideration as some of the options.

25 Q. Once you have identified the land, what other matters

1 would have to be considered before the land was disposed

2 to you?

3 A. First of all, in my experience, as a member of the

4 Cabinet, after Cabinet approves something like this,

5 which is an approval in principle -- sorry, sir.

6 The Attorney General's chambers sends out a first draft

7 of what information that they have that may be

8 a development agreement.

9 The negotiations go back and forth and at that time,

10 us identifying the land will be included in this draft

11 development agreement. Not until this proposed

12 development agreement is executed, which has to go back

13 to Cabinet, then, we have an obligation -- or the Crown

14 will then have an obligation to (inaudible) us on this

15 land.

16 SIR ROBIN AULD: I understand. This is a very early stage

17 of -- it requires a good deal of refinement.

18 A. Yes.

19 SIR ROBIN AULD: And investigation, potential environmental

20 aspects and all sorts of things.

21 A. Plenty work.

22 MR MISICK: What about the valuation? Would a valuation

23 process be required?

24 A. Yes, a valuation process will be required, and that

25 department -- if the valuation office, by the chief

1 valuation officer or his deputy.

2 SIR ROBIN AULD: There is a great deal to do and to refine

3 before you reach even a contractual stage or heads of

4 agreement. I suppose the sort of very general approval

5 in principle for which you were looking would have value

6 to you as the potential holder of this prize in the long

7 run when you were approaching people to consider

8 financing it, that you had had agreement in principle at

9 any rate to consider you as a major supplier in this way

10 to the islands. Is that right?

11 A. I am not sure if I really --

12 SIR ROBIN AULD: If you got the government's agreement in

13 principle, not binding but just what you were seeking,

14 then this would be something of use to you when you

15 would have to approach those whom you might seek finance

16 from to give at least a letter of comfort for onward

17 refining of the project.

18 A. I would not go so far as saying a letter of comfort.

19 A development of this magnitude, I believe that any

20 financial institution would first want to know that, if

21 this is something that the country, meaning

22 the government wants, other than that even for us. That

23 was our first step.

24 SIR ROBIN AULD: That is just what I put to you.

25 A. But I didn't understand how you were saying it.

1 SIR ROBIN AULD: You won't get anybody interested in
2 financing it unless you have got a fair wind from the
3 government behind you and that is what this would serve
4 as in part, wouldn't it?

5 A. That is not necessarily true. I don't think it is
6 necessarily true that you have to have a government
7 approval.

8 SIR ROBIN AULD: I didn't say you had to. I am trying to
9 find out why you needed this very general broad
10 agreement in principle. Mr Misick has rightly
11 identified in his questions, it was a very early stage
12 of whatever might emerge as a contract. What did you
13 need it for in this form?

14 A. In order to -- this is no different from building
15 a hotel --

16 MR MISICK: Was getting this offer from the Crown, was that
17 helpful to you?

18 A. Getting this offer from the Crown?

19 Q. Yes, the letter in the broad terms in which it was
20 given. Was it helpful to you in proceeding with your
21 project?

22 A. Yes, because I would know if this is something that
23 the Turks & Caicos Islands want. Yes. In that respect.

24 SIR ROBIN AULD: Thank you.

25 MR MISICK: You also offered -- declared, settled some

1 declared benefits. I know yesterday you said you didn't
2 get everything you want, so we don't need to do that
3 exercise over. I want to ask you this, declared
4 benefits, exemption from any taxes or profits, gains or
5 turnover, attributable to the development. Now, you
6 told us yesterday that that is standard in all
7 agreements, development agreements, is that correct?

8 A. That is correct, sir.

9 Q. Is there in fact any tax -- currently, any tax or
10 profits on profits, gains or turnover?

11 A. No, sir.

12 Q. Is there in fact any real property tax, capital levy or
13 other tax on capital invested in the development?

14 A. No, sir.

15 SIR ROBIN AULD: No such tax?

16 MR MISICK: Yes.

17 SIR ROBIN AULD: Thank you.

18 MR MISICK: I think you made it clear yesterday that
19 whatever the rent on the land or the lease or
20 the freehold purchase price was on the land,
21 the royalties referred to would be in addition to that,
22 is that correct?

23 A. Yes. The proposal identify royalties and relate to
24 trans-shipment, if there is any trans-shipment, and that
25 would be a new revenue stream for the government.

1 Q. What do you mean by trans-shipment?

2 A. What we proposed in the proposal to create massive fuel
3 storage. At the moment, sir, if you can appreciate it,
4 and I don't want to talk too long, fuel comes, other
5 than us who import fuel from the US, it comes from
6 Venezuela, it goes to the Bahamas, passing
7 Turks & Caicos to come back this way.
8 The Turks & Caicos is situated in a shipping lane, where
9 all of the supertankers and cargo ships pass every day.
10 It is our vision to have a storage facility that -- our
11 storage facility will service Turks & Caicos, hopefully
12 to bring the costs down tremendously --

13 SIR ROBIN AULD: That is evident from the terms of
14 agreement. I understand that.

15 A. But in addition if the Bahamas, rather than Shell and
16 Texaco, Turks & Caicos buying from the Bahamas, if we
17 have a storage facility now, the Bahamas may want to buy
18 it from us. Our proposal to the government, if that
19 happens, then you should be collecting royalties. So it
20 is a new revenue measure that we propose.

21 MR MISICK: Can I leave Caicos Oil and ask you about
22 Sunset Ventures.

23 (12.15 pm)

24 SIR ROBIN AULD: I think you said Venezuela. You were
25 envisaging obtaining some or all of your oil supplies

1 from Venezuela, were you?

2 A. Not at all. We didn't envisage anywhere.

3 SIR ROBIN AULD: It is just that you mentioned Venezuela

4 there.

5 A. I just mentioned because other than us, Shell and

6 Texaco, their supplies comes from Venezuela and goes to

7 the Bahamas and then it comes here. That is why fuel

8 from their end is so expensive.

9 MR MISICK: Can I ask you about Sunset Beach Ventures.

10 SIR ROBIN AULD: Page, sir?

11 Q. That is a company that Chal Misick set up for you, is

12 that correct?

13 A. Yes, sir.

14 Q. To own your condo at the Regent Grand?

15 A. Yes, sir.

16 Q. That condo, the entire beneficial interest in that condo

17 is yours, is that correct?

18 A. Yes, sir.

19 Q. Does anyone other than you have any interest in that

20 property?

21 A. No, sir, just me.

22 Q. You were asked why you used Chal in this particular

23 transaction. Do you recall that?

24 A. Yes, sir.

25 Q. Do you know of any reason why you should not have used

1 Chal?

2 A. I don't know of any reason why I should not have used

3 Chal.

4 Q. You were also asked why the shares in this -- in the

5 company, was not transferred into your own name, do you

6 recall that?

7 A. Yes, sir.

8 Q. Do you also own a condo at the golf club?

9 A. Yes, sir.

10 Q. And do you use Saunders & Co in that transaction?

11 A. Yes, sir.

12 Q. Are you the beneficial owner of that condo?

13 A. Yes, sir.

14 Q. What is that condo used for?

15 A. At the golf club?

16 Q. Yes.

17 A. My mother and my Downs Syndrome brother lives there.

18 Q. The structure that you have used in relation to

19 the Regent Grand condo is the same as that you used for

20 your golf course condo, is that correct?

21 A. Yes, sir.

22 Q. They both are owned by companies?

23 A. Yes, sir.

24 Q. One is -- have nominee services provided by

25 Chalmers & Co?

1 A. Yes, sir.

2 Q. And the other have nominee services provided by
3 Saunders & Co?

4 A. Yes, sir.

5 Q. Is there anything illegal, illegitimate, corrupt or
6 dishonest about your ownership of the condo in
7 the Regent Grand?

8 A. No, sir.

9 Q. Is there anything illegal, corrupt or dishonest about
10 your ownership of the golf course?

11 A. No, sir.

12 Q. You also obtained the \$200,000 from Belize Bank to pay
13 the deposit on the Regent Grand condo?

14 A. Yes, sir.

15 Q. That was a borrowing you didn't declare, but I think you
16 already explained the reasons for not declaring that.

17 Sir, I am going to ask the witness a few questions
18 about Gary Lightbourne.

19 SIR ROBIN AULD: This is the boxer who has never won
20 a fight, is it?

21 MR MISICK: Yes, the one who has never won a fight. Yes.

22 I have obtained this morning and I have provided my
23 learned friend Mr Milne with a copy of a set of
24 documents relating to that. I have not been able to
25 review those documents. So it may be that I may want to

1 come back at some stage to this, depending on what
2 questions Mr Milne asks. I don't know whether you have
3 seen it yourself?

4 SIR ROBIN AULD: I have not actually, no.

5 MS MISSICK: At page 94, volume 2.

6 SIR ROBIN AULD: I should add that I deny having just said
7 that. I was merely using it as a reference from some
8 evidence from Mr Hanchell yesterday, just in case he
9 wins a fight.

10 MR MISICK: Just let me be clear about it, where did you get
11 those documents from?

12 A. I made a request to the Assistant Commissioner of Lands
13 in the Grand Turk office and they were faxed.

14 Q. When did you receive them?

15 A. This morning.

16 Q. Having seen those documents, do you recall your evidence
17 before the Commission yesterday as to what you thought
18 may have happened in relation to Mr Lightbourne?

19 A. Yes.

20 Q. In the light of the -- have you had a chance to look at
21 those documents?

22 A. Yes, I had a brief chance to look at them.

23 Q. In the light of review, or your brief review of those
24 documents, is the explanation you gave yesterday
25 consistent with those documents?

1 SIR ROBIN AULD: That is a matter for me, isn't it?

2 MR MISICK: In a sense.

3 SIR ROBIN AULD: Is he confirming what he said yesterday?

4 Whether what he said yesterday is consistent with what

5 is here --

6 MR MISICK: Perhaps I can ask him this way: do you want to

7 add or comment --

8 A. Yes, I would love to add or comment.

9 MR MISICK: Would you like to further comment?

10 A. Yes. Sir, Mr Lightbourne, the record would show that

11 Mr Lightbourne has had a history of trying to get Crown

12 land and I refer you to page 111. It is just two

13 paragraphs. If you permit me I would like to read them

14 for the sake of the public.

15 SIR ROBIN AULD: Just in this section?

16 A. Yes. A letter written to the Honourable Derek Hugh

17 Taylor, former Chief Minister, June 22nd 1999. He says:

18 "In closing an application for a conditional

19 purchase lease for a ...(Reading to the words)... gave

20 me the plot number and said that it is in the process of

21 being subdivided. I would like a piece of land within

22 this plot. I implore you to do what you can to improve

23 this application quickly. I have been trying for over

24 six years to get a piece of land for my house.

25 The whole process has been frustrating and difficult.

1 I hope you can make it easier."

2 I believe when he says the process has been
3 frustrating and difficult, at that time, there was no
4 Crown land policy.

5 SIR ROBIN AULD: That is a letter to the Chief Minister of
6 the day?

7 A. That is a letter to the boss, yes, sir.

8 The Chief Minister of the day.

9 MR MISICK: Just to be clear about it, he wrote a similar
10 letter, page 113, to the then minister of natural
11 resources.

12 A. I would have to read that. The content is the same
13 thing. It is just addressed to the Honourable Larry
14 Alan Culver(?), former minister of natural resources.

15 SIR ROBIN AULD: So in 1999 he wanted to buy a plot?

16 MR MISICK: Yes.

17 A. Yes, sir.

18 SIR ROBIN AULD: And was going to influential sources to try
19 to succeed in doing so?

20 A. Yes, sir. I may add just for completeness, because
21 I don't want it said that I didn't tell the whole story.

22 In 2000, page 116, parcel 60400/179, he received
23 a communication from Mr Terry N Smith(?), the
24 Permanent Secretary of natural resources.

25 SIR ROBIN AULD: Where are you now, please?

1 A. Sorry, page 116. He received an offer from Mr Terry N
2 Smith, the Permanent Secretary of natural resources, on
3 parcel 60400/179. That is in 2000.

4 SIR ROBIN AULD: Was that an acceptance of his proposal or
5 of another one?

6 A. That is an offer. I can't say categorically of that
7 proposal but it is an offer for -- yes, it is an offer
8 for Crown land.

9 SIR ROBIN AULD: So a month later, or less than a month
10 later, he was offered a plot, is that right?

11 A. A year later, sir.

12 SIR ROBIN AULD: 2000, yes.

13 A. Yes. I was looking for one more letter quick so we can
14 move on from this. Sir, whatever transpired between
15 that period, for some reason it appears that
16 Mr Lightbourne never took up his offer.

17 The Permanent Secretary for natural resources,
18 I see, is on the list and she can -- it is up to you or
19 this body to ask her about the matter, but page 95, he
20 was offered a parcel of land on 60400/243 for
21 residential purposes.

22 SIR ROBIN AULD: We are now in 5th September 2006.

23 A. Yes, sir. You would find throughout this, these
24 attachments. There are various applications, one on
25 page 97 from -- one on 97, one on 98. Various

1 attachments where he has been making an application.

2 But it is my understanding through

3 the Permanent Secretary of natural resources that this

4 particular parcel of land, on page 95, as he describes

5 it, had a hole in it. I believe I mentioned that

6 yesterday. He was desirous of having that changed.

7 SIR ROBIN AULD: Just assist me. The burden of his

8 evidence, as it was put to you, was that he was

9 allocated parcels of land that he had never applied for

10 in these two instances. How does that help on that?

11 A. I don't accept his --

12 SIR ROBIN AULD: I know you don't but what's the point being

13 made? That he was a serial applicant for Crown land, or

14 what?

15 A. Yes, he was. And I am just trying to set that out, that

16 there is a history of trying to satisfy Mr Lightbourne

17 with Crown land, not only since I became the minister of

18 natural resources, but with the greatest respect,

19 the Honourable Derek Taylor, the former Chief Minister,

20 he even tried as far back as 1999.

21 SIR ROBIN AULD: You never managed to satisfy him?

22 A. I don't believe so, based on today. For the record on

23 page 103, you will notice a Cabinet decision in 2004,

24 when I was not the minister for natural resources at the

25 time. I refer you to two, Garrison Roosevelt

1 Lightbourne was offered commercial parcels of land at
2 60809/150. I can't comment further to say whether what
3 has happened with that, because I don't know at this
4 particular time.
5 SIR ROBIN AULD: This is 2004?
6 A. Yes, sir.
7 MS MISSICK: Which page?
8 A. Bundle 3.
9 SIR ROBIN AULD: I can't find Lightbourne. You said (ii),
10 didn't you?
11 MR MISICK: No, not (ii).
12 SIR ROBIN AULD: 2 below?
13 A. Yes.
14 SIR ROBIN AULD: That is Lightbourne, is it?
15 A. Yes.
16 MR MISICK: For his boxing training facility.
17 A. Yes, so you will see applications that is there.
18 MR MISICK: Perhaps that's why he's never won a boxing
19 match, because he has never had the facilities.
20 SIR ROBIN AULD: You and I will both be in danger if we are
21 not careful, Mr Misick.
22 (12.30 pm)
23 A. Thank you for your indulgence.
24 Q. Sir, what I want to ask you about that is this, before
25 you go, can I refer you to the two letters that you

1 signed in favour of Mr Lightbourne?

2 A. Yes, sir.

3 Q. Offering him, one, the residential parcel and then

4 the commercial parcel.

5 A. Yes, sir.

6 Q. 94 and 95. Has Mr Lightbourne at any time come to you

7 after the letters were delivered to him and said -- and

8 asked you why were you delivering letters to him as he

9 had never applied for any land?

10 A. No, sir.

11 Q. Prior to issuing those letters, did you have any

12 discussions with Mr Lightbourne about putting his name

13 forward for land which was not intended for him?

14 A. No, sir.

15 Q. After the issue of the letters, did you have any

16 discussions with Mr Lightbourne regarding the disposal

17 of the land?

18 A. No, sir.

19 Q. Did you ever receive any money from Mr Lightbourne in

20 respect of the offer?

21 A. No, sir.

22 Q. Do you expect to receive any money?

23 A. No, sir.

24 SIR ROBIN AULD: Do we know what happened to these parcels

25 of land?

