

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

HEARINGS: DAY 14
(FRIDAY 18 JUNE 2021)

International Arbitration Centre
3rd floor Ritter House
Wickhams Cay II
Road Town, Tortola

Before:

Commissioner Rt Hon Sir Gary Hickinbottom

Solicitor General Mrs Jo-Ann Williams-Roberts (instructed by the Attorney General), Mr Niki Olympitis of Withers LLP and Ms Lauren Peaty of Withers LLP appeared for various BVI Government Ministers and public officials.

Mr Richard Rowe of Silk Legal, Mr Deniston Fraser of Silk Legal, and Mr Daniel Fligelstone Davies of Silk Legal appeared for those members of the House of Assembly who are not members of the Government.

Counsel to the Commission Mr Bilal Rawat also appeared.

Hon Julian Willock gave evidence.
Hon Andrew A Fahie gave evidence.
Hon Mark Vanterpool gave evidence.

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Those present:

Session 1

Mrs Jo-Ann Williams-Roberts, Solicitor General

Mr Niki Olympitis, Withers LLP

Ms Lauren Peaty, Withers LLP

Mr Richard Rowe, Silk Legal

Mr Fligelstone Davies, Silk Legal

Mr Bilal Rawat

Hon Julian Willock

Mr Steven Chandler, Secretary to the Commission

Ms Juienna Tasaddiq, Assistant Secretary to the Commission

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

Constable Javier Smith, Royal Virgin Islands Police Force

Mr Dame Peters, Audio-Visual Technician

Session 2

Mrs Jo-Ann Williams-Roberts, Solicitor General

Mr Niki Olympitis, Withers LLP

Ms Lauren Peaty, Withers LLP

Mr Bilal Rawat

Hon Andrew A Fahie

Ms Juienna Tasaddiq, Assistant Secretary

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

Constable Javier Smith, Royal Virgin Islands Police Force

Mr Dame Peters, Audio-Visual Technician

Session 3

Mr Deniston Fraser, Silk Legal

Mr Bilal Rawat

Hon Mark Vanterpool

Ms Juienna Tasaddiq, Assistant Secretary
Mr Andrew King, Senior Solicitor to the Commission
Ms Rhea Harrikissoon, Solicitor to the Commission

Constable Javier Smith, Royal Virgin Islands Police Force

Mr Dame Peters, Audio-Visual Technician

P R O C E E D I N G S

Session 1

COMMISSIONER HICKINBOTTOM: Good morning, everyone.

THE WITNESS: Good morning, Commissioner.

COMMISSIONER HICKINBOTTOM: Before we hear the evidence of The Honourable Speaker, I'd like to make a short statement about the business of next week.

The evidence on Members' Interests will be concluded on Monday and will be followed by legal submissions on the breaches of the Register of Interests Act, which have been accepted by the various Members of the House and former Members of the House.

The next topic is due to be governance and the operation of the justice and law-enforcement systems, and the evidence is due to commence on that topic on Tuesday.

The preparation of governance issues has been delayed for two main causes:

First, the Ministers' Position Statement made ser--makes serious allegations that the Governor and the UK Government have acted unconstitutionally, in breach of international law, and at least in the case of the latter, contrary to its own policies. Those allegations have been made without giving disclosure of documents in the Ministers' possession and relevant to the issues they have raised.

In addition, I've directed the Attorney General to

1 make legal submissions identifying precisely the criticisms that
2 are made and the legal basis for them. Once that disclosure and
3 those submissions have been made, I am bound to give those
4 against whom the criticisms are directed an opportunity to
5 respond.

6 Second, a number of those who have lodged Position
7 Statements have only in the last few days--some only
8 yesterday--returned to us with requests to redact passages from
9 those documents. In the case of the elected Ministers' Position
10 Statement and its appendices, they clearly contain personal
11 data, and the Attorney General considers they possibly contain
12 documents over which others may have rights of confidentiality.
13 The Ministers, however, have not identified the passages and
14 appendices which are or may be confidential. The Commission of
15 Inquiry team are having to make appropriate inquiries of their
16 own. It's hoped that the redaction issues will have been
17 determined in the course of the next day or so; and, as I have
18 already publicised, it is my intention to publish all of the
19 Position Statements as soon as those issues have been dealt
20 with. That delay inevitably means that I have had to review how
21 and when the investigation into governance will be conducted.

22 First, I propose to direct that the participants and
23 any others in respect of whom particular criticisms are made in
24 the Position Statements have an opportunity to respond in
25 writing to the Position Statements of others and, indeed, any

1 oral evidence heard next week insofar as they are the subject of
2 any criticism.

3 I emphasise that this is not an opportunity to do
4 anything but respond to those matters. It is not an invitation
5 to make new submissions other than by way of response. The time
6 I have given to participants for identifying issues and
7 potential witnesses in relation to the identified topics has
8 passed.

9 Whilst it's open to any Respondents to this direction,
10 in their representations to request further evidence in response
11 to be called by me at a further hearing, I propose that the
12 responses are essentially in writing, and I will direct that
13 they be submitted to the COI by the 12th of July.

14 Most of the Witnesses due to be called next week can
15 go ahead; but, in the absence of the disclosure and
16 clarification to which I have referred, it would be premature,
17 in my view, to hear from the Premier or from the Governor, who
18 may wish to respond to the Ministers' Position Statement once
19 the disclosure and clarification are given. Consequently, I,
20 therefore, propose to stand down both the Premier and the
21 Governor from appearing next week. They will be rescheduled
22 later in the hearings when I will return to and conclude the
23 issues of governance.

24 Thank you.

25 MR ROWE: If I may, Commissioner--

1 COMMISSIONER HICKINBOTTOM: Just one moment, Mr Rowe.

2 MR ROWE: Sure.

3 (Pause.)

4 COMMISSIONER HICKINBOTTOM: I understand that the live
5 stream is not working in the sense that it is not live
6 streaming. It is recording what's being said, but it's not
7 going out live.

8 Now, Dame, do you want a few minutes to rectify that
9 problem?

10 TECHNICIAN PETERS: If possible, Commissioner.

11 COMMISSIONER HICKINBOTTOM: How long do you think you
12 might need?

13 TECHNICIAN PETERS: Three minutes.

14 COMMISSIONER HICKINBOTTOM: Good. I'll rise for those
15 three minutes, and as soon as the live stream is back on,
16 perhaps you can let me know.

17 TECHNICIAN PETERS: Yes.

18 COMMISSIONER HICKINBOTTOM: Good. Thank you very
19 much.

20 (Pause.)

21 COMMISSIONER HICKINBOTTOM: I understand the live
22 stream is back and working. I'll obviously not repeat my
23 opening statement which was about the business of next week. I
24 understand that the recording of it will go onto YouTube later.

25 And in terms of the directions that I made, those, of

1 course, will form the basis of an order which hopefully will be
2 issued later today.

3 Yes, anything else?

4 MR ROWE: Briefly, Commissioner.

5 COMMISSIONER HICKINBOTTOM: Yes.

6 MR ROWE: On Sunday last, we made submissions to the
7 Commission which you indicated earlier this week will have been
8 heard on Friday, and you subsequently indicated that it would be
9 heard today. You have not mentioned--mentioned on Monday,
10 sorry. What comes of that submission regarding natural justice?

11 COMMISSIONER HICKINBOTTOM: I think your submissions
12 concerned the criticisms of individual Members and past Members;
13 is that right?

14 MR ROWE: No, no. It raised the authority in the
15 Virgin Islands which we're bound in the High Court that the
16 Commission of Inquiry must be conducted in accordance with the
17 Salmon rules.

18 COMMISSIONER HICKINBOTTOM: We dealt with that.

19 MR ROWE: We have not--you indicated earlier to that
20 today but then earlier this week--

21 (Overlapping speakers.)

22 COMMISSIONER HICKINBOTTOM: No, no, no. I'm sorry.
23 You're confused, Mr Rowe. I did deal with it. What I said was
24 that in relation to the criticisms--any criticisms--that were
25 made of Members of the House or past Members of the House during

1 the course of their evidence on interests, that I would deal
2 with by way of legal submissions at the end of the evidence.
3 That was going to be today. It's now Monday, and it will be on
4 Monday.

5 (Overlapping speakers.)

6 COMMISSIONER HICKINBOTTOM: Because we can't deal with
7 criticisms of Members until they have been criticised. And
8 during the course of this week, I think--I think I'm right in
9 saying--that the only criticisms of Members that might have been
10 made is that they have been in breach of sections 3 and 7 of the
11 Register of Interests Act.

12 And in respect of those criticisms, all of the
13 witnesses, bar one, have accepted all of the breaches put to
14 them. So the legal submissions may be fairly straightforward,
15 but I'll hear them on Monday afternoon.

16 MR ROWE: Good. Wonderful.

17 COMMISSIONER HICKINBOTTOM: Thank you.

18 MR ROWE: Thank you.

19 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

20 MR RAWAT: Commissioner, before I call the next
21 witness, can I, for the record, introduce the representatives
22 present in the hearing room today.