1 MR MISICK: I don't know.

2 SIR ROBIN AULD: Not immediately but it might be interesting
3 to know.

4 MR MISICK: Lastly on this, Mr Hanchell, have you ever
5 negotiated with any third party or contacted or had any
6 discussions with any third party with regards to this
7 piece of land.

8 A. No, sir.

9 Q. Mr Hanchell, I want to ask you some questions about
10 the government dock that was to be built?

11 A. Yes, sir.

12 Q. On Salt Cay and the discussions regarding the planning
13 application. As I understand your evidence yesterday,
14 this dock is required, whether or not the Salt Cay
15 development proposal is implemented, is that correct?

16 A. Yes, sir. That dock was on the table prior to Salt Cay
17 development. The Honourable Derek Taylor talked about
18 building that dock. He never did.

19 SIR ROBIN AULD: When you say that dock, you mean a dock was
20 required for Salt Cay?

21 A. A dock was required for Salt Cay, correct.

22 MR MISICK: I apologise. It was probably my fault.

23 SIR ROBIN AULD: No, I am being pernickety really. But
24 a dock of that sort was required, regardless of the
25 Salt Cay development proposals.

1 MR MISICK: You told us there had been budgetary allocations
2 for quite some time, is that correct?
3 A. That is my recollection, sir.
4 Q. I think implicit in the line of questioning that was
5 being put to you yesterday, and I think someone will
6 stop me if I have got this wrong, implicit in that was
7 that you may have been seeking to further the interests
8 of Mr Hoffman.
9 A. Yes. That is how it was put.
10 Q. I am asking, was that your intention in seeking to
11 advance the construction of a dock in Salt Cay?
12 A. Yes, it was my intention to -- for the dock in Salt Cay.
13 Q. But in promoting or in seeking to secure that dock, were
14 you trying to promote Mr Hoffman's interests, that is
15 the question?
16 A. No, not at all. I was not trying to promote
17 Mr Hoffman's interests.
18 Q. Were you, to use an expression, and I will come to the
19 meeting that you had at the Premier's office, but
20 leaving that meeting aside for the time being, at any
21 time prior to that meeting, were you leant on by
22 Mr Hoffman or anyone on his behalf to see that approval
23 was given for the construction of a dock?
24 A. No, sir.
25 Q. Did you receive any inducement from Mr Hoffman or anyone

1 on his behalf?

2 A. No, sir.

3 Q. Did you seek any such inducement?

4 A. No, sir.

5 Q. Did you expect to receive any benefits if approval for

6 the construction of the dock was eventually given?

7 A. No, sir.

8 Q. Now the dock was to be a government dock, you told us

9 yesterday.

10 A. It still is to be, sir, yes.

11 Q. The procedure for all government -- for construction,

12 all government construction is that an application for

13 planning permission goes first to the board, is that

14 correct?

15 A. Yes.

16 Q. And the board makes recommendations?

17 A. Yes, sir.

18 Q. But the board cannot decide on such an application, is

19 that correct?

20 A. That is correct.

21 Q. The board makes the recommendation, submits

22 the recommendation to the minister and the minister

23 takes the recommendation to the Cabinet, is that

24 correct?

25 A. That is correct.

1 Q. So any decision on the approval of this dock would
2 ultimately have to be taken by Cabinet, is that correct?

3 A. That is correct.

4 Q. It is also correct, is it not, that Cabinet would not be
5 bound by any recommendation?

6 A. That is correct.

7 Q. You told us at the meeting that you had at the Premier's
8 office, and forgive me if I get this wrong, but you
9 indicated this was an exploratory meeting with
10 the Director of Planning and some other members of the
11 board.

12 A. Yes, I said the Director of Planning, the Director of
13 the DECR, members of the planning board and I invited
14 Mr Stefan Kral who represents Salt Cay Development and
15 he brought along some technical person.

16 Q. Now, was it your idea to have this meeting or was it
17 that of Mr Kral?

18 A. That was my meeting, it was my idea.

19 Q. Can you tell us how long the meeting lasted?

20 A. The meeting lasts for perhaps 30 minutes. It couldn't
21 be too much more than that.

22 Q. Of those 30 minutes, how long was Mr Kral present?

23 A. Mr Kral was there at least two to three minutes or less.

24 SIR ROBIN AULD: Sorry, I was not paying attention, how many
25 minutes was he there?

- 1 A. Between two and three minutes or less.
- 2 SIR ROBIN AULD: Where had he come from? Does he live in
- 3 Providenciales or is he based in Salt Cay?
- 4 A. I am not certain, sir.
- 5 SIR ROBIN AULD: Do you know where he came from for
- 6 the meeting?
- 7 A. No, sir.
- 8 SIR ROBIN AULD: You must have contacted him somehow?
- 9 A. I called him by telephone or a text message.
- 10 MR MISICK: Do you know the location -- do you know whether
- 11 Salt Cay Development company has an office in
- 12 Providenciales?
- 13 A. I believe so.
- 14 Q. Do you know where that office is?
- 15 A. No, but I believe so. I have never visited their
- 16 office.
- 17 Q. If you don't know, you don't know.
- 18 Did you ask anyone to call a meeting of the physical
- 19 planning board that day?
- 20 A. No, sir.
- 21 Q. Did you suggest to anyone that there ought to be
- 22 a meeting of the physical planning board that day?
- 23 A. No, sir.
- 24 Q. Did you speak to Mr Earl Handfield at any time that day?
- 25 A. No, sir.

1 Q. Did you ask anyone else to speak to him?
2 A. No, sir, I sent text messages to the members that showed
3 up, including Mr Handfield. I never got a reply.
4 I tried to telephone him and I never got a reply.
5 SIR ROBIN AULD: Was this after the meeting?
6 A. No this was before the meeting.
7 SIR ROBIN AULD: But after the meeting, you didn't --
8 A. No, not at all.
9 MR MISICK: Did you try to contact him after the meeting?
10 A. No, sir.
11 Q. Did you ask anyone after the meeting to contact him, to
12 convey any message with him?
13 A. No, sir.
14 Q. Has he tried to reach you on any -- at any time during
15 that day or afterwards?
16 A. No, sir.
17 SIR ROBIN AULD: Do we have any evidence? Mr Misick,
18 I can't recollect exactly as to who convened
19 the planning board meeting later that day?
20 MR MISICK: The only evidence we do have is in the letter
21 which came from Mr Handfield's attorney.
22 SIR ROBIN AULD: That is the only --
23 MR MISICK: That is the only evidence we have. I think I am
24 right about that. Page 26, volume 2.
25 (12.45 pm)

1 SIR ROBIN AULD: Which volume?

2 MR MISICK: I am told obviously there is the draft minutes
3 of the meeting. That would have some bearing on it.

4 SIR ROBIN AULD: Thank you.

5 A. Which page?

6 MS MISSICK: Page 26, tab 3, volume 2.

7 MR MISICK: Do you wish to have a look at that?

8 SIR ROBIN AULD: No, don't let me hold you up, carry on.

9 MR MISICK: The Director of Planning is responsible and
10 accountable to you as minister for the administration of
11 his department, is that correct?

12 A. Me through the Permanent Secretary.

13 Q. And that includes his responsibility with regards to
14 applications for development permission?

15 A. Yes.

16 Q. Following the meeting, if he telephoned you or at any
17 time during -- at any time after he was at the meeting,
18 at the Premier's office, at any time after he left
19 the Premier's office, did he tell you that he had been
20 summoned to a meeting of the physical planning board and
21 that he was not going to attend?

22 A. No, sir.

23 SIR ROBIN AULD: He didn't telephone you at all?

24 A. Not that I remember, sir.

25 SIR ROBIN AULD: He did not telephone me that day.

1 MR MISICK: Has he ever written to you concerning

2 the meeting that was held?

3 A. I got some days after, or I think I got a report of

4 the decision which -- I have a responsibility to forward

5 that decision on to Cabinet.

6 Q. But did Mr Robinson write to you and say there was this

7 meeting which was so unlawful that he refused to attend?

8 A. No, sir, I have no such correspondence.

9 Q. Did you at any time put any pressure on Mr Handfield to

10 call a meeting of the physical planning board?

11 A. No, sir.

12 Q. Did you at any time put any pressure on the Vice

13 Chairman of the board to call a meeting of physical

14 planning board?

15 A. No, sir. I don't even remember who is the Vice

16 Chairman.

17 Q. Did you ask any other -- or others to pressure him to

18 have such a meeting?

19 A. No, sir.

20 Q. You know Mr Handfield, do you not?

21 A. Yes, sir.

22 Q. Apart from being the former Chairman of the board, what

23 does he do for a living?

24 A. Mr Handfield is a contractor, as I know him over

25 the years, and subcontractor, and most recently he has

1 an employment agency.

2 SIR ROBIN AULD: An employment agency?

3 A. Yes, sir.

4 MR MISICK: What did that employment agency do? What sort

5 of employees did he recruit? Secretaries, lawyers?

6 A. No, he mainly recruit construction workers primarily

7 from the Philippines, I think, for a construction

8 project, the Ritz Carlton at that time, which was being

9 built by Projitech.

10 Q. So he was associated with Projitech and the West Caicos

11 project?

12 A. Yes, sir.

13 Q. Did anything happen with his involvement or connection

14 with that project at any time?

15 A. It is public knowledge because it was in the newspapers

16 and on television that the contract was terminated --

17 Q. What contract was terminated?

18 A. The construction of the Ritz Carlton development on

19 West Caicos. Projitech was terminated. This was in

20 the newspapers, and a company called Ashtrom, who built

21 the Seven Stars, was brought in. As a result, it was

22 widely in the media that a number of individuals had

23 made claims in the open media that they were displaced

24 because a new construction company came in.

25 SIR ROBIN AULD: What has that got to do with the issue

1 here? Assuming those complaints were absolutely valid,
2 what bearing does it have on Mr Handfield's performance
3 as Chairman of the planning board?

4 A. I was answering the question, what did he do.

5 SIR ROBIN AULD: Maybe I should ask Mr Misick.

6 MR MISICK: My Lord, perhaps if I could ask the next
7 question. Then your Lordship could then make
8 a judgment.

9 So did Mr Handfield make any representations to
10 the government about his -- the displacement of his
11 migrant workers?

12 A. Yes, sir, Mr Handfield --

13 SIR ROBIN AULD: This is in what, by letter, at a meeting or
14 what?

15 A. I have not seen a letter, at meetings --

16 SIR ROBIN AULD: What are you drawing on for your
17 information?

18 A. When you say what I am drawing on --

19 SIR ROBIN AULD: Where do you get your information from that
20 you are about to give us?

21 A. I was present at least at a meeting or two meetings with
22 Mr Handfield.

23 SIR ROBIN AULD: This was at a meeting?

24 A. Yes, that is what I said, a meeting. Sorry, sir. Where
25 Mr Handfield made representations that he has made

1 a substantial investment into providing workers and that
2 he was being displaced and he felt that the government
3 should intervene with this new construction company on
4 his behalf, so that his workers -- or he can have
5 whatever that arrangement was, could be in place.

6 Mr Handfield was told that that is a very difficult
7 thing to do because that is a private -- that is really
8 a private matter and the government wants to be very
9 careful of how it tells people how to run their
10 businesses.

11 SIR ROBIN AULD: You said no. You cannot do it.

12 A. I didn't say no.

13 SIR ROBIN AULD: Somebody said on behalf of government, no,
14 we can't help.

15 A. No, we can't intervene in the fashion that you are
16 asking us to intervene.

17 SIR ROBIN AULD: Where are we going? That he has
18 a grievance possibly against the government?

19 MR MISICK: That was to be my next question.

20 SIR ROBIN AULD: I will be patient.

21 MR MISICK: So has he become disgruntled ever since then?

22 A. Yes, he has been disgruntled ever since then.

23 SIR ROBIN AULD: So he has a grievance. The government
24 says: no, he has been disgruntled ever since. Thank
25 you.

1 MR MISICK: One more question on this, perhaps a few more
2 questions.

3 SIR ROBIN AULD: If you have a few more questions,
4 Mr Misick, I wonder if we might break there for
5 the short adjournment. We have one or two bits of
6 housekeeping we need to attend to before we break off.
7 Is that a convenient moment?

8 MR MISICK: Yes, my Lord. Sir, I will not be more than
9 about 10 minutes.

10 SIR ROBIN AULD: About ten minutes more. Now,
11 Mr Fitzgerald, good to see you back.

12 MR FITZGERALD: Thank you, sir.

13 SIR ROBIN AULD: I ask you, but I don't know what
14 arrangements you have made with the other members of the
15 bar here for any questions that there may be of
16 Mr Hanchell. Do you intend to ask him any questions?

17 MR FITZGERALD: Just two questions.

18 SIR ROBIN AULD: Not long. Mr Saunders.

19 MR SAUNDERS: Yes, sir.

20 SIR ROBIN AULD: Do you have questions of Mr Hanchell?

21 MR SAUNDERS: Yes, sir.

22 SIR ROBIN AULD: How long do you think you might be?

23 MR SAUNDERS: Shouldn't be more than five or ten minutes.

24 SIR ROBIN AULD: Mr Smith?

25 MR SMITH: I still have no questions.

1 MR WILSON: No questions, sir.

2 SIR ROBIN AULD: Mr Rigby?

3 MR RIGBY: No questions.

4 SIR ROBIN AULD: Counsel for the attorney?

5 MS WILLIAMS-GLINTON: No questions.

6 SIR ROBIN AULD: We are talking about half an hour at the

7 most after the adjournment.

8 MR MISICK: You haven't asked Mr Milne.

9 SIR ROBIN AULD: Apart from Mr Milne, we are talking about

10 half an hour for the moment. We have listed Mr Thomas

11 Misick for today, Mr Rigby. You are sitting here and he

12 is probably sitting here somewhere.

13 MR RIGBY: Yes, he is.

14 SIR ROBIN AULD: We anticipate being more than a day,

15 subject to what happens, in examining him. I thought

16 I just should warn you of that so that you know it will

17 probably run over until Monday. I hope that is

18 convenient to Mr Chalmers Misick and to you?

19 MR RIGBY: If it happens, I will have to ...

20 MR SMITH: I am just trying to get a timetable.

21 SIR ROBIN AULD: That is what I am trying to do.

22 MR SMITH: Yes, because my understanding, I received

23 an email sometime this morning indicating a request that

24 my client be here, Mr Floyd Hall be here at 10.15 for

25 questioning at 10.30. Is it my understanding that he is

1 going to be interposed?

2 SIR ROBIN AULD: You say he was asked to be here at 10.30

3 this morning?

4 MR SMITH: 10.30 on Monday morning.

5 SIR ROBIN AULD: Would you ask me that question again at

6 2 o'clock, please. We are constantly having to adjust

7 the programme and we are trying to be as considerate as

8 we can to everybody and we will talk about that over

9 lunch. Thank you for reminding me about that.

10 Mr Saunders, you said you had a submission to make.

11 How long do you think your submission might be?

12 MR SAUNDERS: Another 10 minutes, sir. It depends on how

13 many areas you wish me to elaborate on. 10 minutes

14 maximum.

15 SIR ROBIN AULD: I am talking about your submissions.

16 MR SAUNDERS: Yes, that is what I am talking about as well.

17 The submissions and the cross-examination, about 10

18 minutes maximum.

19 SIR ROBIN AULD: But they are separate things.

20 MR SAUNDERS: Yes.

21 SIR ROBIN AULD: Who is instructing you on the submission to

22 which you referred?

23 MR SAUNDERS: The Progressive National Party.

24 SIR ROBIN AULD: And who on behalf of the party is

25 instructing you?

1 MR SAUNDERS: I am getting the instructions from the

2 Chairman.

3 SIR ROBIN AULD: What about the Treasurer?

4 MR SAUNDERS: I am getting no instructions from its

5 Treasurer.

6 SIR ROBIN AULD: What about the Secretary General?

7 MR SAUNDERS: No instructions from the Secretary General.

8 SIR ROBIN AULD: So you are making submissions on

9 the instructions of the Chairman of the party and who is

10 that?