23 COMMISSIONER HICKINBOTTOM: Yes, thank you.

24 MR RAWAT: We have Mr Niki Olympitis and Ms Lauren
25 Peaty of Withers, who are here on behalf of the Attorney General

1 and those that she represents.

2 COMMISSIONER HICKINBOTTOM: Yes.

3 MR RAWAT: We have Mr Richard Rowe, Mr Daniel
4 Fligelstone Davies of Silk Legal, who are here to represent on
5 behalf of seven Members of the House of Assembly; that is, those
6 Members who are not otherwise represented by the Attorney
7 General.

8 COMMISSIONER HICKINBOTTOM: Yes.

9 HON JULIAN WILLOCK, COMMISSION WITNESS, CALLED

10 MR RAWAT: Our next speaker--witness is The Honourable
11 Julian Willock, Speaker of the House of Assembly.

12 COMMISSIONER HICKINBOTTOM: Yes.

13 MR RAWAT: And I ask that he be invited to take the
14 oath or to affirm, please.

15 COMMISSIONER HICKINBOTTOM: Yes, thank you.

16 COMMISSION SECRETARY: Good afternoon. Would you like
17 to swear an oath or make an affirmation?

18 THE WITNESS: I'll swear an oath.

19 COMMISSION SECRETARY: If you could take the Bible in
20 your right hand and read what's written on the paper in front of
21 you. Thank you.

22 THE WITNESS: I swear by Almighty God that the
23 evidence I shall give shall be the truth, the whole truth, and
24 nothing but the truth.

25 COMMISSIONER HICKINBOTTOM: Thank you.

1 MR RAWAT: I think before I continue, Commissioner, in
2 your absence and before you came into the room, the Speaker
3 raised a question about how he would be addressed during the
4 course of the Hearing, which Mr Chandler advised him would be a
5 matter for you.

6 COMMISSIONER HICKINBOTTOM: How would you like to be
7 addressed?

8 THE WITNESS: Honourable Speaker.

9 COMMISSIONER HICKINBOTTOM: That's how we'll address
10 him.

11 MR RAWAT: Certainly. It makes The Honourable Speaker
12 more comfortable and makes it easier for him to give evidence--

13 (Overlapping speakers.)

14 THE WITNESS: --easy or comfortable. We've agreed
15 that that's how I'll be addressed, so we can proceed.

16 BY MR RAWAT:

17 Q. Can I, first of all, thank you, Honourable Speaker,
18 for coming to give evidence today. I would like to deal with
19 some formalities, which I have dealt with every witness, and
20 that is, first of all, to ask you to give your full name to the
21 Commissioner.

22 A. My full name is Julian Willock, and if I can say
23 before I start, I have a short statement to give, and I have an
24 item that I'd like to enter into the record.

25 COMMISSIONER HICKINBOTTOM: Could I--what do you want

1 to make a statement about?

2 THE WITNESS: Well, I just want to give some short
3 outline. It's very short.

4 COMMISSIONER HICKINBOTTOM: What's it about, because
5 we're here to deal with the Register of Interests?

6 THE WITNESS: Well, it's about my appearance here
7 today, Commissioner.

8 COMMISSIONER HICKINBOTTOM: But you're here.

9 THE WITNESS: Yeah, but I need to say something for
10 the record.

11 COMMISSIONER HICKINBOTTOM: You're here to answer
12 questions. We've got the questions. I'm not quite sure what a
13 statement could add to assist me.

14 THE WITNESS: I can go ahead and read my statement, if
15 you will allow, Commissioner.

16 COMMISSIONER HICKINBOTTOM: I just don't see that it's
17 relevant to assisting--

18 (Overlapping speakers.)

19 THE WITNESS: Well, there are a lot of things that I
20 don't believe relevant, but I'm complying.

21 COMMISSIONER HICKINBOTTOM: But will it assist me?

22 THE WITNESS: It should. It should. It should.

23 COMMISSIONER HICKINBOTTOM: Then read it out, if it
24 will assist me.

25 THE WITNESS: I think it should, in my humble view.

1 Okay. Good morning. My name is Julian Willock,
2 Speaker of the House of Assembly of the Virgin Islands. While I
3 will have preferred not to be here, I have been summoned;
4 therefore, I have complied. I hope, before I leave the witness
5 chair, that I will learn more about the Commission of Inquiry,
6 on what basis I was summoned and fully understand if this is a
7 fishing exercise or the Territory can expect a transparent
8 process.

9 It is unfortunate that when--that we did not meet as
10 when you arrived in January, you reached out to me, and I
11 accepted the invitation and set up for the meeting to be held in
12 my office. You refused but instead insisted that I meet you at
13 your office.

14 You will appreciate, Commissioner, that a stranger
15 cannot come to the Virgin Islands and e-mail the Speaker of the
16 House of Assembly and demand that he comes to his office. It
17 does not work like that in the Virgin Islands.

18 I have an office, too. With that said, I'm open for
19 questions.

20 COMMISSIONER HICKINBOTTOM: Thank you. I'm afraid,
21 speaking for myself, I didn't find that helpful, nor is it
22 factually accurate because when I invited you to discuss the
23 workings of the COI in January, I was--I made it clear that I
24 was content to meet you anywhere but not in the House of
25 Assembly because this Commission of Inquiry is an independent

1 inquiry, and that was my reason for making that very minor
2 stipulation. It was not a stipulation, I'm afraid, that found
3 favor with you.

4 But now you are here, and I'd like to get on with the
5 business of taking evidence from you.

6 THE WITNESS: Okay. Just to clear the record, the
7 meeting was not in the House of Assembly per se. It was at the
8 office.

9 COMMISSIONER HICKINBOTTOM: I'm sorry, Honourable
10 Speaker.

11 THE WITNESS: But we have to have the record accurate,
12 Commissioner. You will appreciate. I mean, if you have a
13 transparent process, you will appreciate that the record must be
14 accurate. You invited me to come to talk about the work of the
15 Commission. I said let's have the meeting at my government
16 office. You refused. There was two or three letters back and
17 forth. You insisted--your Secretary insisted that I come to
18 your office.

19 Now, a stranger coming to the BVI, sending me an
20 e-mail to meet them at the office, it don't work like that in
21 the BVI, Commissioner. So, I hope you have an appreciation for
22 that.

23 COMMISSIONER HICKINBOTTOM: Honourable Speaker, I
24 don't accept that that is factually accurate, but what I do wish
25 to do, because you're here to assist the Commission of Inquiry,

1 is for you to assist the Commission of Inquiry by answering the
2 questions that we have for you. Thank you very much.

3 THE WITNESS: I will assist as much as possible.

4 COMMISSIONER HICKINBOTTOM: Good. Thank you.

5 THE WITNESS: Thank you, also.

6 MR RAWAT: Thank you, Honourable Speaker.

7 If I could explain some preliminaries, please. First
8 thing is that as with any witness, and I say this to everyone, I
9 do try and keep my questions short and simple, but if at any
10 time you have difficulty understanding a question or you would
11 like me to repeat it or to rephrase it, then please do ask.

12 There are a number of bundles in front of you on the
13 desk. There will be no need for you to look at them now, but we
14 may need to go to some of documents in due course.

15 Finally, can I ask you this: Could you remember,
16 please, just to keep your voice up and speak slowly. The reason
17 for that is that the microphone in front of you does not
18 amplify. It merely records; and so, it's important that your
19 answers are recorded as clearly and accurately as possible on
20 the Transcript of this Hearing.

21 THE WITNESS: Certainly.

22 BY MR RAWAT:

23 Q. The first question I'd like to put you, which again is
24 a question I put to all Members of the House of Assembly and,
25 indeed, former Members of the House of Assembly, and that is to

1 ask them to give an outline of their professional background
2 before they came into the House of Assembly.

3 A. Okay. While I have no objections in answering that
4 question, could you at least enlighten me how that will help the
5 Commissioner in his inquiry, giving my background?

6 COMMISSIONER HICKINBOTTOM: Because I'm interested in
7 the background of the witnesses that I--that come before me.
8 All of the witnesses, as is usual in such inquiries as this,
9 have given a very brief résumé of their background so that I
10 simply know where they're coming from.

11 THE WITNESS: Okay. Well, while I don't accept that
12 premise, I will answer.

13 I started out after high school as a trainee, a
14 Traffic controller. Then I lived and worked overseas where I
15 did my college education. On my return home, I worked for
16 Government. I worked as an Assistant Secretary in the Ministry
17 of Natural Resource then, Ministry of Natural Resources and
18 Labour. I was then promoted to the Director of the Water and
19 Sewage Department. From there, I was further promoted to become
20 a Permanent Secretary in the Ministry of Communications and
21 Work. I left Government and was in the private sector until I
22 was invited to be the Speaker of the Fourth House of Assembly on
23 March 12, 2019.

24 COMMISSIONER HICKINBOTTOM: Thank you.

25 BY MR RAWAT:

1 Q. In terms of your time in the public service, what year
2 did you leave public service?

3 A. I think I left--I think maybe 2010. 2010--

4 Q. I--

5 A. --Commissioner.

6 Q. I'm sorry for cutting across you, Honourable Speaker,
7 but you explained to me that you reached the position of
8 Permanent Secretary.

9 A. Yes.

10 Q. How long were you a Permanent Secretary for?

11 A. Just for two years.

12 Q. And was there--what was the reason for you leaving the
13 public service and moving into the private sector?

14 A. In 20--I think it was 2009 or 2008 or something like
15 that, one of the local tabloid wrote an article claiming that I
16 had a worker with one of my group of companies without a work
17 permit, and the Public Service Commission then sent me on leave,
18 and we obviously challenged it in court and won in court. All
19 the evidence showed that that was a false report. Labour
20 confirmed that I had no one working with me without a work
21 permit. So, I was in office for one year, and then I was on
22 leave for a whole year, you know, with pay.

23 And then I think there was some political changes in
24 2011, and I think there was no secret of who I supported, and I
25 think once the new Government took office in 2011, they advised

1 the Governor--and this is according to two of their Members who
2 sat in Cabinet--they advised the Governor at the time that they
3 no longer wanted to work with me. They were concerned why I was
4 home without pay. So the Governor then terminated me, and
5 that's why I left.

6 Q. During your time--and I appreciate it's a few years
7 ago now, but did you come across the general orders that applied
8 to all civil servants?

9 A. Yes, yes.

10 Q. Now, I think the latest version of that is from 1982.
11 In your time in the civil service--and I appreciate I'm taking
12 you back some time and you may wish to caveat your answer, but
13 in that time was that what governed the--how the terms and
14 conditions, if you like, of public service for someone like
15 yourself who was there as ultimately a Permanent Secretary?

16 A. All civil servants are governed by the General Orders.

17 Q. And you said that you went into the private sector.
18 Was there any particular interest that you pursued in the
19 private sector before--

20 A. Well--

21 Q. --assuming the position of Speaker?

22 A. --my family had a security business, and I sort of
23 inherited it, and then, before that, I opened a firm called
24 Advanced Marketing and Professional Services, where we do things
25 like most like--most like a lobbying firm, most of our work are

1 done--is done overseas, and we also run an online newspaper.

2 Q. I might come back to that when we go through your--the
3 information you provided to the Registrar of Interests, but can
4 I just--whilst the answer is fresh, you mentioned that it does
5 lobbying.

6 Now, The Honourable Julian Fraser gave evidence a
7 short while ago, and he--one of the things he commented on, that
8 there isn't such a thing as lobbying in the British Virgin
9 Islands. Is that a view that you would agree with?

10 A. Most of the work that we do in terms of lobbying
11 happens overseas. I haven't heard Honourable Fraser's evidence,
12 so I can't speak to that.

13 Q. And but--I appreciate you haven't heard it. I mean,
14 lobbying comes in different forms anyway. Would you say that
15 political lobbying isn't something that exists in the British
16 Virgin Islands?

17 A. I don't know. I can't answer that.

18 Q. Now, as you indicated earlier, you assumed the
19 position of Speaker on the 12th of March 2019. Prior to that
20 date, had you stood in any election for the House of Assembly?

21 A. No. No. I think the--well, not publicly. There was
22 an internal election within the party that I'm a Member of where
23 you had to be nominated by the party through an internal
24 election, so that's the only election that I stood in.

25 Q. And was that to be nominated to stand in the 2019

1 general election--

2 (Overlapping speakers.)

3 A. Yes, yes, nominated to be--to stand. So once you got
4 out of that--I mean, in the States they'll call it a primary.

5 Q. Yes.

6 A. Yeah, but in all cases of an internal party election;
7 the party votes for who they want to fill the slots to compete
8 in the general election.

9 Q. Is that the Virgin Islands Party that you're--

10 (Overlapping speakers.)

11 A. You're correct.

12 Q. Now, that's obviously internal process, the VIP
13 applies to its selection of candidates. So, it's essentially a
14 threshold election. If you get nominated, you can be nominated
15 to stand either for a district or as an at-large candidate.

16 A. At large. You're correct.

17 Q. Thank you.

18 Now, this is just to ask you to explain the sort of
19 process as to how you come to be Speaker. Obviously, the
20 Constitution provides for someone who isn't--it doesn't require
21 you to have been elected or to have succeeded in an election to
22 become Speaker. So, how does the process work in circumstances
23 like yours where--how did you come to be selected to be Speaker?

24 A. Well, throughout the history of the Virgin Islands,
25 there has never been a Speaker from within because I think the

1 Constitution allowed both someone from outside or someone among
2 the membership, and it happens every place. You're asked by
3 whoever the ruling Government is if you wish to be the Speaker.

4 Q. Now, the--and so, in your experience, you're, I think,
5 now the fourth Speaker to--fourth person to have taken on the
6 role of Speaker. Is it right that everyone else was--

7 (Overlapping speakers.)

8 A. Oh, no, we've had about nine or ten Speakers.

9 Q. In the House of Assembly.

10 A. Well, you're talking about the House of Assembly or
11 you're talking about the Legislature?

12 Q. I'm talking about the House of Assembly.

13 A. Okay. We're at the Fourth House, and I think I am the
14 third person in the fourth--yes, in the Fourth House.

15 Q. And your predecessors were also people essentially
16 invited to take on the role rather than--

17 (Overlapping speakers.)

18 A. Yes, my predecessor were invited by whoever the ruling
19 Government would have been after day two, invited if they wished
20 to be Speaker.

21 Q. Do you--having now taken on the role for some time, do
22 you consider that to be a strength, that the Constitution allows
23 for someone to be invited to take on the role of what is a
24 non-partisan post?

25 A. I'm sorry, repeat the question?

1 Q. Well, you're invited--you and your predecessors were
2 all invited to take to the role. You don't have to come from
3 the elected Members.

4 A. Um-hmm.

5 Q. Do you consider that, having now been in the role for
6 some time, to be a strength of the Constitution, that someone
7 can be invited to take on the role?

8 A. I have not analyzed whether it's best. I think that
9 will be a matter for the--for all governments to decide whether
10 it's better for them to have someone from outside or someone
11 from inside the Chambers. I have not did an assessment.

12 Q. Thank you.

13 Now aside--obviously one of the primary roles that any
14 Speaker will exercise is that of presiding over House debates.
15 But aside from that, do you have any other executive functions
16 as Speaker?

17 A. You're talking about within the House of Assembly?

18 Q. Yes.

19 A. Well, outside of Speaker, I think I chair about two or
20 three committees of the House.

21 Q. And which Committees are those?

22 A. I am the Chairman of the Virgin Islands Parliament
23 Committee. I'm the Chairman of the Privilege Committee, and we
24 just set up an ad hoc committee a couple of months ago where we
25 want to go green, and I'm the Chairman of the--we call it "Going

1 Green Committee".

2 Q. And do you have responsibility for the administration
3 of the House of Assembly and for its staff?

4 A. Not directly.

5 Q. So, how does it work? I mean, is there somebody else
6 who has direct responsibility?

7 A. Well, there is a Clerk, and in the sense of throughout
8 the Commonwealth parliamentary association, the Clerks are civil
9 servants, because usually Speakers, they either come from
10 outside or they're actually elected by the ruling party, the
11 same way in the United Kingdom. The Honourable Speaker from the
12 United--the House of Commons is with the Conservative Party. So
13 the Clerk is the Administrator. She is the person who runs the
14 day-to-day operation. She's in charge of making sure that the
15 monies are spent correctly, et cetera, just like all other
16 jurisdictions in the Commonwealth Parliamentary Association.

17 Q. And within the BVI House of Assembly, that's the role
18 of the Clerk, but do you as Speaker have to get involved in any
19 of that at all?

20 A. Well, not directly.

21 I see my role, same thing with like a Minister of
22 Government. A Minister of Government will have a Permanent
23 Secretary. His job is to liaison with his--his or her job is to
24 liaison with the Permanent Secretary to execute their policy.
25 When I meet with Members, obviously both sides, they will give

1 the Speaker some mandates, we need A, B, and C to happen. I
2 will then coordinate those requests through the Clerk in terms
3 of execution. If we need, if the--if former Members--for
4 example, if someone needs a vehicle because there are certain
5 privilege we give to our former Members, I will have to go back
6 to the Clerk and say, maybe do some legwork, get some estimates,
7 deal with the vehicle, deal with the Ministry of Finance, et
8 cetera.

9 So, it's not--I'm not there on a day-to-day basis
10 calling shots. I am more overlooking to make sure that Members'
11 wishes and objectives are achieved.

12 Q. Would you--and tell me if this analogy doesn't
13 work--would you see yourself as the Chairman whilst the Clerk is
14 the Chief Operating Officer? Or do you see yourself, rather,
15 actually as the link between Members and what their wishes are,
16 and indeed former Members, and the administration of the House
17 of Assembly?

18 A. Both analogies could be plausible.

19 Q. And which one do you think best fits what you have to
20 do--

21 A. Both of them--

22 Q. --as Speaker?

23 A. Both of them are plausible.

24 Q. You've obviously--it's a non-partisan role, and you've
25 explained that you meet--you have to meet with both sides--

1 A. Yes.

2 Q. --with all Members.

3 A. Yes, yes.

4 Q. But in terms of leading such obviously matters that
5 may come before the House for debate, but is the Speaker in the
6 BVI, are you to some extent the voice of Members of the House of
7 Assembly?