11 MR SAUNDERS: Don-Hue Gardiner.

12 SIR ROBIN AULD: Yes. We will have to consider over

13 the adjournment when we can take your submission. It

14 may not be until Monday but we shall try to fit you in.

15 2 o'clock.

16 (1.00 pm)

17 (A short break)

18 (2.00 pm)

19 MR MISICK: Mr Hanchell, I just have a few more questions to

20 ask you. We were talking about Mr Handfield and his

21 role in the physical planning board. Before I finish

22 off on that, one question I forgot to ask you about your

23 meeting on the Friday. You said that you were the one

24 who invited Mr Stefan Kral.

25 A. Yes sir.

1 Q. What was the purpose for inviting him?

2 A. Sir, after I received a recommendation from the planning
3 board that basically said that the government dock
4 should be dealt with not before the development plan,
5 I came -- immediately I developed an opinion that there
6 may be some confusion as to the government dock and
7 the development on Salt Cay. I tell you why, I am aware
8 through discussions with the Director of Planning is
9 that -- that the developers of Salt Cay planning
10 applications, if any were put in, were not going to be
11 dealt with until after the master development plan is
12 done. So that is why I decided to call a meeting and
13 invited Stefan Kral, who represents the development, and
14 that is why he was there for two or three minutes and
15 I simply asked him, as I said yesterday: can you explain
16 to this body what role are you playing in the government
17 dock.

18 I think I said yesterday that he said that in his
19 development agreement he has an obligation to build
20 the dock.

21 At that point in time he was asked to leave, he left
22 and during our discussions I developed the opinion that
23 the board members or some or one or two of the persons
24 there perhaps was confused whether or not this was
25 a government dock and how the developers played a role

1 because the Director of Planning, who makes
2 the recommendations to the board, would not be accepting
3 any applications for consideration until the master plan
4 is done for Salt Cay.

5 That was my only purpose for inviting him because
6 I was really confused as to why the government dock,
7 what it has to do with the master plan and I have not
8 heard the discussions with this consulting going on for
9 the master plan. I am not aware that the dock was
10 a factor as it relates to that because of the historic
11 nature of where the dock was for 300 years.

12 SIR ROBIN AULD: Thank you.

13 MR MISICK: Do you want to ask him any more questions out of
14 that?

15 SIR ROBIN AULD: You are leaving the dock now, are you?

16 MR MISICK: I am, yes.

17 SIR ROBIN AULD: May I put this question to you, I think, it
18 is the proper way to do it, Mr Misick. We heard from
19 Mr Hanchell just before the short adjournment that
20 Mr Handfield had had difficulties in his role as
21 an employment consultant or agent and problems over
22 workers, that he made representations to a government
23 body and they were seemingly rejected or not encouraged,
24 and he ended up being a rather disgruntled man. I think
25 that was the general drift of it.

1 MR MISICK: Yes.

2 SIR ROBIN AULD: I think we should have fairly plain
3 speaking here. What is the suggestion? Is
4 the suggestion that Mr Handfield made up his account of
5 what happened on the day of the planning board meeting
6 and the events leading to it because he was discontented
7 with the government?

8 MR MISICK: No, sir. Certainly the documents, which relates
9 to how the meeting came about, speak for itself. So he
10 certainly couldn't have been making up the events of the
11 day. But there is an issue of his resignation from
12 the board and the reasons he gave for it.

13 SIR ROBIN AULD: The suggestion is that that may not be
14 a true account that he gave of his reason for
15 resignation, is that it?

16 MR MISICK: Yes.

17 SIR ROBIN AULD: Because he was discontented with
18 the government?

19 MR MISICK: Because he had a disgruntlement.

20 SIR ROBIN AULD: Now I understand, thank you.

21 MR MISICK: A couple more questions, Mr Hanchell. We know
22 the appointment of a -- members of the physical planning
23 board is done by an instrument signed by the government.

24 A. Yes, sir.

25 Q. In practice, how does the appointment come about? What

1 is the process that is arrived at at the point where

2 the Governor signs the instrument?

3 A. A recommendation is made through Cabinet and this is by

4 extension for all other boards, and when that decision

5 is taken, it is confirmed at a later Cabinet meeting and

6 thereafter those become the instructions and

7 the Governor has the Attorney General's chambers,

8 I suppose, prepare the relevant documentation and

9 the board is appointed.

10 Q. How would it be known that a person who is being

11 appointed has accepted his appointment?

12 A. First of all, I know it is published in the Gazette

13 and --

14 MR MISICK: Before publication? You would --

15 A. -- would be invited, I think those persons had been

16 invited to serve and then they would indicate their

17 interests.

18 Q. Who would the invitation come from?

19 A. The invitation would come from whoever is the minister

20 that that board falls under his ministerial portfolio.

21 In this particular case, at that time, the Premier,

22 Michael Misick, was the minister responsible for

23 planning.

24 SIR ROBIN AULD: Yes. So he would have invited whoever it

25 is to have a position?

1 A. Yes.

2 MR MISICK: He would communicate his acceptance to the
3 minister?

4 A. Yes. That he would be willing to be considered because
5 that isn't formalised yet, mind you, until it goes to
6 Cabinet and then there is a collective decision on who
7 should serve on that particular board and the process is
8 the same for others.

9 SIR ROBIN AULD: Minded to propose is the usual term, is it
10 not?

11 A. Propose to Cabinet? Yes.

12 SIR ROBIN AULD: He says he is minded to propose to Cabinet
13 to the lucky person and the lucky person says he is
14 minded to accept if offered, is that it?

15 A. Yes.

16 SIR ROBIN AULD: So where do we go from there?

17 MR MISICK: Presumably provided no one changes their mind,
18 the appointment is approved in Cabinet and then signed
19 by the government.

20 A. Yes.

21 Q. What is the normal duration of the appointment?

22 A. The normal duration of the appointment is from
23 the beginning of the financial year to the end.

24 Basically from the financial year, government financial
25 year, which is March/April.

1 Q. How long had Mr Handfield been an appointee or Chairman

2 of the board?

3 A. Long, long time. He has almost been there since I can

4 remember, since 2003. There could be some gaps but he

5 has been there for at least four or five years to my

6 memory. I remember him being there.

7 Q. Your evidence is his appointment would have been renewed

8 annually?

9 A. Yes, it would have to be renewed. Every year it goes

10 back to Cabinet.

11 Q. The process of proposing or being minded to propose

12 would have occurred every year?

13 A. Yes, it has to, it has to be confirmed and it was.

14 Q. Up until this month, when Mr Handfield through his

15 lawyer sent a letter to the Governor, were you aware of

16 any suggestions or allegations by him that he had been

17 pressured in his capacity by any minister with

18 responsibility for planning to do anything?

19 A. I am not aware, sir.

20 MR MISICK: Thank you, sir. Those are my questions.

21 SIR ROBIN AULD: Thank you, Mr Misick. Mr Fitzgerald, have

22 you decided with your friends who goes first? It look

23 like you, by the way, you are standing there.

24 MR FITZGERALD: If no one objects I will go first.

25 SIR ROBIN AULD: We will work across the room.

1 Cross-examination by MR FITZGERALD

2 MR FITZGERALD: Just three short matters for you,

3 Mr Hanchell. Firstly, you referred in your evidence to

4 the company, the Sunset Beach Ventures and that owns

5 the Regent Grand condominium development.

6 A. Yes, sir.

7 Q. Just to get this straight, the Premier, Michael Misick,

8 has no involvement in that company?

9 A. No, sir.

10 (2.15 pm)

11 Q. And no interest in the Regent Grand condominium

12 development?

13 A. No, sir.

14 Q. You were also asked, just moving on from that, about

15 the practice of having property owned by a company and

16 does it follow from your answers to my learned friend

17 that that is quite a normal and usual thing for someone

18 to purchase a property through a company name?

19 A. That is common practice in the Turks & Caicos.

20 Q. I think you referred to your mother's -- the property

21 you purchased for your mother being in a company --

22 A. She lives there, yes.

23 Q. It can be a property for purely personal use. It can be

24 bought in a company's name and that is perfectly normal?

25 A. Yes, that is normal here in the islands.

1 Q. So the fact that the Premier's property was bought in
2 a company name, nothing sinister in that at all?

3 A. That is normal. I am sure most persons in this room has
4 got their properties in company's names.

5 Q. I think the suggestion was being made that that might be
6 because something was being hidden, but if we look at
7 something like the Premier's property, Belview or
8 Villa Del Ray, I think it used to be called. No one
9 would be in any doubt as to who owned his property?

10 A. I would assume so. I have not seen his structure.

11 Q. If I could just move on, you were asked a number of
12 questions and you volunteered evidence about the series
13 of loans from the Premier, the total funding, within
14 the region of about 1 million, is that right?

15 A. Yes, sir, that is right.

16 Q. Just dealing with that, that was nothing other than
17 straightforward loans from the Premier who you had
18 approached as a friend?

19 A. Yes, that is correct.

20 Q. Not connected with any other transaction?

21 A. No, sir.

22 Q. And nothing corrupt or improper about him making those
23 loans to you as a friend?

24 A. No, sir.

25 MR FITZGERALD: Thank you very much. I have no further

1 questions.

2 SIR ROBIN AULD: Thank you, Mr Fitzgerald. Mr Saunders.

3 Cross-examination by MR SAUNDERS

4 MR SAUNDERS: Good afternoon, sir. I wish to rely on

5 a bundle of documents.

6 SIR ROBIN AULD: I am asking you simply at the moment

7 whether you want to ask Mr Hanchell any questions.

8 MR SAUNDERS: Yes, sir, I wish to ask Mr Hanchell a few

9 questions but what I would like for him to do is to run

10 his eye over these documents.

11 SIR ROBIN AULD: Do we have copies of these?

12 MR SAUNDERS: I have multiple copies.

13 SIR ROBIN AULD: Has Mr Milne got copies?

14 MR SAUNDERS: No, he doesn't, but I can provide him with

15 them.

16 SIR ROBIN AULD: Does any other parties officially

17 interested in it have copies too? We are looking at

18 a bundle which has as its first page a certificate of

19 incorporation of an exempted company in the name of

20 East Harbour Directors Limited, is that right?

21 MR SAUNDERS: Yes, sir.

22 SIR ROBIN AULD: That is the bundle. Thank you. Yes,

23 Mr Saunders.

24 MR MILNE: Sir, might I just check. You said East Harbour

25 Directors Limited. I have East Harbour Nominees

1 Limited.

2 MR SAUNDERS: There is a second page, sir.

3 MR MILNE: Yes, that also says East Harbour Nominees.

4 MR SAUNDERS: Yes, that also says East Harbour Nominees.

5 MR MILNE: They are both identical. They are East Harbour

6 Nominees?

7 MR SAUNDERS: I believe they are -- they are different.

8 A. You can have mine because I have two.

9 MR MILNE: It may be that I have got both of the nominees

10 and the Commission has both of the directors sheets.

11 MR FITZGERALD: Yes, I have two Harbours.

12 MR SAUNDERS: My apologies. (Pause)

13 SIR ROBIN AULD: I am going to call this bundle Hanchell 5.

14 H5.

15 A. That is fine. I gave Mr Milne my copy (Pause) (Handed)

16 SIR ROBIN AULD: Are you missing your own bundle,

17 Mr Saunders?

18 MR SAUNDERS: The documents got mixed up. Apologies.

19 SIR ROBIN AULD: All our bundles, I hope, start with

20 the certificate for East Harbour Directors Limited.

21 MR SAUNDERS: Minister, do you recall the suggestion of

22 Mr Milne that the lender was a shell company set up by

23 you as a conduit for loans?

24 A. I do recall words of similar --

25 SIR ROBIN AULD: Which lender?

1 MR SAUNDERS: East Harbour Nominees, sir. Can you look at
2 the documents provided to you. It is the certificates.
3 A. Yes, sir.
4 Q. Have you the -- the dates of incorporation. It is right
5 at the bottom of the document.
6 A. They both say -- yes, sir, they both say it is
7 January 10th 2000.
8 Q. Sir, when were your transactions with Saunders & Co?
9 A. I would have to refer to the binder, I can't remember.
10 Q. Approximately what year?
11 A. From the top of my head, I prefer to refer to
12 the binder, I want to be precise.
13 SIR ROBIN AULD: If you know from the documentation, put
14 the date to him, Mr Saunders.
15 MR SAUNDERS: It was around 2007. I think that is
16 sufficiently precise.
17 MR MILNE: Sir might I raise one issue. I apologise if
18 I have misunderstood the status of Mr Saunders but
19 I believed he was here representing the PNP. From
20 looking at the documents we have been provided with and
21 indeed from the questions that have begun, whilst
22 the questions themselves may be legitimate, it seems,
23 with respect, somewhat odd they come from Mr Saunders
24 since they have no bearing whatsoever on his
25 professional clients and they appear to be asked on

1 behalf of his firm.

2 SIR ROBIN AULD: I have only looked at the first page so

3 far. What do you say about that?

4 MR SAUNDERS: Sir, my apologies, that is absolutely correct.

5 Under section 7 of the Commission of Inquiry Ordinance,

6 anyone concerned in the subject matter of an Inquiry is

7 entitled to representation, sir.

8 SIR ROBIN AULD: Yes.

9 MR SAUNDERS: Yesterday, literally about five minutes after

10 the hearings yesterday, I received at least four or five

11 text messages, probably ten calls in relation to

12 the inferences flowing from at least 15 pages of

13 examination of the minister in relation to his loans.

14 This both concerns the -- concerns Saunders & Co, brings

15 them directly --

16 SIR ROBIN AULD: Concerns whom?

17 MR SAUNDERS: Saunders & Co, the firm dealing with the loans

18 and it goes to the heart of the transaction with

19 the minister. So it is it is an appropriate subject for

20 discussion and cross-examination.

21 SIR ROBIN AULD: But on whose behalf are you acting in

22 putting these questions? You are acting on your own

23 behalf?

24 A. Yes, sir.

25 SIR ROBIN AULD: You are intervening as a party and

1 appearing on behalf of yourself?

2 MR SAUNDERS: On behalf of the firm, sir.

3 SIR ROBIN AULD: Well, section 7 concerns any person whose

4 conduct is the subject of an Inquiry or who is

5 implicated or concerned within the subject matter of the

6 Inquiry should be entitled to be represented by

7 the attorney in the Inquiry. That is the provision to

8 which you have referred isn't it?

9 MR SAUNDERS: Yes, sir.

10 SIR ROBIN AULD: The purpose of that provision, it is for

11 the Commission to determine whether the conduct of any

12 person is the subject of the Inquiry, or whether

13 a person is in any way implicated or concerned in

14 the subject matter. There is one or two steps it take

15 before you stand up and request questions on behalf of

16 yourself, in the middle of evidence which is nothing, on

17 the face of it, to do with that provision.

18 MR SAUNDERS: Sir, my apologies, I thought it was very clear

19 that there was a -- that it was --

20 SIR ROBIN AULD: I thought you were here only as counsel for

21 the PNP, not as a litigant in person, so to speak.

22 MR SAUNDERS: Sir my apologies for not making that clear.

23 SIR ROBIN AULD: I am not going to stop you asking questions

24 but I think it ought to be done properly and at the

25 proper time and not in the middle of examination of

1 Mr Hanchell on the topic of his evidence.

2 MR SAUNDERS: Sir, with respect, it goes to the heart of

3 Mr Hanchell's evidence. Mr Hanchell's evidence and one

4 of the central pillars of it relates to loans that he

5 has taken out with Saunders & Co. The issue was dealt

6 with in extraordinary detail, well over ten pages, by

7 Mr Milne.

8 SIR ROBIN AULD: You are saying Mr Milne's suggestion that

9 there might have been something sinister about you

10 providing a loan on behalf of other people, if that were

11 the case, makes you someone who is implicated in or

12 the subject matter of the Inquiry?

13 MR SAUNDERS: I would not say implicated. The word I would

14 use is concerned. It is a word that is actually used in

15 the ordinance.

16 SIR ROBIN AULD: Then you need to ask me whether that is

17 the right way to go about it and subject to what

18 Mr Milne says, given his line of examination yesterday,

19 you may be right about that. But I think it is not

20 really appropriate for you to intervene in the way you

21 have for the moment. Would you mind letting us get to

22 the end of the line and then coming back to the way in

23 which your concern should be dealt with?

24 MR SAUNDERS: Sir, I have no problems with that. But

25 I don't believe anyone else has any --

1 SIR ROBIN AULD: It is just a question of making sure we all
2 know what you are doing and in what capacity, that is
3 all.

4 MR SAUNDERS: The suggestion is taken, sir.

5 SIR ROBIN AULD: Mr Wilson?

6 MR WILSON: No questions from me, sir.

7 SIR ROBIN AULD: I missed Mr Carlos Simons.

8 MR SIMONS: No questions.

9 MR WILSON: No questions, sir.

10 SIR ROBIN AULD: What has happened to Mr Oliver Smith? Did
11 he say he had no questions?

12 MR MISICK: He did say that earlier on.

13 SIR ROBIN AULD: Counsel to the attorney?

14 MS BROOKES: No questions.

15 MS WILLIAMS-GLINTON: No questions.

16 SIR ROBIN AULD: We got to the end of the line, Mr Milne.
17 Mr Saunders is saying that I should regard him as
18 a person whose conduct is the -- concerned in
19 the Inquiry in the words used in section 7, subsection 1
20 and on that account I should give him leave to appear
21 for himself as an attorney to ask Mr Hanchell questions
22 about that matter.

23 MR MILNE: Sir, one thinks immediately of the common dictum
24 about lawyers appearing on behalf of themselves, but it
25 seems to me that the matters that are being put would be

1 more appropriately put, if indeed evidence were to be
2 given on behalf of Saunders & Co as to their role in
3 this matter. If the Commission thought that
4 appropriate.

5 SIR ROBIN AULD: That was a matter that had begun to occur
6 to me before this point was raised this afternoon.

7 Mr Saunders, there is a difficulty for you acting
8 for yourself, as there so often is. You are a potential
9 witness on this matter. In fact you are the person best
10 equipped to be able to say what your role was and on
11 whose behalf you were acting or nobody at all. For you
12 to appear as an attorney for yourself, putting questions
13 on a matter to which you have the most direct answer, is
14 on the face of it rather unusual.

15 MR SAUNDERS: Sir --

16 SIR ROBIN AULD: You might find yourself on the receipt of
17 a summons to give evidence about the matter.

18 MR SAUNDERS: Sir, I am representing my firm. I appreciate
19 what you have said and it is taken on board. Again,
20 the inference made by the statement of Mr Milne is one
21 that is not well taken. I was only shocked by
22 the length of the examination in relation to the loans
23 yesterday when I had a barrage of forwarded e-mails,
24 telephone calls, links forwarded to me in relation to
25 statements made about that, and even you, sir, at one

1 point stepped in and said where is this going?
2 The natural inference to that is that this is something
3 unusual. I think, sir, that there is a right in
4 the ordinance to shed a fair and balanced light on
5 exactly what is occurring and the documents here do
6 that. That was done yesterday.

7 The problem with waiting, or whatever you are
8 suggesting, is that with time these things mushroom.
9 Yesterday, there were probably 20 or 30 text messages,
10 e-mails, et cetera, articles written in different
11 newspapers with inferences. Walking up and down
12 the stairs today, I had certain sarcastic comments made.
13 So with time, with further delay, the unbalanced and
14 skewed nature of the cross-examination is only going to
15 do further and irreparable damage.

16 SIR ROBIN AULD: Wouldn't you be better off throwing light
17 on it by giving evidence about it? Where a person who
18 is involved in the subject matter of an Inquiry himself
19 or herself appears as an attorney for one or other of
20 the parties in it, this sort of problem arises.

21 MR SAUNDERS: I appear on behalf of my firm and at the very
22 minimum I would appreciate it if --

23 SIR ROBIN AULD: You also appear on behalf of the PNP, it
24 seems.

25 MR SAUNDERS: I appear on behalf of both. But what I am

1 saying, sir --

2 MR MISICK: I just wonder if maybe we could have

3 a five-minute adjournment. I think there are some --

4 I take the point --

5 SIR ROBIN AULD: You would like to have a discussion with

6 Mr Saunders?

7 MR MISICK: Yes, I think we may be might be able to resolve

8 this to everyone's satisfaction.

9 SIR ROBIN AULD: I don't want to stop Mr Saunders correcting

10 what he regards as an injustice. It is just a slightly

11 unusual way of going about it and it may not be the best

12 way for him. Are you content for me to adjourn shortly

13 and for you to have a word with your professional

14 colleagues?

15 MR SAUNDERS: Yes, sir.

16 (2.30 pm)

17 (A short break)

18 (2.35 pm)

19 SIR ROBIN AULD: Mr Misick, you have something to say?

20 MR MISICK: No, no.

21 SIR ROBIN AULD: Mr Saunders, I have had an opportunity to

22 look at the bundle now that you have just handed in and

23 apart from the first two certificates of incorporation,

24 the remainder of it appears to consist of a brochure

25 about your firm and its various members setting out

1 the range of practice and their respective experience.

2 MR SAUNDERS: There is one addition that I mention. There

3 are advertisements that is published publicly that

4 indicates --

5 SIR ROBIN AULD: Yes. You have had your discussion with

6 Mr Misick. What do you propose now?

7 MR SAUNDERS: Mr Misick will examine further Mr Hanchell in

8 relation to matters arising out of his

9 examination-in-chief. I will sit, sir and remain quiet.

10 SIR ROBIN AULD: You have no other questions of your own

11 which you wish to ask on behalf of the PNP of

12 Mr Hanchell?

13 MR SAUNDERS: No, sir.

14 SIR ROBIN AULD: Thank you. Mr Misick, would you like to do

15 that now?

16 MR MISICK: Yes, with your leave.

17 SIR ROBIN AULD: Are you acting for Mr Saunders in this

18 role?

19 MR MISICK: No, sir. I am acting for Mr Hanchell. These

20 are documents which I -- had I had them I would have

21 been able to show them to Mr Hanchell.

22 SIR ROBIN AULD: Thank you. You are content with that,

23 Mr Milne? You have nothing more to say about this?

24 MR MILNE: I have no problem about that, sir.

25 SIR ROBIN AULD: Thank you.

1 MR MISICK: Mr Hanchell, you have seen the documents and

2 I think you have answered the first question,

3 East Harbour Directors and East Harbour Nominees were

4 incorporated in 2000 and your transaction with

5 Mr Saunders was in 2007.

6 A. Yes, sir.

7 Q. Therefore the companies that were the nominee lenders,

8 if you like, would not have been set up specifically for

9 the purposes of your loans, is that correct?

10 A. That is correct.

11 Q. Now, you know Mr Saunders, is that correct?

12 A. Yes, sir.

13 Q. And do you know of his reputation as a lawyer?

14 A. Yes, sir.

15 Q. Have you done business with him acting in his capacity

16 as a lawyer on your behalf?

17 A. Yes, sir. I have borrowed these monies.

18 Q. Do you know of any reason why, when you approached him

19 to provide you with this loan, that he would have

20 obtained the proceeds which he loaned to you in any

21 corrupt or dishonest way?

22 A. No, sir.

23 Q. Now, you have seen Mr Saunders' brochure and one of the

24 things, you will see that at page 5, in the section

25 called "Lenders".

1 A. Yes, sir, at the bottom. Yes, sir.

2 Q. So were you aware that he acted for private lenders, at
3 the time when you approached him?

4 A. No, sir, I didn't know who he acted for.

5 Q. Did you know of his -- of some of his -- of the
6 reputation of some of his clients?

7 A. No, sir, I have not had a reason to go into that.

8 Q. Did you have any reason to suspect that the funds that
9 he was providing for you would have come from any
10 illegal or suspect source?

11 A. No, sir, I had no reason to.

12 MR MISICK: Thank you. I don't think I can take it any
13 further than that, sir.

14 SIR ROBIN AULD: Thank you, Mr Misick, and thank you for
15 your help in that respect. Mr Saunders, before we pass
16 on from this, I should tell you that if you wish to
17 throw any more light on this matter as a witness, and to
18 explain the loan and how it came about and those who
19 were or who were not behind it, the Commission will give
20 you time to do so. So you may give evidence about this
21 if you notify us if you wish.

22 MR SAUNDERS: Thank you, sir.

23 SIR ROBIN AULD: You are the best person to throw light on
24 it, as I have said.

25 Now, Mr Smith.

1 MR SMITH: I still don't have any questions.

2 SIR ROBIN AULD: I am sorry?

3 MR SMITH: I still do not have any questions.

4 SIR ROBIN AULD: Thank you. I had forgotten I had asked
5 you. Mr Carlos Simons, none?

6 MR SIMONS: I have no questions.

7 SIR ROBIN AULD: And I think there were none at the end of
8 the line. Mr Rigby?

9 MR RIGBY: No.

10 SIR ROBIN AULD: Mr Milne.

11 Cross-examination by MR MILNE

12 MR MILNE: Minister, in light of the last comments that were
13 made, of course your evidence is that everything that
14 went on between yourself and Mr Saunders was above board
15 and that there is nothing to be hidden.

16 A. Yes, sir.

17 Q. I am sure that in the event that Mr Saunders chose to
18 give evidence, you would be happy for him to answer all
19 appropriate questions?

20 A. That is a matter for him when he gives evidence.

21 Q. That is also a matter for you. You would have to waive
22 your legal privilege. Would you be doing that?

23 A. I am not sure what that means. I would have to consult
24 with my counsel.

25 Q. It would simply mean that you would not object to him

1 revealing any correspondence or communication between

2 you and him in relation to these matters?

3 A. No, sir, I don't see why I would object.

4 Q. Right, thank you. Let me go back very briefly to a very

5 small number of matters that have arisen from

6 the discussions over the last couple of days. You were

7 asked by Mr Misick QC on your behalf about gifts

8 declared and you told the Commission that when you were

9 filling out your returns to the Registrar of Interests,

10 and I will be corrected if my note is slightly out, but

11 essentially that you felt gifts declared did not mention

12 or incorporate political donations, and you took it to

13 mean presents, gifts of substantial amounts, and you

14 didn't think that political donations were included?

15 A. Yes, I said I didn't think that political donations was

16 a part of it.

17 (2.45 pm)

18 Q. If we look, however at red bundle 1, to your left-hand

19 side. Behind tab 7.

20 SIR ROBIN AULD: This is red 6, is it?

21 MR MILNE: Red 1, sir, but tab 7.

22 A. Which page, sir?

23 Q. It would be page 13 of that. The document as a whole is

24 the Registration of Interests Ordinance. This is

25 the law that relates to disclosure by ministers and

1 indeed elected officials of their interests.

2 A. Page 13, right?

3 Q. 13. The question that is answered in each case is

4 number 4:

5 "Financial sponsorships, gifts et cetera below give
6 details of any material benefits received as a candidate
7 or member of the Legislative Council."

8 As it then was. The nature of the benefit is set
9 out. There is a small rider:

10 "For the purposes of this paragraph material means
11 a benefit valued at \$10,000 or more."

12 You didn't think that the first words there,
13 "financial sponsorships", in any way related to
14 political donations?

15 A. No, sir.

16 Q. What would financial sponsorships be if they were not
17 political donations? What would it mean?

18 A. I am not certain, sir. I have not dwelled on that
19 because it is my understanding throughout my
20 declarations as I have, I don't believe I have ever
21 filled that, I am not certain, sir.

22 Q. Let me reassure you, you have not filled it in at any
23 stage because we have got your forms for the last few
24 years and at no point does it mention it. But could you
25 not say what it was that you would have put in there?

1 Would you agree it must be there for a reason? What did

2 you think the reason was?

3 A. I really don't know, sir. I tell you the truth, I never

4 dwelled on that particular section. I just haven't

5 dwelled on that particular section.

6 Q. Let's put that to one side and move on to a different

7 subject. You gave evidence this morning, when asked by

8 your counsel about the issue of Caicos Oil?

9 A. Yes, sir.

10 Q. As to the need that there was within the government for

11 some form of reserve, because you said at times there

12 had been a shortfall of gasoline, and indeed at times

13 I think the country had been down to -- the Territory

14 had been down to one day's supply?

15 A. No I said diesel for PPC, the power company in Provo.

16 They have had a history of 24 hour supplies.

17 Q. That must be a problem that the government would be

18 concerned about?

19 A. The government should be concerned about it, but I am

20 speaking from my business, because we have been called

21 on from time to time to assist whoever the supplier is

22 with that shortage of supply.

23 Q. But you are in government, you are in the Cabinet, you

24 have been there now for five years; whose department

25 does this come under?

1 A. Utilities is under Minister Hall, that is Jeffrey Hall,

2 who works in utilities and stuff like that.

3 Q. If you were aware of it, then Minister Hall must have

4 been aware of it as well?

5 A. I would assume he should be aware of it, if there is

6 a constant dialogue with his office and the power

7 company.

8 Q. What studies or analysis are you aware of the government

9 doing about this problem? What efforts have they made

10 to address it in the past as government rather than as a

11 commercial enterprise?

12 A. I am not aware, sir.

13 Q. So the government, whilst they may have thought it

14 important, did nothing about it until you approached

15 them?

16 A. Come again, sir?

17 Q. The government may have thought it important but to the

18 best of your knowledge, they did nothing about it until

19 you approached them?

20 A. No, sir, the expansion that we eventually proposed to

21 Cabinet was always a part of our business development

22 and it is part of my vision.

23 SIR ROBIN AULD: But that is not an answer to Mr Milne's

24 question.

25 A. Maybe I didn't understand it, sir.

1 SIR ROBIN AULD: Put it again, Mr Milne.

2 MR MILNE: What was it -- forgive me, sir, I will try to
3 find my precise words. The question I asked you,
4 Minister, was this: the government may have thought it
5 important but to the best of your knowledge, they did
6 nothing about it until you approached them? Was that
7 correct?

8 A. They did nothing about what?

9 Q. About the potential shortage of fuel.

10 A. Well, I am not sure if the potential shortage of fuel,
11 I don't understand how government rules play in that,
12 unlike other countries, like the US and maybe the UK.
13 I know for sure while watching the television and
14 the knowledge that the US Government has fuel reserves,
15 but I am not aware that there are fuel reserves in
16 the Turks & Caicos Islands.

17 So I am not too sure how government will deal with
18 fuel reserves. Government has absolutely nothing to do
19 with the fuel reserves that my company has.

20 SIR ROBIN AULD: Are you saying that it was never discussed
21 in Cabinet or in formal governmental gatherings: we
22 can't go on like this, we must establish some more
23 suitable, reliable means of supply of gasoline and other
24 fuels? Was it never discussed?

25 A. I can't recall in Cabinet we discussed that we can't

1 rely on whoever the fuel suppliers are on the island.

2 SIR ROBIN AULD: So your proposal for Caicos Oil was

3 the first intrusion of that topic into governmental

4 discussion, was it?

5 A. I cannot say that. What I can say is that I have never

6 sat in on any proposals at Cabinet for what my company

7 has proposed to government.

8 MR MILNE: Because the tenor of your evidence to

9 the Commission is that you are proposing a sensible,

10 practical solution to a longstanding problem but if that

11 were the case, there would be some documentation of

12 the problem and of debate within Cabinet or indeed

13 within the House of Assembly saying, in essence, this is

14 something that needs to be addressed. I am just looking

15 for pointers, sir, as to where we would find that

16 problem documented.

17 A. Sir, I am not the minister in that area so I would not

18 know -- I don't recall but, sir, with the greatest

19 respect, I am being drilled with questions for my

20 vision. I can't help that others have vision over

21 things and others may not. I am talking from my private

22 sector perspective.

23 Q. You see, you now say that you are talking from your

24 private sector perspective, and it is your vision, but

25 the nature of the evidence you had given hitherto

1 appeared to be that this was for the good of the
2 country, that this was effectively addressing a problem
3 that was well known and had clearly not been addressed
4 by anybody else and you were stepping in. What I am
5 suggesting to you is, clearly, this was for the good of
6 your company, but it is a problem that doesn't exist, as
7 far as the country is concerned, because it has not been
8 raised by anybody else.

9 A. Sir, I can't speak for anybody else. My company, which
10 has a majority interest that you and the public knows,
11 we are in the business to supply fuel.