8 A. I am the head of the Legislature, the Legislative
9 Branch, so I see myself as the voice of the House of Assembly on
10 matters that deal with the House, not necessary on politics but
11 on matters that deal with the House.

12 Q. Can you give the Commissioner some examples of the
13 sort of matters that you have to the lead the voice for--

14 (Overlapping speakers.)

15 Q. --for example.

16 A. Sure. For example, there were reports in the press,
17 and I think a Press Release came out from your office claiming
18 that Members of the House of Assembly were not cooperating with
19 the Commission of Inquiry. As the voice of the House, I made a
20 statement refuting that, saying that as far as I was told, all
21 Members of the House of Assembly were cooperating. So that was
22 an example where I spoke for the House.

23 There are other times when I may give a statement and
24 it's not necessarily for the--not necessary that all the Members
25 of the House will agree with it. For example, my speech that I

1 want to make part of the record, I don't think that all Members
2 in the House was--would agree with that statement, and that's
3 why even in my speech I made that clear, that all the Members
4 would not have agreed with my statement of last Monday.

5 Q. As you may have gathered, one of the topics that has
6 been canvassed with witnesses in the last week is the Register
7 of Interests, which is--places obligation on Members of the
8 House of Assembly--on all Members of the House of Assembly. At
9 present, the Register is not available for inspection to the
10 public. It can only be inspected in prescribed circumstances
11 which are set out in the Act.

12 A. Well, in addition, it can be inspected now by the COI.

13 Q. Yes. That's why I said "prescribed cir"--
14 (Overlapping speakers.)

15 A. So you left that out.

16 Q. No, I didn't.

17 A. Okay.

18 Q. I said it can be inspected in prescribed circumstances
19 in the Act--

20 (Overlapping speakers.)

21 A. Okay. Then you should have been a little more
22 specific.

23 Q. I can be--

24 A. Because we're on the record.

25 Q. I can take you to the Act and read it out--

1 (Overlapping speakers.)

2 Q. --prescribed conditions--

3 (Overlapping speakers.)

4 A. There's no need to do that. I was in the House when
5 it was passed.

6 Q. That's good. Well, we'll look at it in a moment.

7 A. But I'm saying, you know, you're saying things and
8 you're leaving out specific things.

9 COMMISSIONER HICKINBOTTOM: But it's not open to the
10 public.

11 THE WITNESS: As of now, no. But it's open to the
12 COI. So--

13 COMMISSIONER HICKINBOTTOM: So, it's not open to the
14 public, I think is the answer.

15 MR RAWAT: Thank you.

16 THE WITNESS: Yeah, but everything must be taken in
17 its context. It's not open to the public. Should we consider
18 the COI public, Commissioner?

19 COMMISSIONER HICKINBOTTOM: No.

20 THE WITNESS: You said you're doing a public inquiry.

21 COMMISSIONER HICKINBOTTOM: It's a public inquiry.

22 THE WITNESS: So, therefore, it's--it could be open to
23 the public because you have access to it.

24 COMMISSIONER HICKINBOTTOM: I'm sorry, that seems to
25 be a legal point but it's--

1 (Overlapping speakers.)

2 THE WITNESS: Well, I'm not a lawyer.

3 COMMISSIONER HICKINBOTTOM: No, quite. So I think
4 that if you--

5 THE WITNESS: That's why I have Mr Rowe next to me.

6 COMMISSIONER HICKINBOTTOM: Yes. If he--if there are
7 any legal points to make, I am confident that Mr Rowe will make
8 them. So if you--

9 (Overlapping speakers.)

10 THE WITNESS: Yeah, but I'm just saying we have to be
11 fair and transparent, Commissioner. The question I was asked,
12 whether or not if the Register of Interests is open to the
13 public. I sat in the House of Assembly where Members voted to
14 give the Commission of Inquiry access. So I don't know how to
15 answer that question because the COI, according to you,
16 Commissioner, is a public inquiry, so one could now argue that
17 it's open to the public. Wouldn't you agree?

18 COMMISSIONER HICKINBOTTOM: No.

19 THE WITNESS: Okay, we have a difference of opinion
20 there. Okay.

21 COMMISSIONER HICKINBOTTOM: Thank you.

22 THE WITNESS: You're most welcome, sir.

23 BY MR RAWAT:

24 Q. What is your view on--if you have one, on the
25 publication of the Register to the public?

1 A. I don't have a view. Those are matters for the
2 Members of the House of Assembly. As the presiding officer, I
3 try my best not to be out there giving public opinion. I will
4 leave that entirely to the Members.

5 Q. If you could please look, you'll see a bundle that is
6 headed "Constitution and Legislation Bundle".

7 A. Yes.

8 Q. If you turn to page 59 of that bundle, please.

9 A. 59.

10 Um-hmm.

11 Q. This is the Register of Interests Act 2006, and as I
12 explained earlier, it sets out certain obligations on Members of
13 the House of Assembly, and that includes a Speaker and an
14 Attorney General, not just elected Members.

15 If you could turn to section 3, please, which is at
16 page 61.

17 A. Yes, sir, I'm there.

18 Q. 3(1) says: "A Member shall make a Declaration in the
19 form set out in Schedule 1 within thirty days after this Act
20 comes into force and thereafter on the date on which he assumes
21 the function of his office and on each subsequent anniversary of
22 that date".

23 3(2) says: "A Declaration of Interests under this
24 section shall be made in respect of interests held on the date
25 on which the duty to make the Declaration arose".

1 And so, this is just so that you can orientate
2 yourself, Honourable Speaker, but the Act imposes an obligation
3 on Members to make a Declaration of their interests on the date
4 that they are sworn and then on the anniversary of that date.

5 And if you look at section--so, if the Member doesn't
6 do that, then they are in breach of the Act. If you look at
7 section 7, which you'll find at page 64, section 7(a) provides
8 that: "Where a Member fails to make a Declaration within a
9 period of three months from the date on which the duty to make
10 that declaration accrued, the Member shall be in breach of the
11 provisions of this Act, and the Registrar shall within 14 days
12 of the knowledge of such breach submit a report of such breach
13 to the Committee, which shall meet to consider the Report within
14 21 days of its submission". That committee is a Standing Select
15 Committee which is charged with considering the Register of
16 Interests Act.

17 Now, that's, as I've said, to give you the framework
18 in terms of obligations placed on all Members of the House of
19 Assembly.

20 Do you agree with this, that it's--it was--it is the
21 responsibility of each Member of the House of Assembly
22 independently to satisfy those obligations as set out in the
23 Act?

24 A. I don't have an opinion.

25 Q. Well, in terms of your own compliance with it, do you

1 have an opinion about whether the obligation fell on you or it
2 fell on others?

3 A. I have complied with the law.

4 COMMISSIONER HICKINBOTTOM: Sorry, that's not the
5 question.

6 THE WITNESS: What's the question, Commissioner?

7 COMMISSIONER HICKINBOTTOM: Would you repeat the
8 question, Mr Rawat, please.

9 BY MR RAWAT:

10 Q. In terms of your own compliance with the Act, did you
11 have a view that the responsibility fell on you or fell on
12 others?

13 A. I have complied with the Register of Interests Act. I
14 just answered that. Asked and answered.

15 Q. And so, you didn't ever form a view as to whether it
16 fell to you to do it or that you could delegate it to others.

17 A. The--you have just read the law to me. I have
18 complied with the law. I have nothing further.

19 Q. As Speaker, have you ever been asked by a Member of
20 the House of Assembly for advice about complying with the
21 Register of Interests Act 2006?

22 A. I can't remember. It's possible, but I can't
23 remember.

24 Q. Well, was there any reason why you can't remember?

25 A. I don't know. We all have memory lapse at times. You

1 have not been called before the Bar. Maybe you forgot. We all
2 have memory lapse, so I can't--I don't recall.

3 Q. Can we look at the Declarations that have been
4 disclosed to the Commission of Inquiry in relation to your
5 compliance?

6 A. I'm sure we can.

7 Q. You will find the first one at page 84 in the bundle.

8 A. It's the same bundle?

9 Q. No. The bundle--there is a bundle with your name on
10 it.

11 A. Okay. Sure.

12 Q. If you turn to page 84 of that bundle, please.

13 A. 84?

14 Q. Yes.

15 Now, it's a registration form sent out--it's a
16 reg--it's headed "Registration form for Declaration of
17 Interests". It's one that's issued by the Registrar of
18 Interests, and it carries her stamp at the top there, and
19 written in manuscript is the date 28 January 2020.