12 SIR ROBIN AULD: But you are not grappling with the point.

13 You were there as a member of a government responsible
14 for --

15 A. I was where, sorry?

16 SIR ROBIN AULD: You were there as a member of a government
17 responsible for maintaining a regular supply of adequate
18 fuel for these islands. You had a collective
19 responsibility. You had a colleague, Mr Jeffrey Hall,
20 who had it as one of his particular responsibilities.

21 Are you seriously saying you never took part in or were
22 aware of any governmental discussion about this problem
23 and the need to address it?

24 A. Sir, what I am seriously saying is that, as it relates
25 to a shortage and I mentioned that of PPC, having

1 24 hour supply, it is simply the fact that they have
2 called on our company or the supplier from time to time
3 to supply them with fuel because they ran out of fuel
4 and as competitors and in the national interest, and we
5 are in the business to make money and we sold them
6 the fuel. My proposal, the government has nothing to do
7 with PPC supplier not having the adequate supply, that
8 they may have their own agreement with the supply. I am
9 in the business, sir, to sell fuel and whosoever wants
10 to buy fuel, I am going to sell them fuel and any
11 businessman should want to expand their business.

12 SIR ROBIN AULD: I don't think you are going to get
13 an answer to your question, Mr Milne. You had better
14 move on.

15 MR MISICK: I was just going to say if the suggestion is
16 that Mr Hanchell had insider knowledge --

17 SIR ROBIN AULD: No, no. It was nothing as sinister as
18 that. Simply that as a member of a government
19 responsible for the provision of ready supplies of fuel
20 to its Territories, there seemingly never was any
21 discussion of it to which he was a party or aware of as
22 a member of the government. Nothing more sinister than
23 that.

24 MR MISICK: In this case there is no government
25 responsibility for the supply of fuel.

1 SIR ROBIN AULD: Of course not.

2 MR MISICK: It is all private sector activity.

3 SIR ROBIN AULD: Well, Mr Milne has put his question and we

4 have had the answers we have had. Thank you.

5 MR MILNE: Moving on to a slightly different topic, if you

6 could turn to bundle 2 of your papers.

7 A. I have it.

8 Q. That bundle is getting thicker and thicker because we

9 keep inserting papers in the back and it is in that

10 final section at the back that I would like you to look

11 at, page 53. You should find, I hope, the South Caicos

12 PNP fund?

13 A. Yes, sir.

14 Q. And it is the ledger for that fund?

15 A. Yes.

16 Q. That we were provided with by your attorneys --

17 MR SAUNDERS: Sorry, sir.

18 SIR ROBIN AULD: Yes, Mr Saunders.

19 MR SAUNDERS: Sir, this relates to matters that I wish to

20 make submissions on in relation to PNP accounts and

21 the --

22 SIR ROBIN AULD: This was a matter you canvassed before,

23 wasn't it?

24 MR SAUNDERS: Yes, sir. At the time I had been drawn in

25 with a little less than an hour and a half notice.

1 I had made submissions that I had not had an opportunity
2 to prepare and consider the law and reflect on it.
3 The submissions I intend to make, I requested I make
4 this morning at the beginning of the day, is that it is
5 unconstitutional, the request to turn over the PNP
6 records.

7 I had --

8 SIR ROBIN AULD: What is unconstitutional?

9 MR SAUNDERS: What is unconstitutional?

10 SIR ROBIN AULD: What is unconstitutional?

11 MR SAUNDERS: The summons, the request for the PNP --

12 SIR ROBIN AULD: Are you saying it was the request or
13 the summons?

14 MR SAUNDERS: Sorry, the request. The PNP handed over
15 the documents under objection.

16 SIR ROBIN AULD: They didn't hand them over under objection.

17 Mr Floyd Hall agreed that the documents could be
18 collected from his house, and they were that afternoon
19 with his consent, and Ms Akierra Missick, acting as
20 Secretary General, it seemed to me, on behalf of the
21 PNP, acquiesced in the collection of the other set of
22 documents from the PNP offices. No summons was served
23 or executed. This was done with the consent, so far as
24 the Commission was aware, of the PNP acting through
25 those who were here legally on its behalf.

1 MR SAUNDERS: Sir, the documents are not the documents of
2 Mr Floyd Hall. The documents are the documents of the
3 PNP. He has no authority to agree to turn them over.
4 SIR ROBIN AULD: I think you are going to have to satisfy me
5 that you appear properly instructed on behalf of the PNP
6 acting with one voice.
7 MR SAUNDERS: Sir, Mr Floyd Hall is the Treasurer of the
8 PNP. That is the office he holds with the PNP.
9 The Treasurer of the PNP has no authority to speak on
10 behalf of the PNP or to make decisions in relation to
11 the PNP. My instructions are from the Chairman of the
12 PNP.
13 SIR ROBIN AULD: Mr Don-Hue Gardiner.
14 MR SAUNDERS: Mr Don-Hue Gardiner, who is the most senior
15 officer of the PNP. Those instructions were given on
16 Wednesday when I appeared objecting to the turn-over of
17 the documents. They were confirmed literally about
18 an hour ago and probably about an additional hour and
19 a half through the secretary. So my instructions are
20 clear and it comes from the highest --
21 SIR ROBIN AULD: They come now, but at the time when
22 the Commission was dealing with the matter, we had here
23 the Secretary General of the PNP and we had its
24 Treasurer and in both respects consent was given to
25 the production of these documents. What is

1 the objection to the production of the PNP documents?
2 What is the constitutional point?
3 MR SAUNDERS: The constitutional point is that individuals
4 in the Turks & Caicos Islands have a right to privacy
5 for their property and their information.
6 SIR ROBIN AULD: Have you looked at section 8 of the
7 constitution?
8 MR SAUNDERS: I have looked at section 8.
9 SIR ROBIN AULD: And section 12?
10 MR SAUNDERS: I have looked at section 8 and section 12.
11 There are a number of exceptions to that right, but
12 the exceptions to that right don't apply in this
13 situation.
14 In addition to that, the documents are not
15 the documents of the parties involved. The authority to
16 turn over the documents even in the Commission of
17 Inquiry Ordinance does not apply.
18 (3.00 pm)
19 SIR ROBIN AULD: Whose documents are they?
20 MR SAUNDERS: They are not the documents of Floyd Hall.
21 SIR ROBIN AULD: Whose documents are they?
22 MR SAUNDERS: They are the documents of the PNP.
23 SIR ROBIN AULD: The PNP now decides it doesn't want
24 the Commission of Inquiry to have these accounts?
25 MR SAUNDERS: Sir, it has always been the position of the

1 PNP that they have objected to the turn-over of these
2 accounts. It was actually made very clear that in
3 relation to any of the information, any of the
4 discussion, there is an objection to it. It is
5 a fundamental objection. It is a fundamental objection
6 contains within, in addition to -- within section 1 of
7 the constitution.

8 SIR ROBIN AULD: Constitution of what?

9 MR SAUNDERS: The Turks & Caicos Islands, dealing with the
10 right to privacy to an individual person's property and
11 information.

12 SIR ROBIN AULD: Let's see what Mr Smith has to say first
13 about this. You appeared for Mr Floyd Hall, Mr Smith.

14 MR SMITH: Yes.

15 SIR ROBIN AULD: Mr Floyd Hall agreed that these documents
16 could be produced ostensibly in his position as
17 Treasurer, high office in the PNP.

18 MR SMITH: I think Mr Floyd Hall was in a position maybe,
19 had no choice but to agree, because if the Commission
20 remembers at the time when the Commission addressed
21 the question of the PNP records, you had basically --
22 I don't want to say threatened, but you had basically
23 threatened the issuance of a summons.

24 SIR ROBIN AULD: I said I would issue a summons if necessary
25 and then asked him if he would consent.

1 MR SMITH: And those documents should have been produced by
2 sundown.

3 SIR ROBIN AULD: So you take the same stance as Mr Saunders
4 in short, do you?

5 MR SMITH: Yes.

6 SIR ROBIN AULD: Ms Akierra Missick, if you don't mind, and
7 if Mr Misick doesn't mind my addressing you: you had
8 some concern in this matter when the other set of papers
9 were produced from the party's offices.

10 MS MISSICK: Yes, sir. My instructions to Mr Saunders
11 concurred with that of the Chairman of the party. So
12 I accept Mr Saunders' point.

13 SIR ROBIN AULD: It is a great shame that you didn't so
14 indicate when you were requested as to whether these
15 papers could be produced last week.

16 MS MISSICK: In all due respect, sir, we were not able to
17 seek advice from counsel on this matter. I am just
18 a mere member of the executive body and I cannot speak
19 on behalf of the body solely. Now we are a collective
20 and we have made a decision and hence Mr Saunders being
21 instructed.

22 SIR ROBIN AULD: You want them back effectively? You want
23 the papers back?

24 MS MISSICK: Well, they are the property of the PNP. In
25 relation to when I was asked to provide certain

1 documents, sir, they were in relation to the minute
2 explaining that the Premier was granted a salary and
3 the minute from that meeting of 2002, and I said that
4 the minutes of the party are kept at the office
5 manager's office and she was overseas. I knew nothing
6 about financial accounts at that time, sir, or
7 the location of those accounts.

8 As I read through the transcripts of this week,
9 I noticed that what I had said had been taken out of
10 context and related to accounts, and hence the party
11 seeking counsel's advice on my submission made earlier
12 in the Premier's evidence, sir.

13 SIR ROBIN AULD: So the stance of the PNP is that it doesn't
14 want the Commission to have either originals or copies
15 or even keep in its mind what it has read of the flow of
16 money into and out of the PNP's bank accounts?

17 MS MISSICK: Sir, I will have to sit and let Mr Saunders
18 deal with this point. He is advising us now.

19 SIR ROBIN AULD: Thank you very much. He is not going to
20 deal with it now. We are going to have to adjourn this
21 particular aspect and I don't know how much, Mr Milne,
22 you are going to spend on this particular aspect,
23 I imagine quite shortly?

24 MR MILNE: It was going to be quite short, sir, and in fact
25 I would draw a distinction in any event because this is

1 not the documentation handed over by the Honourable
2 Deputy Premier. These are documents provided to
3 the Commission voluntarily by this witness and in
4 respect of which he has volunteered information and we
5 propose to simply ask him to clarify one or two points.

6 My question in fact arises from earlier questions asked
7 of him, and since he has now provided the greater
8 detail, I simply wish to clarify one of those details.

9 I am not, with respect, in agreement with my learned
10 friend that the PNP, even if their argument held good,
11 as regards the national party accounts, is in a position
12 to step in in relation to a bank account opened, we are
13 told, by this witness, the minister for natural
14 resources, to run effectively his own campaign.

15 SIR ROBIN AULD: It looks as if we are going to have to
16 adjourn the broader question, which is one that may not
17 arise this afternoon as it turns out. What do you have
18 to say about the narrower point that Mr Milne has just
19 made?

20 MR SAUNDERS: In relation to that point, Mr Milne can't have
21 it both ways. The clear inference in this line of
22 cross-examination is that the funds in those accounts
23 are not the funds of the minister, and the minister is
24 not authorised to use them willy nilly as he wishes for
25 his personal purposes. So it is not his funds.

1 The suggestion and the inference is that they are
2 the funds of the party. They are the party's funds to
3 be used for party purposes.

4 If it is the party's fund, it is the party's bank
5 account and the party is entitled to its confidentiality
6 in relation to the bank account. My submission is
7 Mr Milne can't have it both ways.

8 SIR ROBIN AULD: The suggestion is that it is not so much
9 the party's fund but it is being used by certain members
10 of the party as a way of making and/or receiving
11 personal bribes. That, if true, is a criminal offence.
12 And if that is the case, then section 8 of the
13 constitution requires that the document should be
14 available in evidence.

15 MR SAUNDERS: There is the exception in relation to
16 section 8, relates to an investigation of a criminal
17 nature. Respectfully, sir, this is not an investigation
18 of a criminal nature with the checks and balances,
19 the judicial -- this is an Inquiry which, flowing from
20 that will be a report about an investigation into
21 a criminal matter.

22 SIR ROBIN AULD: This is an investigation into possible
23 criminality which, depending on the report, may result
24 in a criminal investigation in which all these papers
25 will be turned over. Depending on the report.

1 MR SAUNDERS: With respect, sir, that falls far short of
2 an investigation into a criminal nature. It is
3 an Inquiry in relation to evidence that may result in
4 an investigation of a criminal nature.

5 SIR ROBIN AULD: I think this is --

6 MR SAUNDERS: It doesn't meet, sir, with respect, the test
7 in the constitution.

8 SIR ROBIN AULD: I am not going to take any more time this
9 afternoon on this point. We will adjourn this issue.
10 We will have to set aside a considerable amount of time
11 to deal with it and have it argued fully. If the party
12 is not prepared to disclose its accounts for this
13 purpose, we will fix a time next week possibly when
14 the hearing may be considered.

15 MR MISICK: Can I say something on the narrow point,
16 certainly Mr Hanchell, again it is not Mr Hanchell's
17 position that he can't answer the question, if Mr Milne
18 wishes to point him in relation --

19 SIR ROBIN AULD: I understood Mr Hanchell was quite content
20 for any of his matters to be disclosed if need be.

21 MR MISICK: Yes. Certainly in relation to the document that
22 Mr Milne --

23 SIR ROBIN AULD: As was Mr Floyd Hall, as was the Premier.

24 MR SMITH: I just want to make one clarification. We can
25 deal with that later as the Commission rightly suggests,

1 but I think the Commission classified my client as
2 consenting to the release of the document and I don't
3 think that is what occurred. I think what occurred was
4 at a point in time when the Commission had ordered
5 the documents to be produced, he indicated that he had
6 them, and at that particular point in time he indicated
7 it was not in the party's office, I have them. It was
8 at that particular point that the Commission indicated
9 that he should produce them.

10 SIR ROBIN AULD: You misrepresent the matter, Mr Smith. We
11 will go to the transcripts and discuss this next week.

12 Mr Milne, do you have any other questions?

13 MR MILNE: I do, sir.

14 May I take it from your ruling in that case that
15 I can proceed with the question about this particular
16 page?

17 SIR ROBIN AULD: Well, no, Mr Saunders doesn't want you to,
18 so we will have to consider it, I am afraid.

19 MR MILNE: I understood that Mr Misick was consenting to my
20 asking it --

21 SIR ROBIN AULD: I understood that Mr Saunders was not
22 content to act on the basis of Mr Misick's consent.

23 MR MILNE: Well, sir --

24 SIR ROBIN AULD: Try your question and see if Mr Saunders
25 gets up. Let him put the question, Mr Saunders, and

1 then you can see whether it offends the principle.

2 MR MILNE: Minister, you were asked the other day about

3 the contributions that were made to the South Caicos

4 2007 PNP campaign. It was pointed out that

5 a considerable sum in excess of \$300,000 had been

6 contributed in the lead-up to the 2007 election, that is

7 February 2007.

8 A. Yes, sir.

9 Q. I think you were asked about the level of that

10 contribution, which was considered to be somewhat high.

11 If you look at page 53, we see that in fact there are

12 donations that have taken place --

13 SIR ROBIN AULD: What are we looking at on page 53, please?

14 MR MILNE: The easiest way to follow this is --

15 SIR ROBIN AULD: Just identify what the document is for

16 the record.

17 MR MILNE: It is the ledger from the account that is the PNP

18 account or the South Caicos campaign.

19 The easiest way to do this is to look at the second

20 column from the right which is headed "Deposit".

21 MR SAUNDERS: Sir, I am really sorry, I appreciate that some

22 of this information is already in the record.

23 SIR ROBIN AULD: If you object, your objection will stand

24 for now and we will adjourn this matter for more general

25 discussion to a time which will have to be arranged and

1 interposed in the programme next week. Have you any
2 other matters, Mr Milne?
3 MR MILNE: I do, sir, and I can move on from that and come
4 back to it at the appropriate stage.
5 Minister, the next matter that I wish to ask you
6 about is this: the discussion that took place shortly
7 before lunch in relation to Mr Handfield.
8 A. I think that is in bundle, right?
9 Q. You will recall that you were asked questions about
10 Mr Handfield who retired from the position of Chairman
11 of the physical planning board, and you volunteered
12 a number of observations about that gentleman but
13 I think it is clear that we must put all of the
14 criticisms that was he was making and we will give you
15 the opportunity to deal with them. We have those
16 because they were made directly by him, I believe
17 yesterday in a press conference. We have copies of that
18 press release. Sir, they will become pages 133 to 137
19 in the bundle?
20 SIR ROBIN AULD: Which bundle?
21 MR MILNE: Again, it will be bundle 2. We are squeezing
22 a bit at the end.
23 SIR ROBIN AULD: Page 2, thank you.
24 MR MILNE: The very back of bundle 2. I was going to read
25 them to you but it is only fair you should have a copy

1 of this, Minister.

2 SIR ROBIN AULD: Thank you.

3 MR MILNE: Mr Misick, of course, will have a copy.

4 SIR ROBIN AULD: I make these pages 133 and 134.

5 MR MILNE: Through to 137. I don't propose to read it all

6 out. It has been seen on television. It has no doubt

7 been heard on radio but Mr Handfield, so we can be

8 specific about what he says, I am going to read you

9 the first three paragraphs only where he starts by

10 saying that:

11 "My fellow citizens, I address you by way of this

12 press release to inform you of my resignation as

13 Chairman of the physical planning board for the Turks &

14 Caicos Islands after faithfully serving the board and

15 the people of the Turks & Caicos Islands as Chairman for

16 five terms."

17 You agreed, I think in fact, Minister, that you

18 thought it was at least five years and that sounds as if

19 we are talking about roughly the same period?

20 A. Yes, sir.

21 Q. The press release continued:

22 "On several occasions over the last several years,

23 the minister for planning would call me into meetings at

24 which other ministers would have been present and

25 instruct me to call a meeting of the board and to deal

1 with one development or another. In at least one such
2 case, the relevant developer was present at the meeting
3 with the ministers."

4 He continues by saying:

5 "I always felt uneasy with the aforementioned
6 actions by the ministers and in later consulting the
7 physical planning ordinance, I have now come to realise
8 that in fact such actions are contrary to law. In every
9 case immediately after meeting with ministers who would
10 have given me instructions regarding a particular
11 development, I consulted with the Director of Planning,
12 who was charged with advising me on the facts about any
13 particular application, and I guided the board towards
14 making our decisions based on those facts and in
15 accordance with the physical planning ordinance."

16 Later on in the body of the document, he repeats
17 what was said in the letter, which has already been read
18 out, that he could not as a matter of conscience,
19 page 136:

20 "As a matter of my own conscience, I feel no longer
21 able to serve in the capacity of Chairman of the
22 physical planning board under conditions where ministers
23 are pressurising members to hold meetings in
24 contravention of the very legislation under which
25 the boards and the minister's decisions must be taken."

1 Your evidence, this morning, Minister, appeared to
2 be that this was a gentleman who had simply developed
3 a grudge because of some refusal on the part of the
4 government to help him in his private business dealings.
5 (3.15 pm)

6 A. My evidence this morning, sir, to talk about what
7 happened leading up to the meeting that was eventually
8 called and my counsel asked me specific questions that
9 basically relate to if the -- if Mr Handfield was
10 aggrieved. That was my evidence this morning.

11 Q. You see, Minister, I would suggest that there is
12 an element of simply casting around for a reason why he
13 would have made these allegations against you. Clearly
14 the allegation goes beyond the simple incident of
15 December 2008. And whilst there are no names given and
16 indeed no names have been given, you have at least for
17 part of the period when he has served been minister for
18 natural resources. Is that not right?

19 A. Minister for natural resources, yes, I believe I have
20 been a minister at least two years, I think.

21 Q. So it may well be. We have not Mr Handfield before us
22 to ask him these questions as matters stand at the
23 moment, but it would appear that his criticism is not
24 merely several years ago but on several occasions over
25 several years, and clearly in relation to the incidents

1 of December, January 2008 -- that is December 2008,
2 January 2009. So he is saying essentially this was part
3 of a pattern, part of a repeating pattern of pressure
4 placed upon him, put bluntly, sir, by you. You no doubt
5 dispute that characterisation of it?

6 A. I don't accept that characterisation at all.

7 Q. Is it your evidence that this is no more than
8 a disgruntled man making up criticisms of you?

9 A. My evidence was earlier this morning of what happened
10 leading up to the meeting, and why I called the meeting
11 and I called the meeting in the interests of the people
12 of Salt Cay in the dock. I was asked specifically by my
13 counsel if I may know of any grievance that Mr Handfield
14 may have and I believe the record will show that I said
15 it is public knowledge for what he was doing, in terms
16 of I was asked about his employment and so on and so
17 forth, and that end up leading into I believe a specific
18 question, if there is any grievance that I may have
19 known.

20 Q. Can we put that to one side. I have one final area that
21 I wish to ask you questions about. Sir, I am mindful of
22 the time, because it is 3.20. This may take five
23 minutes or more.

24 SIR ROBIN AULD: Why don't you complete it.

25 MR MILNE: I will be as quick as I can in this case, sir, so

1 we can take the appropriate break then.

2 Minister, would you please take core volume 6, which
3 is the red volume to your left-hand side.

4 A. Yes, sir, I got it.

5 Q. I would invite you to turn to tab 5 within that bundle.

6 A. Yes, sir, I have it.

7 Q. You have been asked a number of questions by your
8 counsel in relation to Crown land policy?

9 A. Yes, sir.

10 Q. Clearly Crown land policy is a large area for
11 discussion. The evidence we have heard suggests that it
12 is a continuing area of discussion. There is, putting
13 it neutrally, an ongoing public debate amongst
14 the people and no doubt amongst the government as to
15 exactly how to run the distribution of Crown land; is
16 that reasonable?

17 A. No, that is not reasonable. It is an ongoing discussion
18 from my ministry to improve the distribution and
19 transparency of Crown land by implementing computerised
20 systems, by implementing a Crown lands ordinance, we
21 have already passed in the House of Assembly and I
22 believe the opposition voted for that. They rarely do
23 on anything and in relation to illegal occupation bill,
24 because that is an issue we have in the islands as well
25 where people are illegally occupying land. That is my

1 evidence, sir.

2 Q. So essentially you say that the aim is computerisation,
3 so there are technical problems. Yes?

4 A. No, I would not say there are technical problems.
5 The aim is to have a custom-built computerised system
6 that will manage and allow you to do searches and so on.
7 As you know, most things are computerised these days.
8 The aim is to hopefully have law passed that will put --
9 would support policy and the overall aim is to ensure
10 that there is equality for all and that all Turks &
11 Caicos Islanders are given an opportunity for
12 empowerment. Those are just some of the aims from my
13 perspective of what we are trying to achieve.

14 Q. So, you are aiming to make it more efficient by
15 employing technology?

16 A. Yes.

17 Q. You are aiming to bring in an ordinance which will make
18 the legal position perhaps a little more clear?

19 A. Yes.

20 Q. And you are aiming, you mentioned specifically to take
21 steps to avoid illegal occupation?

22 A. No, there is a bill already passed for illegal
23 occupation. We have something called squatting, are you
24 familiar with that?

25 Q. Yes?

1 A. There is a bill passed in the house that allows
2 the Commissioner of Lands to deal with any person or
3 persons found squatting as part of it.

4 Q. Each of those a laudable aim, but is the truth not this:
5 that there are problems with the implementation of the
6 Crown land policy which are long-term embedded and are
7 well known within government?

8 A. Sir, if I may, I don't think I should be questioning
9 you, but if you can refer me to what problems, maybe I
10 can elaborate for you.

11 SIR ROBIN AULD: It is a simple question, it is a broad
12 question, what do you say?

13 A. I don't accept that there are problems. I accept that
14 in order to try to be more efficient for the general
15 public, in order to have clear transparency, that it is
16 important to put systems in place for the allocation and
17 distribution and to put the issuance of Crown land into
18 law, so that it has no teeth and it provides an avenue
19 for real public scrutiny and hopefully law will define
20 exactly how and what you can't and shouldn't and so on.

21 Q. The report that you have open before you is a report
22 entitled "A Special Report on the Management and
23 Disposal of Crown Land" by the Chief Auditor of
24 March 2008?

25 A. Yes, sir.

1 Q. The Chief Auditor at that time was a temporary
2 appointment, but it was a gentleman called
3 Martin Robinson.

4 A. Yes, sir.

5 Q. Indeed, he was acting Chief Auditor because I think he
6 has since moved on to a different post outside
7 the islands and a new Chief Auditor is in place.

8 SIR ROBIN AULD: Are you going to take him through some of
9 the --

10 MR MILNE: I was going to, sir.

11 SIR ROBIN AULD: I think you were right to perhaps suggest

12 we break a little earlier. We will come back after

13 the short break and you can continue with this.

14 Five/ten minutes, no more.

15 (3.22 pm)

16 (A short break)

17 (3.31 pm)

18 RULING

19 SIR ROBIN AULD: Mr Saunders, Mr Misick and Mr Smith, I have

20 decided that we need to take half a day to hear this

21 matter argued. I have set aside Wednesday morning of

22 next week and if that is convenient to you and to all

23 other counsel who may be interested on the point on

24 behalf of their clients, we shall hear argument on it in

25 the course of that morning. That argument presumably

1 had better be in camera, but I await your
2 representations about that. I shall expect skeleton
3 arguments by midday or lunchtime on Tuesday 27th. Now,
4 Mr Smith, you were going to say something?

5 MR SMITH: Yes. I accept that schedule. My question is in
6 relation to the fact that my client is requested to be
7 back on Monday, and whilst I have some idea from my
8 conversation with Mr Milne as to the questions he
9 intends to ask, it is my anticipation that some of these
10 questions will be broaching the same items in relation
11 to --

12 SIR ROBIN AULD: We shall put Mr Floyd Hall's return back
13 until the resolution of this problem.

14 MR SMITH: Thank you.

15 MR SAUNDERS: Sir, there is one issue flowing from that. If
16 the arguments I put forward are correct, in relation to
17 the constitutional right to retain the documents, then,
18 I should have the documents back now because additional
19 damage will have been done during the period of this
20 afternoon to Wednesday when a decision actually is made
21 on this. So under the circumstances, if we are going to
22 be adjourning this matter for a hearing of the issues,
23 a consideration of the issues, the documents should be
24 returned until the decision has been made.

25 SIR ROBIN AULD: If you were of that concern, you should

1 have sought judicial review when the event occurred.
2 The hearing will be on Wednesday morning as I have
3 indicated. If you are dissatisfied with my proposal and
4 ruling, then you can seek judicial review now.
5 MR SAUNDERS: Sir, it is 3.35 on a Friday afternoon.
6 SIR ROBIN AULD: The point was raised only shortly before
7 now. It should have been raised when it first arose
8 when those instructing Mr Smith and those instructing at
9 that time Mr Floyd Hall were content to have
10 the documents produced to the Commission.
11 MR SMITH: I still take objection to that characterisation.
12 SIR ROBIN AULD: Well you may. There is no need to --
13 the hearing will take place on Wednesday morning,
14 skeleton arguments by midday lunchtime on Tuesday and if
15 you wish to challenge the matter, then of course you are
16 free to do so by way of judicial review.
17 MR SAUNDERS: Sir, with respect, when I was instructed,
18 I had about an hour and a half prior notice to my
19 instructions. I had requested an adjournment, sir, and
20 your response was that the documents either be provided
21 or the door be kicked down to get the documents. I had
22 no opportunity to consider the issues and consider
23 the arguments. The documents have now been turned over
24 and I am requesting that until there is an argument that
25 is fully prepared, where both sides have prepared

1 the argument, that the documents be returned. There is
2 no jeopardy in doing that. The documents have been
3 requested, from my understanding a week beforehand, so
4 if anyone would have wanted to destroy the documents,
5 they could have been destroyed in that period of time.

6 If I am right in relation to the constitutional
7 point, it is inappropriate for the documents to be
8 retained over the weekend. I mean, I have never had
9 a situation where an adjournment had been requested on
10 the first instance in over a decade of practice and one
11 not given.

12 We are now here and I am requesting that
13 the documents be handed back until we are able to air
14 and argue the points and the merits of the points.

15 SIR ROBIN AULD: The view of the Commission is, right or
16 wrong, is that it is entitled either by virtue of
17 consent or by virtue of section 8 of the constitution to
18 have access to these documents. I have given my ruling,
19 that is what I am going to do and I don't think there is
20 any point in any further exchange on the subject, save
21 as to the convenience of all counsel who otherwise might
22 be involved in the matter as to their availability on
23 Wednesday. Is there any difficulty about Wednesday
24 morning for anybody here who might be instructed to
25 argue on this issue? Very well, Wednesday morning it

1 is, skeleton arguments by 1.00 pm on Tuesday.
2 Mr Floyd Hall will be called after the matter has
3 been resolved. Yes, Mr Milne.
4 MR MILNE: Minister, you have open, I trust, still the red
5 volume 6, tab 5 and I state again for reminder, that
6 this is the special report on management and disposal of
7 Crown land created in March 2008 by the Chief Auditor.

8 I am going to direct your attention to just a number
9 of passages within this report. This will be a familiar
10 report to you because I believe it was rendered directly
11 to you by the auditor at the time, is that right?

12 A. I was interviewed, yes.

13 Q. I am sorry, I didn't quite catch that?

14 A. Yes, I was involved in the process, I was interviewed.

15 Q. You were interviewed and no doubt you would have been
16 provided with a copy of the report. I should say
17 straightaway that for convenience the Commission has
18 a lot of paper. We have only put the executive summary
19 in this particular bundle but it encapsulates neatly
20 what was being said by the auditor.

21 On the overall summary, on page -- in fact
22 the number at the bottom right-hand corner, this was 3
23 of 59 originally. He stated:
24 "Turks & Caicos government has to date largely
25 failed to comply with many aspects of its revised Crown

1 land policy which came into effect on 2nd November 2005.
2 Current arrangement for the management of Crown land are
3 not capable of ensuring that this property can be
4 properly implemented."

5 Further down, dealing with issues arising, under
6 Crown land policy, issue 1, he says:

7 "Our overall assessment is that in many respects,
8 compliance to date with the policy since approval has
9 been weak at best and in some key respects it has been
10 poor to non-existent."

11 It goes on to deal on the following page with
12 the issue of Crown land being passed on. This is
13 particularly, I should make clear, in relation to
14 commercial developments as opposed to residential
15 developments:

16 "An increasing proportion of Crown land [I am
17 reading from the first full paragraph] is being
18 expropriated on a freehold rather than through
19 an initial leasehold basis, often giving
20 the purchaser/developer free rein as to whether and if
21 so when and how they will develop the land. The policy
22 that the largest commercial parcels should be awarded
23 through a transparent competitive process has rarely if
24 ever been implemented, risking leaving the balance of
25 power in negotiations too much in favour of

1 a developer."

2 He goes on in relation to commercial developments,
3 this is discounted sales, to say:

4 "There is evidence that entitlements and
5 opportunities available to Belongers are being misused
6 on a regular basis in relation to commercial
7 developments on Crown land."

8 SIR ROBIN AULD: That is quite a lot for Mr Hanchell to take
9 in. Do you want to stop and give him a chance to
10 comment on that.

11 MR MILNE: I am going to pause there, sir, thank you because
12 I am going to suggest to the minister and this is --
13 I am not seeking simply to lay this at your door alone,
14 sir, and I would not wish you to interpret this as
15 simply being an attack upon yourself but it is an area
16 for which you hold great responsibility, the minister of
17 natural resources.

18 Does not the tenor of this report suggest that it is
19 not simply a matter of improving the efficiency of the
20 computers or a legal ordinance or indeed addressing
21 illegal occupation? The very policy that your
22 government was enforcing simply wasn't being enforced.

23 It simply wasn't being applied and you knew that, didn't
24 you?

25 A. Sir, I reject those comments if you are asking me to

1 agree to that. Let me start by saying that it is my
2 interpretation that audits in its very nature are to
3 make you better, to make you better meaning to improve
4 systems to find weaknesses if they may exist, and
5 the ministry and the government is committed to making
6 the issuance of Crown land independent of the audit
7 report, and even with the audit report, more transparent
8 for laws, more accessible and the fact of the matter of
9 you single-handedly identifying computer systems,
10 I think should take away the meat of what I tried to
11 explain of what we are trying to do.