20 Do you have that, Honourable Speaker?

21 A. I'm seeing that in the bundle you've provided.

22 Q. Yes.

23 If you turn to page 94, this is the last page of that
24 document.

25 A. Um-hmm.

1 Q. There is a signature there. Is that your signature?

2 A. It appears to be my signature.

3 Q. And the date underneath, is that in your hand?

4 A. It appears to be my handwriting.

5 Q. And for the Transcript, it's in manuscript.

6 What date is that?

7 A. What date is which--

8 Q. That's in there?

9 A. It appears to be the 22nd of January 2020, according
10 to what you provided to me.

11 Q. Do you have a copy of your own Declarations?

12 A. It should be in my office, on my file.

13 Q. This is a Declaration that was provided to the
14 Commission of Inquiry by the then-Registrar Ms Victoreen
15 Romney-Varlack. Do you have any basis to say that it hasn't
16 been properly provided by her--

17 (Overlapping speakers.)

18 A. I don't know.

19 Q. --to the COI?

20 A. You--I'm here. You provide me with a document. I
21 don't know where it came from. You're telling me now it came
22 from the Registrar. Well, I--shall I accept what you're saying
23 to me?

24 Q. Well, this bundle was provided to your legal
25 representatives.

1 A. That is correct.

2 (Overlapping speakers.)

3 Q. (Unclear.)

4 A. And he did send me the bundle, but I wasn't able to
5 print it off; yeah, so he did send me the bundle.

6 Q. Now, 22nd of January 2020. If we look at your
7 second--or the second one that is in the bundle--and you'll find
8 that at page 73.

9 A. 73?

10 Q. This is the second form stamped by the Registrar of
11 Interests and written in there in manuscript within the stamp is
12 the date 11th of August 2020, your name, and it says Speaker HOA
13 at the bottom there. Is that in your handwriting?

14 A. That's not my handwriting.

15 Q. Do you recognise the handwriting at all?

16 A. This is the form that I filled out?

17 Q. Well, it's a form that the--

18 A. Okay--

19 Q. --Registrar gave to--

20 A. Yeah. Okay. Maybe that's the handwriting of my
21 secretary because I usually ask her to print out the form. I
22 sit with her and go through, so maybe it's the handwriting of my
23 secretary if, indeed, it matches what's in my office. Again,
24 I'm not going to assume anything. You have presented a document
25 to me. First time I'm seeing this document. You claim it's

1 from the Registrar of Interests--

2 (Overlapping speakers.)

3 COMMISSIONER HICKINBOTTOM: I'm sorry.

4 THE WITNESS: --accepted that.

5 COMMISSIONER HICKINBOTTOM: I thought you said you'd
6 seen the bundle.

7 THE WITNESS: I said I did not copy--I did not print
8 the bundle. I saw the e-mail, but I did not print the bundle.
9 So I was confirming that Attorney Rowe sent me an e-mail with my
10 bundle, but I didn't print it.

11 COMMISSIONER HICKINBOTTOM: So, you didn't check
12 anything in the bundle?

13 THE WITNESS: No, no, I did not.

14 COMMISSIONER HICKINBOTTOM: Thank you.

15 THE WITNESS: So I want to know that this is
16 legitimate.

17 COMMISSIONER HICKINBOTTOM: Well, the Registrar--the
18 documents produced by the Registrar under the Register of
19 Interests Amendment Act, they are genuine documents provided by
20 her.

21 THE WITNESS: Yeah, but I'm saying, you know, this is
22 a--this is a--this is a global world, and things could be
23 doctored, things could be changed. Things, could be amended, so
24 I'm relying on your credibility.

25 COMMISSIONER HICKINBOTTOM: Are you suggesting that

1 the Registrar changed this document?

2 THE WITNESS: No, no, no, but this is something she
3 gave to you.

4 COMMISSIONER HICKINBOTTOM: Yes. Thank you.

5 Thank you, Mr Rawat.

6 BY MR RAWAT:

7 Q. If you go, please, to page 83--

8 A. If I could just--and I don't want to sound a little
9 assertive or not having the highest respect for this process and
10 you, Mr Commissioner, but if I could just simply cut through the
11 chase and say one thing: There were three filings by myself.
12 The first filing was done on time. The second one was late
13 because I wrote the Registrar a letter, which I have, 12 March,
14 simply saying to her that there was no change from the first
15 time.

16 And she wrote back to say no, according to the Act, I
17 still have to fill it out. So I fill out the second one, which
18 was not late because it satisfied the three-month period. And
19 then the third filing was on time.

20 So, there was three filings, one in nine--one in 2019,
21 2020, and 2021. 2019 and 2021 was on time. 2020 may have been
22 a few days late simply because since nothing was changed, I
23 simply wrote a letter to say nothing has changed, and she then
24 returned a letter saying nothing has changed but you still have
25 to fill it out.

1 So, for the record, I have been compliant. I have
2 been on time for my three Register of Interests.

3 COMMISSIONER HICKINBOTTOM: Thank you, Honourable
4 Speaker. I suspect that--that will--that may help. But I think
5 Mr Rawat would like to ask you some questions going through the
6 forms, and that may make the matter clearer for me.

7 THE WITNESS: Okay. Well, I just don't--

8 COMMISSIONER HICKINBOTTOM: For me, okay?

9 THE WITNESS: Okay, for you.

10 (Overlapping speakers.)

11 COMMISSIONER HICKINBOTTOM: Yes.

12 Thank you, Mr Rawat.

13 THE WITNESS: I just don't want to waste each other's
14 time. I'm sure you're a busy man and I'm busy too.

15 (Overlapping speakers.)

16 BY MR RAWAT:

17 Q. Page 83.

18 A. Page 83?

19 Q. Is that your signature, please?

20 A. It appears to be.

21 Q. And what's the date?

22 A. It appears to say 18 March 2020.

23 Q. And is that in your handwriting, that date?

24 A. It appears to be my handwriting.

25 Q. So, the Registrar has provided the Commissioner with

1 two forms, one which you have confirmed is dated the 22nd of
2 January 2020 and one which you have given as the date of 18th of
3 March 2020. Can you explain why those dates appear on those two
4 forms?

5 A. I'm sorry, repeat that?

6 Q. The first form that we looked at is dated the 22nd of
7 January 2020.

8 A. Um-hmm.

9 Q. The second form is dated the 18th of March 2020.

10 A. 22nd of January and 18th of March. Is that--both of
11 them are 2020?

12 Q. Yes.

13 A. As I explained to you, Commissioner, I got the
14 requests for the Second Declaration, and because nothing had
15 changed, I wrote a letter on March 12, 2020, indicating to the
16 Registrar of Interests that nothing has changed.

17 Subsequently to that, on the 17th of March, she wrote
18 me back to say, notwithstanding anything has changed, it is the
19 requirement to fill out the form, and I complied by filling out
20 the form.

21 Q. So, that would be an explanation for why one of the
22 forms--

23 A. That's why--

24 Q. --says the 18th of March 2020.

25 A. That's an explanation for why one of the forms could

1 be considered late. However, under the Act, there is a
2 three-month grace period, and I've satisfied for the second form
3 that three-month grace period.

4 So, for the record, Mr Commissioner, the Speaker's
5 Declaration has never been late.

6 COMMISSIONER HICKINBOTTOM: Can we come to that? What
7 I'd like to do--

8 THE WITNESS: Oh, I thought we were there already.

9 COMMISSIONER HICKINBOTTOM: No, we're not.

10 THE WITNESS: Okay. Sorry to rush you ahead.

11 COMMISSIONER HICKINBOTTOM: I'm afraid you are rushing
12 ahead.

13 THE WITNESS: Okay. My humble apologies.

14 COMMISSIONER HICKINBOTTOM: What I'd like to do is to
15 establish the dates first, the dates that these forms were due,
16 the dates that you sent them in. And once we've established the
17 dates, we can then go on to consider whether you were in breach.

18 Can we establish the dates first, Mr Rawat?

19 MR RAWAT: Yes.

20 BY MR RAWAT:

21 Q. The date on which the Honourable Speaker's
22 Declarations fall due is the 12th of March of each year, so the
23 first one would be the 12th of March 2019, and thereafter the
24 anniversary would be the 12th of March 2020.

25 On the Honourable Speaker's evidence that the second

1 form that I took him to, the last page which is at 83 and is
2 dated the 18th of March 2020, would be the 2020 Declaration.

3 A. Okay.

4 Q. On the--

5 A. I'm sorry, I'm trying to follow you. Tell me when the
6 2020 Declaration was due.

7 Q. 12th of March 2020.

8 A. 12th of March. And when was it sent?

9 Q. On 18th of March 2020.

10 A. Okay. It was due the 12th and it's sent in on the
11 18th. Okay. So--

12 COMMISSIONER HICKINBOTTOM: I'm sorry, that's 2020.

13 MR RAWAT: That's the 2020.

14 THE WITNESS: Yeah.

15 COMMISSIONER HICKINBOTTOM: What about 2019?

16 BY MR RAWAT:

17 Q. Well, the other form in the bundle which is dated--

18 A. Okay, let's--

19 (Overlapping speakers.)