12 I am sure you will have an opportunity and greater
13 detail -- I am not deferring your question. I see on
14 the schedule the Permanent Secretary and the Deputy
15 Commissioner of Lands, who are definitely more involved
16 in the details as normal with the audit report and
17 implementing new procedures and so on and so forth will
18 have an opportunity, but unfortunately I cannot agree of
19 how you have characterised what you have just said in
20 totality.

21 Q. Minister, the difference, I think it is important we
22 draw the distinction here because we may not agree, in
23 fact I am sure we will not agree on this?

24 A. You never know.

25 Q. Your characterisation of the administration of Crown

1 land, I would suggest, comes down to this: we are doing
2 our best; there are inefficiencies; we are seeking to
3 address those inefficiencies?

4 A. We are addressing those.

5 Q. You are addressing or seeking to address, we have
6 already addressed those inefficiencies; that is what you
7 are saying in essence?

8 A. We have addressed some issues raised independent of the
9 audit and from the audit report. We are addressing
10 a number of outstanding issues as they relate to
11 the management and the allocation of Crown land.

12 (3.45 pm)

13 Q. The inefficiencies to which you refer, I know, we all
14 know, exist. It is common knowledge and it is reflected
15 in this executive summary. I needn't labour the point.
16 There are references towards the bottom of that page
17 that you are on to Crown land, Crown land data and data
18 management being profoundly inadequate and the knock-on
19 effect of those inadequacies. There are problems
20 through the system, problems which would exist, perhaps
21 with the best will in the world. What I submit to you,
22 and I ask you to comment upon this, is that there is
23 a further problem which is highlighted and that is in
24 the middle paragraph on that page?

25 A. Page 459?

1 Q. 4 of 59 where it says:

2 "Efforts to broaden access to discounted commercial
3 land are needed on the grounds that nearly 40 per cent
4 of such sales over most of 2006 and 2007 were to
5 companies in which a currently or recently serving
6 Member of Parliament and/or members of their immediate
7 family has a direct interest."

8 So you were told back in March of last year that 40
9 per cent or close on 40 per cent of all commercial Crown
10 lands for two years had gone to either current or former
11 members of Parliament or their families.

12 That, although it does not put it in these words, is
13 an allegation of corruption. What steps have been taken
14 to address that?

15 A. Sir, first of all, this paragraph that you just read
16 suggests in my understanding that 40 per cent of sale
17 over most of 2006 and 2007 were the companies in which
18 currently a recently serving member of the Parliament or
19 members of the immediate family has had a direct
20 interest.

21 Sir, I don't have those numbers in front of me.
22 Neither will I think it would be appropriate to
23 challenge the professional capacity of someone like
24 a Chief Auditor. But what I can say is that in
25 the Crown land policy, there is nothing to the best of

1 my knowledge, unless you can find it, that prohibits
2 a Belonger from selling its Crown land.
3 Now, 40 per cent is the number and in fact if
4 the persons of interest were recently -- recent serving
5 members as is suggested of Parliament and their
6 immediate family, if that is a matter of fact that is
7 a matter of fact, I can't change that but what I can say
8 is that there is nothing to my understanding that is
9 illegal or corrupt or dishonest if persons sell Crown
10 land. Now, unless you can find in the policy where it
11 prohibits persons from selling Crown land, then I am
12 just simply wrong in my understanding of the Crown land
13 policy.

14 Q. So when you were told that back in March 2008, that
15 description, which was no doubt fleshed out by the full
16 report, caused you not a moment's concern?

17 A. Sir, as I said earlier to my interpretation of
18 the policy, there is nothing illegal about it, there is
19 nothing corrupt, there is no dishonesty, if Belongers,
20 whether they are past or present members or family
21 members, sell Crown land. I don't find anything that
22 prohibits that.

23 Now, if you could find it, I am just wrong and
24 I would have to take that position that I am wrong.
25 The Crown land policies does not prohibit that, to

1 the best of my understanding.

2 MR MILNE: Thank you, sir, I have no further questions.

3 SIR ROBIN AULD: Thank you, Mr Hanchell --

4 A. Thank you, sir.

5 SIR ROBIN AULD: -- for attending to give evidence and that

6 is you done for now. Thank you very much.

7 A. Thank you. Enjoy the beach.

8 SIR ROBIN AULD: Now Mr Milne, your next witness for

9 examination is Mr Chalmers Misick, isn't it?

10 MR MILNE: It is sir, yes.

11 SIR ROBIN AULD: Mr Rigby, it is late in the day but I think

12 we have some time we can use and I am sorry that

13 Mr Chal Misick has been kept waiting so long but if he

14 would come and be prepared to be sworn and start his

15 evidence, please.

16 MR THOMAS CHALMERS MISICK (sworn)

17 Cross-examination by MR MILNE

18 SIR ROBIN AULD: Mr Misick, I repeat my apology to you

19 personally for having kept you waiting so long. And you

20 understand I am sure now that you will be asked to come

21 back again to Monday.

22 A. Unfortunately.

23 SIR ROBIN AULD: Mr Rigby, before Mr Milne begins his

24 examination, I should tell you that I have received at

25 some stage today a summary of a response?

1 MR RIGBY: That is correct.

2 SIR ROBIN AULD: Which has been prepared, I am sure, by you
3 or those acting under your direction to assist
4 the Commission in response to some of the matters that
5 are likely to arise in Mr Chal Misick's examination.

6 MR RIGBY: You should also have a black binder.

7 SIR ROBIN AULD: Well, I am sure I will have in a minute.
8 You have also indicated in your response certain matters
9 of law. It may be the best way to deal with them is to
10 wait until the issue -- the opportunity demands it and
11 let's see how far we get with law today.

12 MR RIGBY: That is fine.

13 SIR ROBIN AULD: Mr Milne.

14 MR MILNE: Firstly, sir, can you give us your full name.
15 A. Thomas Chalmers Misick.

16 Q. Am I right to say in thinking that you are not commonly
17 known as Thomas, but your middle name is the one you
18 used and it is abbreviated to Chal on a regular basis?

19 A. Correct.

20 Q. You are an attorney based in the Turks & Caicos Islands?

21 A. Correct.

22 Q. Qualified here, I believe?

23 A. Correct.

24 Q. Am I right in thinking that you are also
25 a Justice of the Peace and you were appointed in 2005?

1 A. Correct.

2 Q. Do you still serve as a Justice of the Peace?

3 A. Correct.

4 Q. You are the brother of the Premier?

5 A. That is correct.

6 Q. I think his older brother and you have represented

7 the Premier in the past in relation to legal matters?

8 A. Past and present.

9 Q. Past and present. So matters that are now resolved,

10 matters still outstanding, no doubt. Forgive me, how

11 long have you been in business for yourself as

12 an attorney?

13 A. About four years.

14 Q. Prior to that, did you work with another firm on

15 the island?

16 A. Correct.

17 Q. Which was that?

18 A. Misick & Stanbrook.

19 SIR ROBIN AULD: You have to speak up Mr Misick so that

20 everybody can hear your answers. (Pause)

21 MR MILNE: One of those microphones simply records you for

22 the purposes of the transcript.

23 Sir, you worked with Misick & Stanbrook and then you

24 established your own firm, is that Chalmers & Co?

25 A. Correct.

1 Q. That was established in which year?

2 A. 2004.

3 Q. 2004?

4 A. I think. I want to be precise. I am not sure, probably

5 in the latter part of 2004, maybe early 2005, somewhere

6 around that time.

7 Q. I won't hold you to a precise month but you have been in

8 business obviously since that time and roughly four

9 years?

10 A. Correct.

11 Q. During that time you have represented your brother on

12 many occasions?

13 A. I would say.

14 Q. How many roughly are we talking about?

15 A. No idea.

16 Q. Give as you ballpark figure?

17 A. I am not going to speculate on that.

18 SIR ROBIN AULD: When you say represented, what do you mean,

19 Mr Milne?

20 MR MILNE: Taken instructions on specific aspects of legal

21 work or indeed other matters?

22 A. Well, I have been in business for four years. Surely

23 you can't expect me to speculate on how much time I have

24 had instructions from him.

25 Q. I am not asking to you speculate. I am simply asking

1 you to say from your own memory?

2 A. I don't remember. I can't say.

3 Q. So it is not two or three, it could be many times over.

4 A. Could be.

5 SIR ROBIN AULD: Well, you can at least do that. Have you

6 spent most of your time on your brother's work, a large

7 part of it.

8 A. Heck, no.

9 SIR ROBIN AULD: Which?

10 A. No.

11 SIR ROBIN AULD: Not a large part of your time on his work.

12 A. No. He is not my only client.

13 SIR ROBIN AULD: Just give us an indication, however broad.

14 A. 5/10 per cent.

15 MR MILNE: So 5 to 10 per cent of your work is

16 Michael Misick-related work.

17 Other than legal work, do you also or have you also

18 dealt with money matters on his behalf?

19 A. No.

20 Q. Have you ever moved money for him?

21 A. No.

22 Q. Have you ever held money for him?

23 A. Not other than legal work, no.

24 SIR ROBIN AULD: "I have never dealt with money matters on

25 his behalf."

1 MR MILNE: So in every case that you have held or moved
2 money, it has been purely connected to legal works?
3 A. Correct.
4 Q. What do you mean by legal works?
5 A. You tell me, you are posing the question.
6 Q. Your expression, sir, are we talking about litigation
7 here?
8 A. No.
9 Q. Are we talking about purchase of property?
10 A. We are talking about commercial work, some civil work
11 and those sorts of things.
12 Q. So commercial work, civil work, I repeat the question:
13 is that litigation, are you suing or being sued?
14 A. Which one, is it commercial? It is commercial
15 transactions.
16 Q. Right. Is it adversarial work?
17 A. I have never had any reason to do adversarial work.
18 Q. Right. So you are not in the business necessarily of
19 litigation but simply making arrangements on his behalf
20 in legal matters?
21 A. In reference to Michael, most of the work I do for him
22 are commercial work, relating to commercial
23 transactions.
24 Q. Would that include drafting documents?
25 A. Correct.

- 1 Q. Starting companies?
- 2 A. Correct.
- 3 Q. Opening bank accounts?
- 4 A. I have.
- 5 Q. You have opened bank accounts?
- 6 A. I have opened -- assisted with opening one bank account
- 7 I believe.
- 8 Q. One bank account?
- 9 A. Correct.
- 10 Q. Which bank account was that?
- 11 A. My Way Productions.
- 12 SIR ROBIN AULD: I didn't hear that.
- 13 A. My Way Productions.
- 14 SIR ROBIN AULD: "I have opened one bank account for My Way
- 15 Productions."
- 16 MR MILNE: Am I right in thinking that the correct and full
- 17 title is My Way Productions 2 Limited; is that right?
- 18 A. Correct.
- 19 Q. That is the only bank account which you have opened on
- 20 his behalf?
- 21 A. As far as I can recollect at this moment, correct.
- 22 Q. Have you opened bank accounts on behalf of his now
- 23 ex-wife, Lisa-Raye McCoy?
- 24 A. I have.
- 25 Q. How many bank accounts have you opened for her?

- 1 A. I have opened two.
- 2 Q. What were their titles?
- 3 A. My Way Production 2.
- 4 Q. That being jointly with her husband?
- 5 A. Correct, and Lover Fund Limited.
- 6 Q. Lover Fund Limited?
- 7 A. Correct.
- 8 Q. Each of those companies, are they based in the Turks &
- 9 Caicos Islands?
- 10 A. Correct.
- 11 Q. Did you open the companies?
- 12 A. I did.
- 13 Q. Can you tell us which of those you opened first?
- 14 A. I will have to refer to my bundle.
- 15 Q. Please do.
- 16 (4.00 pm)
- 17 MR RIGBY: The date of incorporation is also on page 10.
- 18 SIR ROBIN AULD: Thank you, Mr Rigby.
- 19 A. So that would be My Way Productions.
- 20 MR MILNE: My Way Productions, right.
- 21 You run other companies as well with which you
- 22 assist your brother, do you not?
- 23 A. Do I run other companies that I assist my brother with?
- 24 Q. Yes.
- 25 A. Do I run them? I don't understand the question.

1 Q. Have you established other companies with which you have
2 rendered assistance to your brother?

3 MR RIGBY: Sorry, are you asking the witness whether he has
4 incorporated the companies on behalf of the Premier?

5 MR MILNE: I am asking him whether he has incorporated other
6 companies which are used to assist the Premier.

7 A. I have established another company called
8 MIG Investments Limited. Let me take a look at what is
9 here. Solana Land Holdings. Arch Property. That is
10 the extent that -- as far as I can recall.

11 Q. That is all you can recall, okay.

12 With each of those companies, are they used for
13 the benefit of Michael Misick?

14 A. They are.

15 Q. You also established a company called
16 Windsor East Limited, did you not?

17 A. Correct.

18 Q. And another one called Windsor West Limited?

19 A. Let me step back a bit. I think Windsor East might have
20 been incorporated by Misick & Stanbrook. Might have
21 been, I am not quite 100 per cent sure about that.

22 SIR ROBIN AULD: What about the other?

23 A. The other, Windsor West, I established that company,
24 yes.

25 MR MILNE: And Windsor Investment Limited -- tell me which

1 is correct.

2 A. Windsor Investment Group --

3 Q. Windsor Investment Group Limited?

4 A. Yes, that is not my firm.

5 Q. You established that?

6 A. That was with Misick & Stanbrook.

7 Q. Misick & Stanbrook established it. In respect of those

8 companies, let's take Windsor East Limited first, can

9 you tell me who owns that company?

10 A. Certainly not Michael Misick, and I am not allowed to

11 speak to that.

12 MR RIGBY: This is where he would be raising the issue of

13 privilege.

14 SIR ROBIN AULD: The nature of the privilege being, claiming

15 about what?

16 MR RIGBY: Being that the beneficial owner of that company

17 has not waived his or her privilege to have that

18 information disclosed to the Commission. What he has

19 said in his statement, though, is that company is,

20 I think he would have said that that company, as far as

21 he is aware, is not beneficially owned -- that as far as

22 he is aware, that company is not beneficially owned by

23 the Premier.

24 SIR ROBIN AULD: I thought he had just indicated -- I may be

25 wrong -- that he formed this company for the purpose of

1 his brother?

2 MR RIGBY: He never said that. He did not say that, no.

3 SIR ROBIN AULD: So which company are you asking about?

4 MR RIGBY: The companies he said he formed for his brother

5 are My Way Productions 2 Limited,

6 Solana Holdings Limited and Arch Property.

7 SIR ROBIN AULD: And Windsor West.

8 MR RIGBY: And MIG.

9 A. MIG, not Windsor West.

10 MR RIGBY: And not Windsor Investment Group Limited.

11 MR MILNE: Windsor East Limited, let's start with that one.

12 You say the beneficial owner of that company has not

13 waived legal privilege?

14 A. Correct.

15 Q. Which means that you are not permitted to disclose

16 any -- the nature of any correspondence you have had if

17 they have given you instructions or you have given legal

18 advice. You could still tell us the name of the person

19 behind that company?

20 A. You can find that out from the Companies Registry.

21 Q. And how would I do that, by looking at the shareholders?

22 A. I would imagine.

23 Q. Right. Who are the shareholders of

24 Windsor East Limited?

25 A. Let's take you --

1 Q. Windsor East Limited, who is the shareholder? Who are
2 the shareholders? Do you not remember, sir?
3 A. Say again?
4 Q. Do you not remember?
5 A. Are you going to give me an opportunity to collect my
6 thoughts and look at this document?
7 Q. It is a simple question: do you not remember. If you do
8 not, say so please. Do you not remember who are
9 the shareholders of Windsor East Limited?
10 A. The shareholders of Windsor East Limited is myself.
11 Q. Right. So it is you. And indeed a lady called Joanna
12 Misick?
13 A. You knew the information so why you --
14 Q. Because I was asking you to confirm it.
15 MR RIGBY: If I could just be helpful, the register of the
16 records and officers as well as the shareholdings is in
17 the bundles.
18 MR MILNE: Yes. So you are now reminded that you are
19 the beneficial owner, I would suggest, sir, of
20 Windsor East Limited. Is that right?
21 A. Confirmed.
22 Q. I say to you is Joanna Misick your wife?
23 A. Correct.
24 Q. And indeed in terms of directors, let's be clear about
25 this, it is you again. So Windsor East is a company

1 that you own and you use and is connected intimately
2 with yourself?