20 BY COMMISSIONER HICKINBOTTOM: No, no.

21 BY MR RAWAT:

22 Q. Can I just finish the question?

23 A. Oh, no, no, no, no, no.

24 COMMISSIONER HICKINBOTTOM: I'm sorry.

25 THE WITNESS: Commissioner, Commissioner, if you're

1 going to invite me to your process, you're not going to bully me
2 about--

3 COMMISSIONER HICKINBOTTOM: I'm not--

4 THE WITNESS: --questions and answers.

5 COMMISSIONER HICKINBOTTOM: I'm not bullying you.

6 THE WITNESS: You have to give me a chance to properly
7 answer the question.

8 COMMISSIONER HICKINBOTTOM: But you have to--

9 THE WITNESS: Commissioner, I know you're in charge,
10 but we're here as equals.

11 COMMISSIONER HICKINBOTTOM: But first--

12 THE WITNESS: I know you're in charge, but we're here
13 as equals. Let's establish that.

14 COMMISSIONER HICKINBOTTOM: First, Honourable Speaker,
15 you have to be asked a question.

16 THE WITNESS: Yes.

17 COMMISSIONER HICKINBOTTOM: And you haven't been asked
18 a question yet.

19 THE WITNESS: He just asked me a question.

20 COMMISSIONER HICKINBOTTOM: When you're asked a
21 question, you will have full opportunity to answer it.

22 Mr Rawat.

23 BY MR RAWAT:

24 Q. The first form which is at page 94 in the bundle,
25 that's the last page--

1 A. Are we on 2020?

2 Q. I've dealt with 2020.

3 A. Okay. So, we established in 2020 it met the
4 requirement.

5 COMMISSIONER HICKINBOTTOM: I'm sorry, let me make
6 clear what we have established. We've established that it was
7 due on the 12th of March; yes?

8 THE WITNESS: Um-hmm and sent in on the 18th.

9 COMMISSIONER HICKINBOTTOM: It was sent on the 18th.
10 Can we just pause there--

11 (Overlapping speakers.)

12 THE WITNESS: (Unclear.)

13 COMMISSIONER HICKINBOTTOM: --on 2020--2019.

14 THE WITNESS: Okay, but--

15 (Overlapping speakers.)

16 MR RAWAT: 2019--

17 THE WITNESS: (Unclear.)

18 COMMISSIONER HICKINBOTTOM: I just want to--

19 (Overlapping speakers.)

20 THE WITNESS: I humbly and politely request to ask a
21 question.

22 COMMISSIONER HICKINBOTTOM: What question?

23 THE WITNESS: I want us to establish whether or not
24 the Speaker of the House did not comply with the Act in 2020.

25 COMMISSIONER HICKINBOTTOM: We will do that, but we

1 can't do it until we've established the dates, and at the
2 moment--

3 THE WITNESS: But he just gave me the dates. He said
4 it was due on--

5 COMMISSIONER HICKINBOTTOM: For one year--
6 (Overlapping speakers.)

7 THE WITNESS: Okay, 2020.

8 COMMISSIONER HICKINBOTTOM: Let's establish the dates
9 for 2019.

10 THE WITNESS: Okay.

11 COMMISSIONER HICKINBOTTOM: And then we can deal with
12 breach; yes?

13 THE WITNESS: Okay. So I just want be--

14 COMMISSIONER HICKINBOTTOM: Right.

15 THE WITNESS: --I just want to understand whether now
16 we have finished with 2020.

17 COMMISSIONER HICKINBOTTOM: In establishing the dates
18 for 2020, I think we've finished.

19 THE WITNESS: Okay.

20 COMMISSIONER HICKINBOTTOM: But we haven't established
21 the dates for 2019.

22 THE WITNESS: So, Commissioner, can you conclude for
23 the record that I have complied with 2020.

24 COMMISSIONER HICKINBOTTOM: Not yet.

25 Can we deal with 2019?

1 BY MR RAWAT:

2 Q. 2019, the last page of 2019, what--the last page of
3 the other Declaration is at page 94 in the bundle and carries
4 the date the 22nd of June--22nd of January 2020.

5 A. What page, I'm sorry?

6 Q. 94.

7 MR ROWE: At the back. Right at the back.

8 THE WITNESS: Okay.

9 BY MR RAWAT:

10 Q. That would appear to be the 2019 Declaration filed on
11 the 22nd or signed on the 22nd of January 2020.

12 A. Well, for when, you say?

13 Q. For 2019.

14 A. I don't know--I'll want to check with my office.

15 COMMISSIONER HICKINBOTTOM: We've obviously made
16 requests for any documents that you have, and also for any
17 information that you have; but, at the moment, these are the
18 documents we've got from the Registrar.

19 THE WITNESS: Okay. Yeah, I'll--again, I'm not--let
20 me--you know, verify things.

21 BY MR RAWAT:

22 Q. I appreciate, Honourable Speaker, that you will have
23 your own records. You appear to have copies of your own
24 Declarations, and you obviously have copies of correspondence
25 that you had with the Registrar. But if--on the evidence you've

1 given us in relation to 2020, that explains the difference
2 between the 12th of March 2020 and the 18th of March 2020. If I
3 take you to 2019, on that form, that was due on the 12th of
4 March 2019, and it was signed by you on the 22nd of January
5 2020.

6 A. Okay, I--the 12th of March was the same day I was
7 sworn in so...

8 Q. Yes.

9 A. Okay.

10 Q. Now, under the Act--and it doesn't matter whether
11 you're an elected Member, the Attorney General or a
12 Speaker--under the Act, you have to file a Declaration on the
13 day that you are sworn in. So, for you, on the 12th of March,
14 the Act obliged you to sign a Declaration, so--

15 A. Okay. What I wrote--

16 Q. Can I finish and put the question--

17 A. Sure, you can.

18 (Overlapping speakers.)

19 Q. --what follows from the Act is that because that is
20 dated the 22nd of January 2020, you, as any other Member would
21 be, are in breach of the section 3 of the 2006 Act.

22 A. Okay, that's your version. I--you have presented me
23 with stuff. I am unable at this time to verify the stuff that
24 you've presented me with, so I cannot sit here and say that
25 there was a breach.

1 COMMISSIONER HICKINBOTTOM: We're not on--okay. Let's
2 take this in stages.

3 Firstly, I have to act on evidence. This is the
4 evidence we've received from the Registrar pursuant to the Act
5 which you've referred to which was passed during your time as
6 Honourable Speaker. You're aware of the Act. We've recovered
7 these documents from the Registrar. This is the only evidence
8 we have. We have given you opportunities to put in evidence,
9 for example, copies of Declarations that you've had. Those
10 opportunities have not been taken. This is the only evidence I
11 have.

12 So, on this evidence, on the basis of the document
13 that finishes on page 94, if that, indeed, is your 2019
14 Declaration--and it's dated the 22nd of January 2020--do you
15 accept that it was not signed and submitted on the 12th of
16 March 2019?

17 THE WITNESS: I will have to, Commissioner, go back to
18 my office to verify the information that you're now presenting
19 to me. If the information that you're presenting to me
20 is--compares with what I have in the office, then it will appear
21 to be a breach, but I am not sitting here accepting a breach
22 knowing that you told me that you've gotten this from the
23 Registrar of Interests. I don't know what happened between when
24 you got it and when it came to the Commission of Inquiry. I
25 can't assume these things.

1 COMMISSIONER HICKINBOTTOM: Can I put it this way: If
2 this is your 2019 Declaration, you were in breach?

3 THE WITNESS: If--

4 COMMISSIONER HICKINBOTTOM: You're going to check it.
5 I understand that.

6 THE WITNESS: If what you have here I can confirm at
7 my office, then it appears to be.

8 COMMISSIONER HICKINBOTTOM: Thank you.

9 BY MR RAWAT:

10 Q. And on that basis, again, Honourable Speaker, if this
11 is--page 94 is your 2019 Declaration and it compares with what
12 you have at the office, then you would also be in breach of
13 section 7 because you were outside the three months.

14 A. The same answer I just gave.

15 Q. Just for the Transcript, just repeat that same answer.

16 A. If what I'm being presented here by a Commission of
17 Inquiry called by Mr Jaspert, if this is what I've been
18 submitted, and I compare it to my office, I will have to get
19 back to you to see if both information are accurate.

20 COMMISSIONER HICKINBOTTOM: So, if this is the 2019
21 Declaration, it is in breach of section 3 and section 7. And if
22 there is any other evidence, one assumes not because the
23 Honourable Speaker has had an opportunity to put it in and has
24 not put it in, but if there is any other evidence, then he must
25 submit it later.

1 BY MR RAWAT:

2 Q. If we go just to 83, please, Honourable Speaker.

3 A. Page 83?

4 Q. That's the 2020 Declaration, signed and dated 18th of
5 March 2020 and due on the 12th of March 2020.

6 So, if that again compares to what you have at your
7 office, then again, you would be in breach of section 3.

8 A. Wait. If this is the 2020, Commissioner, and it was
9 due on the 12th and sent on the 18th of March, how is that a
10 breach?

11 COMMISSIONER HICKINBOTTOM: Because the 18th of March
12 is after the 12th of March.

13 THE WITNESS: Yeah, but there is a three months'
14 waiver.

15 COMMISSIONER HICKINBOTTOM: No, not under section 3.
16 Under section 7--that's a different breach--it's three months.
17 But under section 3, it has to be submitted on a particular
18 date. That date was the 12th of March.

19 THE WITNESS: Okay. So, I was a week and some days
20 late.

21 MR ROWE: Six days late.

22 THE WITNESS: Okay. I was six days late. I admit.
23 In 2020, the Speaker of the House was six days late, so,
24 according to the Commissioner, he's in breach.

25 COMMISSIONER HICKINBOTTOM: No, no, no. No, no, no.

1 No, not according to me.

2 THE WITNESS: It's according to you.

3 COMMISSIONER HICKINBOTTOM: No.

4 THE WITNESS: You just sat there and said I breached.

5 COMMISSIONER HICKINBOTTOM: It's not according to me--

6 THE WITNESS: Commissioner--

7 COMMISSIONER HICKINBOTTOM: --it's according to

8 section 3--

9 THE WITNESS: Yeah, but you--

10 COMMISSIONER HICKINBOTTOM: --of a statute which has
11 been passed by the House of Assembly.

12 THE WITNESS: I agree with that, but you have
13 concluded based on that statute that I'm in breach. You have
14 concluded that.

15 COMMISSIONER HICKINBOTTOM: No, you've accepted it.

16 THE WITNESS: Okay. I'm six days late. My humble
17 apologies.

18 COMMISSIONER HICKINBOTTOM: Thank you.

19 THE WITNESS: For the record, I apologise. The
20 Speaker has been six days late for 2020. I humbly accept and I
21 apologise.

22 BY MR RAWAT:

23 Q. Honourable Speaker, but before you go forward with
24 that, the other matter--and you may wish to check this against
25 your own records--

1 A. Okay.

2 Q. --but the other potential breach that arises in relation
3 to 2020 is at page 73.

4 A. Um-hmm.

5 Q. Can you--have you got page 73?

6 A. I have, sir.

7 Q. If you go to the top, you'll see the Registrar of
8 Interests stamp.

9 Do you see that?

10 A. There is a stamp in the bundle that you have provided.

11 Q. Yes.

12 And it is--in there is written the date 11th of
13 August 2020. 11th of August '20.

14 Do you see that?

15 A. Yes, sir.

16 Q. Now, that's the date on which the Registrar of
17 Interests received the form. So, that again--the risk that then
18 follows is that in relation to 2020, are you not--you're not
19 only in breach of section 3 but you're in breach of section 7.

20 A. Okay. Again, I'll have to verify that.

21 Q. Yes.

22 Now, you said earlier that your recollection and your
23 evidence is is that you complied with the 2021 timeline for
24 filing that declaration.

25 A. That's according to my recollection, yeah.

1 Q. Now, the material that we--the COI had put in the
2 bundle for you was received some two weeks ago from the
3 Registrar of Interests and did not include your 2021
4 Declaration. So she did not provide it to the Commission.

5 Can you--do you have--can you assist the Commissioner
6 at all with when you filed that 2021 Declaration?

7 A. I will have to get that information from the office,
8 but what I know for sure, and I just verified this with my
9 secretary before I attended this hearing is that I'm up to date
10 on my three years of Declaration.

11 Q. And did--was the information from your secretary in
12 terms of you being up-to-date that they all three had been filed
13 with the Registrar of Interests?

14 A. Yes, all three files. I mean, we can quibble about
15 some were late, some were six days late, but I know for sure the
16 three were filed.

17 And I can provide that, Commissioner, the third one
18 that he claimed not to have received from the Registrar of
19 Interests, I can make that available.

20 COMMISSIONER HICKINBOTTOM: Good.

21 I think the--have you finished this line of
22 questioning, Mr Rawat?

23 MR RAWAT: Yes.

24 COMMISSIONER HICKINBOTTOM: What I think we'll do,
25 Honourable Speaker, is this: On the basis of the documents we

1 have from the Registrar--and I accept that you want to check
2 them--

3 THE WITNESS: Yes.

4 COMMISSIONER HICKINBOTTOM: --that you may have other
5 documents. On the basis of these documents, which is the only
6 evidence I have at the moment, you appear to be in breach of
7 section 3 and section 7 for all three years, on the evidence
8 that we have.

9 What I'll ask you, through Mr Rowe, to do, by, say,
10 4:00 on Monday because this will only take you a matter of
11 minutes--

12 THE WITNESS: Um-hmm.

13 COMMISSIONER HICKINBOTTOM: --is to write to the
14 Commission of Inquiry either accepting the breaches or, if you
15 have further evidence, submitting the further evidence.

16 THE WITNESS: Yeah, that's fair.

17 COMMISSIONER HICKINBOTTOM: Thank you very much.

18 THE WITNESS: That's fair.

19 COMMISSIONER HICKINBOTTOM: Yes.

20 BY MR RAWAT:

21 Q. Honourable Speaker, could you turn to page 90--

22 A. So, are we off the Register of Interests?

23 Q. Not entirely. I'd like to ask you a question about
24 the form now, itself.

25 If you turn to page 90, please.

1 A. Commissioner, I'm sorry, I thought we had made--we had
2 come to a conclusion on the Register of Interests.

3 Q. We've come to a conclusion in terms of establishing
4 the dates and establishing breach. What I'd like now to do is
5 to ask you some questions about the form itself.

6 If you turn to page 90, please.

7 There is, if you look at the note at the bottom--of
8 the middle of that page, there's a reference to the Commonwealth
9 Parliamentary Association. The actual paragraph doesn't matter.
10 What I want you--

11 A. Page 19, you said?

12 Q. 90, nine-zero. Nine--we're talking about the
13 same--yeah, nine-zero. Don't have any.

14 MR ROWE: Overseas visit--yeah, that's it.

15 THE WITNESS: This is it?

16 MR ROWE: Um-hum.

17 BY MR RAWAT:

18 Q. Yes. It should be headed at the top "Six Overseas
19 Visits". You probably have it.

20 A. Yes, yes. We're on the same page.

21 Q. Do you see that there's some italicised text? Begins
22 "Note". If you look at the bottom--the middle of the page,
23 there's an italicised text which begins "Note".

24 A. Um-hmm.

25 Q. The last sentence in that text refers to a Guidance

1 Pamphlet on registration and Declaration of Members' Interests.

2 Have you ever received in your time as a Member of the
3 House of Assembly a Guidance Pamphlet?

4 A. I can't recall. I'll have to go back and check.

5 Q. Now--and when you say you'd go back and check, is that
6 the sort of thing that if you had received it, it would have
7 been kept in your office?

8 A. Well, it would have been placed on the file. I mean,
9 I answered here "no".

10 Q. Honestly, it's not actually about the answer that you
11 gave to the question. It's about the existence of the pamphlet.

12 A. Okay, it--

13 (Overlapping speakers.)

14 Q. --question of other witnesses who are not aware of it.

15 A. Yeah.

16 Q. I wanted to know whether you had ever been provided
17 with such a document.

18 A. I cannot recall seeing such a document. However, I'm
19 willing to go back and check, and that can be included in the
20 information that you, Commissioner, needs by 4:00 on Monday.

21 COMMISSIONER HICKINBOTTOM: Very well. Thank you very
22 much.

23 BY MR RAWAT:

24 Q. Thank you. In checking could you also--

25 MR ROWE: We will work on that.

1 BY MR RAWAT:

2 Q. --could you also ask the Clerks of the House of
3 Assembly whether such a pamphlet exists?

4 A. Sure can.

5 COMMISSIONER HICKINBOTTOM: And we ask particularly,
6 Honourable Speaker, because none of the other Members that we
7 have--who've given evidence, know of any such pamphlet, it would
8 be useful if a pamphlet existed that we have it.

9 THE WITNESS: Okay, yeah, I'll check, I'll check.

10 COMMISSIONER HICKINBOTTOM: Thank you very much.

11 BY MR RAWAT:

12 Q. If you go, please--now, let's look at your 2019 form,
13 and it's at page 85, please.

14 A. 85? Um-hmm.

15 Q. The first--the form has ten paragraphs. The first
16 paragraph asks a Member of the House of Assembly: "Do you have
17 any remunerated or unremunerated Directorships in any company?"
18 You've answered "no" to that question. But if you turn
19 overleaf, the second section or paragraph that the Member has to
20 complete is headed "Remunerated Employment, Office, Profession,
21 Et cetera". You've answered "yes" to that, and what you've
22 listed are three things: Leonard and Associates, Advanced
23 Marketing and Professional Services, and rental income.

24 I take it those entries are in your--do they look as
25 if it's in your handwriting?

1 A. They appear to be in the document you have provided.

2 Q. But is it--does it appear in the document that we have
3 provided, does it appear to be in your handwriting?

4 A. I think this is my secretary's handwriting, because,
5 as I said, I remember, each time I get this form, I will have my
6 secretary ask me the question, and she'll usually write it out
7 and then I will sign. Yes, so it's her writing.

8 Q. Now, if you look at the last entry that's been put
9 down by your secretary, it says "rental income".

10 A. Um-hmm.

11 Q. And, what the form asks the person filling it in asks
12 the Member of Assembly to do is to set out details. Now, you've
13 given rental income. If you look, please, at page 92, what you
14 haven't done at (2) is specify the source of the rental income.
15 You do at 92 give details, and is this again in your--does this
16 appear to be in your secretary's handwriting?