3 A. It is a nominee company. As far as I am aware, all law
4 firms in this jurisdiction have nominee companies.
5 Windsor East just happened to be my nominee company.

6 Q. It is your nominee company? What about Windsor West
7 Limited?

8 A. It is a nominee company.

9 Q. That is also a nominee company?

10 A. Correct.

11 Q. Who owns that?

12 A. Me.

13 SIR ROBIN AULD: You own it, do you?

14 A. Correct.

15 MR MILNE: And the directors of Windsor West are
16 Chalmers Management Limited and Windsor East Limited
17 which is your nominee company. The shareholder is
18 Windsor East Limited which is your nominee company, so
19 they are both your nominee companies.

20 A. I just said that.

21 Q. Right. Windsor Investment Group. Who owns that?

22 A. It is owned 10 per cent by -- I can only speak to
23 Michael Misick because he is the only one who has waived
24 his privilege.

25 Q. Do you know the identities of the other shareholders?

1 A. I do.

2 Q. Would you care to share them with us?

3 A. No.

4 MR RIGBY: We will also be raising the issue of privilege.

5 SIR ROBIN AULD: I think you may have to elaborate on that.

6 MR RIGBY: The beneficial owners, the remaining shareholders

7 in that company have not authorised Mr Misick to

8 disclose to this Commission their names and their

9 shareholding interest in that company. What he has been

10 able to confirm thus far is that Mr Michael Misick has

11 waived his right to privilege, that he owns 10 per cent

12 of the shares in that company.

13 SIR ROBIN AULD: Now, what species of privilege are you

14 relying on, legal professional privilege?

15 MR RIGBY: Legal professional privilege.

16 SIR ROBIN AULD: Mr Milne.

17 MR MILNE: So legal professional privilege protects

18 a specific category of information. Legal professional

19 privilege means, I would submit simply this, that there

20 is client confidence between a lawyer and his clients.

21 What passes between them in terms of instructions from

22 the client and advice from the lawyer is protected. It

23 is a privilege attaching to the client. The client may

24 waive it. The lawyer, if it is waived is obliged to

25 reveal or is entitled to reveal what has passed between

1 them.

2 It is limited, however, in my submission, to what
3 passes between them. It is not a privilege which
4 encompasses the identity of the client and my authority
5 for that, sir, which I can provide the court with, we
6 have a full copy, is the case of the House of Lords, R v
7 Derby Magistrates Court ex parte B. This was decided in
8 October of 1995, I would submit, by a relatively strong
9 panel of the House of Lords. I can hand forward a copy.

10 I believe --

11 SIR ROBIN AULD: I have a copy. Can you direct me to
12 the relevant passage in the speech or speeches where
13 that's made plain.

14 MR MILNE: We were anticipating this would arise but not
15 arise as early as it turns out to have done. If you
16 give me a moment. My learned friend will identify
17 the passage and I will take the court to them.

18 SIR ROBIN AULD: Move on to an another matter and come back
19 as soon as Ms Clark indicates she has found it.

20 MR MILNE: Are you able to tell us at this stage, Mr Misick,
21 which companies Windsor East owns shares in?

22 A. Which companies Windsor East?

23 Q. Yes.

24 A. No, I can't tell you.

25 Q. You can't?

1 A. Which companies on this sheet or which companies

2 generally?

3 Q. In which companies, do you have a list of the companies

4 in which Windsor East owns a shareholding?

5 A. Owns? I don't understand because Windsor East, like

6 I said, is a nominee company. Windsor East owns

7 shareholdings and trusts for many of my clients.

8 Q. Let me re-phrase the question. Are you able to provide

9 a list of the companies in which it holds shares? Yes

10 or no?

11 A. Is it shares and trusts or is it shares, there's a

12 difference?

13 Q. Holding shares, whether that be in trust or in its own

14 name?

15 A. Absolutely not.

16 Q. You cannot or you will not?

17 A. I will not.

18 MR RIGBY: Sorry, I just wonder for clarification are you

19 asking the witness to provide those names in respect of

20 the companies of the Premier and Mr Misick or generally?

21 Because if it is generally, then, we will refresh our

22 objection on the ground of legal professional privilege.

23 SIR ROBIN AULD: Mr Milne is supposed to be avoiding your

24 objection for the moment until the passage is found in

25 Derby and if this infringes it, he had better take

1 a wider detour.

2 MR MILNE: Fine, I will. Since privilege is being invoked

3 in relation to that, let me deal with something that we

4 have already touched upon, sir. Lover Fund Limited.

5 You told us that you established it. Can you tell us

6 now specifically which person asked you to set up that

7 company?

8 A. Lisa-Raye.

9 Q. When she did that, did she do so face to face, by

10 telephone, by letter, how?

11 A. Face to face in my office.

12 Q. Was her husband with her at the time?

13 A. No.

14 Q. Did she tell you at that stage what she intended

15 the company to be for?

16 A. She did not.

17 Q. Did you ask?

18 A. I did not.

19 SIR ROBIN AULD: You have a general form of memorandum and

20 Articles of Association here, I imagine, do you?

21 A. Yes, sir. The memorandum and articles -- most of these

22 TCI companies, as you would note, are general. They are

23 not --

24 SIR ROBIN AULD: The most broad forms.

25 A. Absolutely, they are not specific.

1 MR MILNE: You have told us that you set up the bank
2 account?
3 A. Correct.
4 Q. Again, was that at her request?
5 A. Her request.
6 Q. Who were the signatories on the bank account?
7 A. Lisa-Raye.
8 Q. Anybody else?
9 A. Lisa-Raye.
10 Q. Anybody else?
11 A. She is the only signature.
12 Q. That is the question.
13 A. Lisa-Raye.
14 Q. Are you a signatory on the bank account, sir?
15 A. Lisa-Raye is the signatory on the bank account.
16 SIR ROBIN AULD: All we need is the word "only", don't we?
17 Is that right? That is your evidence.
18 A. Lisa-Raye is the sole signature on the bank account.
19 MR MILNE: Do you receive any of the banking information?
20 A. I have.
21 Q. Do you continue to receive the banking information?
22 A. No, I don't.
23 Q. Do you get the statements?
24 A. I do not.
25 Q. Do you have any correspondence with the bank in relation

1 to the bank account?

2 A. I do not.

3 Q. Do you pay money into the account?

4 A. I have once.

5 Q. When was that?

6 A. I will take you to that. Let's see when that was.

7 (4.15 pm)

8 SIR ROBIN AULD: While Mr Misick is looking for it, I am

9 a little worried whether he got the tense and whether

10 you were using the tense clearly. Was your question did

11 he do all these things or does he do all these things in

12 relation to receipt of statements, cheques and so on?

13 MR MILNE: It is clear that I have to ask each question

14 separately, sir. I think I have asked did he.

15 SIR ROBIN AULD: Is it did or do? The impression I got was

16 he said he did some things but he doesn't now.

17 MR MILNE: I am hoping for clarification, sir.

18 SIR ROBIN AULD: Somebody is waving a file, what is that

19 for?

20 A. I don't have this information in a file, so I will check

21 it.(Pause).

22 MR MILNE: We will leave it, sir, we will come back to it at

23 a later stage. I am not inviting you to trawl through

24 this bundle.

25 A. Okay.

1 Q. Let's see if we can clarify the point we touched on
2 a minute ago. I asked you whether you received banking
3 information and statements. Am I right in thinking that
4 you have in the past received banking information from
5 the bank in relation to Lover Fund Limited?

6 A. I have received statements.

7 Q. Do you continue to receive statements?

8 A. No.

9 Q. Did you take steps to have the statements diverted
10 elsewhere or did they stop turning up?

11 A. I think Lisa-Raye took those steps.

12 Q. Lisa-Raye took steps?

13 A. Yes.

14 Q. Do you retain any of the statements from
15 Lover Fund Limited?

16 A. I might have.

17 Q. Have you disclosed them to the Commission?

18 A. I can do that if I have them in my office.

19 Q. You have not put them in the bundle that we were given
20 earlier this afternoon?

21 A. I am looking for them. I thought they were here but
22 I can't seem to find them.

23 Q. Would you please disclose them to us then by Monday?

24 A. I will.

25 Q. Let me make that clear, that request is for all of the

1 statements, all of the banking documentation in relation

2 to Lover Fund Limited.

3 Thank you.

4 When you put money into Lover Fund Limited, from

5 where did those funds come?

6 A. I put \$250,000 into Lover Fund and it came from

7 a company called -- I can't -- if I have the statement

8 I can tell you the name. But I think it was presented,

9 I understand, from Lisa-Raye that she will be getting

10 a cheque from -- it is a casino, I can't remember

11 the name of it.

12 Q. Casino?

13 A. Yes. It is a Players Club casino, sorry.

14 Q. She received a sum of \$250,000 and that was paid into

15 the account?

16 A. Correct.

17 SIR ROBIN AULD: That was the opening payment, was it?

18 A. Correct.

19 SIR ROBIN AULD: Thank you.

20 MR MILNE: Did you see from the banking statements any other

21 money going into that account?

22 A. I believe so.

23 Q. You believe there was other money?

24 A. Yes, I believe.

25 Q. Were you ever asked to assist with moving money out of

1 that account?

2 A. I might have but I can't say unless I see the statement.

3 Q. Well, if you saw a statement it would simply show that

4 money went out. How would that assist you in knowing

5 whether you moved it or not?

6 A. I would look at the amounts.

7 Q. I beg your pardon?

8 A. I can determine by the amounts.

9 Q. You will be able to identify them when you provide

10 the statements, which of those sums that you moved out?

11 A. Correct.

12 Q. How would you have moved it?

13 A. It would have been by wire transfers.

14 Q. Given that you are not a signatory on the account, why

15 would wire transfer from you have been effective?

16 A. It would have been instructions given to myself or

17 directly to the bank to allow me to do that.

18 Q. So did Lisa-Raye give instructions to the bank to allow

19 you to do it?

20 A. You would have to ask Lisa-Raye, but if that happened,

21 that would have been the case.

22 Q. I am sorry, sir, I am not entirely clear. You have told

23 us that you believe you wire-transferred money out of

24 the account; and you say that in order to do that,

25 Lisa-Raye would have had to have authorised it?

1 A. Yes.

2 Q. So you would have known whether you had authority to
3 move money out of the account, otherwise you would be
4 wasting your time, wouldn't you?

5 A. Basically, if that is --

6 Q. Yes, so can we take it then that you had authority to
7 move money out of the account?

8 A. No, we can't take it. What you are saying is I have
9 blanket authority and I am saying I didn't have that.
10 It might have been a one-off situation where she needed
11 funds, she telephoned the bank and said: he is going to
12 come up, I need you to wire me \$100,000, bank allowed
13 that and it is fine. That is the extent of my
14 involvement as far as wiring funds from Lover Fund
15 account.

16 Q. You say now. How many times do you think that might
17 have happened?

18 A. I will have to take a look at my statement.

19 Q. When you look at the statement you will be able to
20 identify specifically which were your transactions and
21 which were not?

22 A. Certainly.

23 Q. We look forward to receiving that.

24 Dealing with My Way Productions 2 Limited, at whose
25 request was that set up?

- 1 A. Both Lisa-Raye and Michael Misick.
- 2 Q. Again, was that done by telephone, face to face?
- 3 A. Face to face.
- 4 Q. In your office?
- 5 A. In my office.
- 6 Q. They asked you to set up a company?
- 7 A. Correct.
- 8 Q. They suggested the name?
- 9 A. They suggested the name.
- 10 Q. Did they invite you to set up or instruct you to set up
- 11 a bank account?
- 12 A. They asked me to provide them with the corporate
- 13 documents that is required to set up a bank account.
- 14 SIR ROBIN AULD: I didn't get that.
- 15 A. They asked me to provide them with the corporate
- 16 documents that is required to set up a company's
- 17 account.
- 18 Q. Did you set up the bank account or did they?
- 19 A. They set it up.
- 20 Q. Are you a signatory on the bank account?
- 21 A. No.
- 22 Q. Have you ever wired money on that bank account?
- 23 A. Wired money on to --
- 24 Q. Wired money from it?
- 25 A. I don't believe so.

- 1 Q. Have you ever done anything else with the bank account?
- 2 A. I can't say. I will have to have the account in front
- 3 of me.
- 4 Q. Do you receive the bank statements on that account?
- 5 A. I don't, no.
- 6 SIR ROBIN AULD: You don't --
- 7 A. I don't receive statements.
- 8 SIR ROBIN AULD: But did you?
- 9 A. I might have -- as a corporate office, it might have
- 10 been mailed to my account, but it would remain unopened
- 11 and passed on to the respective persons.
- 12 MR MILNE: Do you now receive any other banking
- 13 documentation, statements or otherwise?
- 14 A. Yes.
- 15 Q. What sort of information do you get?
- 16 A. I get my banking statement, Chalmers & Co.
- 17 Q. Do you get any banking information from My Way
- 18 Productions 2 Limited at all?
- 19 A. No, sir.
- 20 Q. How many bank accounts does Chalmers & Co operate in its
- 21 own name?
- 22 A. One client account.
- 23 Q. One client account?
- 24 A. Correct.
- 25 Q. And that client account, is that client account

1 10331841?

2 A. One client account at each of the two banks.

3 Q. So not one client account, two client accounts?

4 A. It is one client account. It is one client account.

5 I don't understand how you can not see that as one

6 client account.

7 Q. How many bank accounts do you operate on behalf of your

8 firm?

9 A. One client account.

10 Q. Which bank is that with?

11 A. I have a client account with First Caribbean Bank,

12 a client account at TCI Bank and a client account at

13 Belize Bank.

14 Q. You count that as one client account?

15 A. Correct.

16 Q. Whereas it is in fact three bank accounts?

17 SIR ROBIN AULD: It is one client account in your books,

18 isn't it?

19 A. Correct.

20 MR MILNE: But when I am asking about bank accounts, then

21 the answer would be three, is that correct?

22 A. If you say bank accounts generally, if you say client

23 account, it would be one.

24 Q. You have three bank accounts?

25 A. Correct.

1 Q. On behalf of the one client account for the firm of

2 Chalmers & Co?

3 A. Now you make it clear.

4 Q. Fine. Can you tell us now which of those three bank

5 accounts you have used in relation to Michael Misick

6 transactions?

7 A. I have used Belize Bank and First Caribbean Bank.

8 SIR ROBIN AULD: Would that be a convenient moment,

9 Mr Milne?

10 MR MILNE: It would, sir. Whatever is appropriate for

11 the Commission.

12 A. I was just getting started.

13 MR MILNE: Well, we are not finished yet, Mr Misick.

14 SIR ROBIN AULD: For today you are the last man in in

15 a fading light.

16 A. I am happy to hold up the rear.

17 SIR ROBIN AULD: Before we rise, we are going to resume on

18 Monday. The programme will be Mr Chalmers Misick to

19 continue with his evidence on Monday morning, followed

20 by Mr Don-Hue Gardiner. Whether we will get beyond that

21 on Monday is unsure now. We shall have to rearrange

22 the programme quite considerably for the latter part of

23 next week to allow for the issue that has been raised by

24 Mr Saunders this afternoon. Otherwise 10.30 on Monday

25 morning.

1 (4.30 pm)

2 (The court adjourned until 10.30 am

3 on Monday, 26th January 2009)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	INDEX	
2		PAGE
3	HONOURABLE MINISTER MCALLISTER	2
	HANCHELL (continued)	
4	Re-examination by MR MISICK	2
5	Cross-examination by MR FITZGERALD	84
6	Cross-examination by MR SAUNDERS	86
7	Cross-examination by MR MILNE	99
8	RULING	128
9	MR THOMAS CHALMERS MISICK (sworn)	139
10	Cross-examination by MR MILNE	139
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