17 A. This appears as to what is in front of me to be my
18 secretary's handwriting.

19 Q. To give two, three whole properties in Sea Cows Bay,
20 Tortola, was that--are those the source of the rental income
21 that you declared in (2)?

22 A. No.

23 Q. So, what's the source of the rental income that you
24 declared in (2)?

25 A. It was an apart--it's an apartment building.

1 Q. Where is that?

2 A. Sea Cows Bay.

3 Q. Say that again, please.

4 A. Sea Cows Bay.

5 Q. So, if you go to page 92, what 92 asks is do you have
6 any land other than any home used solely for the personal
7 residential purposes of you or and your family. You've answered
8 yes. You were then asked to indicate below the nature of the
9 land, which includes whether it's residential rented/leasehold
10 land. And as I said, you put in two entries. Does that mean
11 that the apartment building that gives you income is not listed
12 there?

13 A. See, I'm not sure which of those two properties, but
14 there is a house on some land, and it's more of a house in
15 collaboration with my family, so I wouldn't be the sole owner.
16 It will be my mother and a brother and a sister, so I don't know
17 if it falls on any of those two pieces of property.

18 COMMISSIONER HICKINBOTTOM: Are either of these pieces
19 of property the home of the apartment to which you've referred?

20 THE WITNESS: That why I said I'm not sure.

21 COMMISSIONER HICKINBOTTOM: You don't know, okay.

22 THE WITNESS: Yeah, I'm not sure, because I'm thinking
23 these are the pieces of property in my name, not tied up with
24 family.

25 BY MR RAWAT:

1 Q. Well, you obviously--so, you've got two pieces of
2 property in your name which you have listed in paragraph 9.

3 A. Um-hmm.

4 Q. Yeah.

5 A. And then there's another property where the house is,
6 apartment building where the rental income come from, which is
7 with the family.

8 Q. If you like, let's call that a jointly owned property.

9 A. Um-hmm.

10 Q. Yeah. Now, you've declared that at least income from
11 that jointly home properly--property in paragraph 2. To step
12 back from the detail of what you have declared, and looking at
13 it now, do you think that it--there is--this raises any sort of
14 uncertainty on--or doubt as to what exactly you're being asked
15 to provide in terms of information?

16 A. Perhaps the--perhaps one could agree that the form may
17 be a bit ambiguous, and perhaps it needs to be tightened up so
18 it will have led to--because I think the other question was
19 asking about income, so at least I was able to say I'm receiving
20 income from a family rental.

21 Q. Yes.

22 A. But it doesn't necessarily say that I am the owner or
23 the sole owner of that rental.

24 Q. Yes.

25 A. So, perhaps there was some ambiguity.

1 Q. Because--

2 A. With the form.

3 Q. To be fair to you, Honourable Speaker, what the--what
4 paragraph 8, which is headed "Land", asks is do you have any
5 land. So--

6 A. This is on page 92?

7 Q. Yes.

8 A. Okay.

9 Q. So--

10 A. Yeah, so those are the lands in my name.

11 Q. Yes.

12 And so, what the potential ambiguity that you have
13 identified is that it's not clear--it may not be clear to the
14 Member of the House completing this form whether they are being
15 asked to declare land that they own solely or land that they own
16 jointly.

17 A. Jointly, yes. That could be an argument.

18 Q. If you go, please, to your 2020 form at 74--sorry?

19 MR RAWAT: Give me a moment, please.

20 (Pause.)

21 BY MR RAWAT:

22 Q. Excuse me. In 2019, one of the sources of income that
23 you put down was Leonard and Associates.

24 A. Um-hmm.

25 Q. And I've read the other two that you put down now.

1 But if we go to your Declaration in 2020, which was--we look at
2 page 74 and 75, please.

3 A. I'm at page 75.

4 Q. Thank you.

5 You'll see that you've said no to directorships but
6 yes to remuneration.

7 A. Okay. Let me explain because the--

8 (Mr Rowe consulting with the Witness.)

9 COMMISSIONER HICKINBOTTOM: I'm sorry, Mr Rowe,
10 firstly, the Honourable Speaker, I think, can look after himself
11 in terms of questions. If he's unclear of a question, as he had
12 in the past, I'm sure he'll make that clear to us, and we'll
13 repeat the question. But in this case I think he understood the
14 question and is just about to answer it.

15 THE WITNESS: And I thank my Attorney for intervening
16 on my interests. That's appreciated.

17 MR ROWE: Comment to Mr Rawat. I gathered that he had
18 not finished.

19 COMMISSIONER HICKINBOTTOM: I'm sorry, Mr Rowe. Let
20 Mr Rawat ask his question again.

21 MR ROWE: Yes, please.

22 COMMISSIONER HICKINBOTTOM: And then the Honourable
23 Speaker can answer it.

24 BY MR RAWAT:

25 Q. I drew your attention, Honourable Speaker, to the

1 entries that you put in your 2019 form under paragraph 2 and
2 took you back then to your 2020 form at pages 74 and 75, where
3 you had, as you had in 2019 said no to directorships, but you
4 said yes to remuneration but gave no details, so the first
5 question was an explanation as to why you gave no details.

6 MR ROWE: That's the question.

7 THE WITNESS: Okay. How things are set up in the BVI
8 in terms of businesses, one could obtain a trade license, so
9 doing business as Julian Willock, doing business as Finance
10 Marketing, and doing business as Leonard and Associates
11 Security. When you come into directorship now, that's a
12 different law, Companies Register Act, so where you have a
13 director, shareholders, et cetera. So, I think most of my
14 businesses, if not all, are simply trade--by trade license, so
15 Leonard and Associates Securities by trade license, Advanced
16 Marketing is by trade license. So the issue of Directorship did
17 not apply as per the question on the bundle that you have
18 provided.

19 Q. And that's paragraph 1. But the question is why we
20 don't see in paragraph 2 reference to Leonard and Associates,
21 reference to Advanced Marketing and Professional Services, or
22 references to rental income.

23 A. I don't understand the question.

24 COMMISSIONER HICKINBOTTOM: Well, page 75 is the
25 starting point, Honourable Speaker.

1 THE WITNESS: Yeah.

2 COMMISSIONER HICKINBOTTOM: Page 75.

3 THE WITNESS: Um-hmm. But I'd already listed the name
4 of the companies.

5 BY MR RAWAT:

6 Q. But you had listed them in 2019. You didn't list them
7 in 2020.

8 A. Okay. I will have to--again, I'll have to check that
9 because I could not have not listed them after I said to the
10 Registrar of Interests that nothing has changed in 2020.

11 Q. But on your evidence she told you you had to do the
12 form over again.

13 A. Yes, she had, yes.

14 Q. And the point is that whilst saying you did have
15 remunerated employment, you didn't give the same detail--

16 A. Okay, again--

17 Q. --as you had in 2019.

18 A. Yeah, I will have to--I'll have to recheck that. That
19 will be--that will be a part, Commissioner, of the information
20 I'll provide to you by 4:00 on Monday.

21 Q. But the reason for asking is if you go to--because as
22 you've explained, Leonard and Associates is a trade license;
23 yes?

24 A. Yes, sir.

25 Q. If you go to page 95, there is a Resolution of the

1 House of Assembly. It is dated the 22nd of June 2020. You can
2 see that on page 96.

3 A. Um-hmm.

4 Q. And it was Gazetted on the 17th of July 2020.

5 A. Um-hmm.

6 Q. And it relates to you, and it says: "Whereas The
7 Honourable Julian Willock, Member of the House of Assembly, is
8 an elected Member of the House of the Assembly and the Speaker
9 thereof, whereas The Honourable Julian Willock elected Member
10 and Speaker of the House of Assembly is a director in the
11 company known as Leonard and Associates which provides private
12 security services in the Territory", and then it goes on to set
13 out the basis on which the Resolution sought, which was the
14 Resolution sought and implemented that you be exempted under
15 section 67 of the Constitution of 2007.

16 What that Resolution of the House of Assembly refers
17 to is Leonard and Associates as a company and you as a director
18 in the company. Is the Resolution inaccurate?

19 A. Okay. They have--perhaps there have--may have been
20 some plain words there because, as I said, Leonard and
21 Associates Security is via trade license, so perhaps--and in the
22 BVI we often interchange words. When somebody said
23 director-owner, it could be still be via trade license.
24 Director-owner could be a company register. So, perhaps there
25 may have been some interchange of words, but the fact of the

1 matter is that, at the time of this Resolution, I was the only
2 director or owner of Leonard and Associates Security.

3 Q. You were--for all intents and purposes, you were
4 Leonard and Associates.

5 A. Yes, yes.

6 Q. Now, just asking for your help in terms of how a
7 Resolution like that is drafted. You're obviously the subject
8 of the Resolution. Who is responsible for drafting it?

9 A. The Attorney General Chambers.

10 Q. Now, your 2020 Declaration, which you looked at, which
11 was filed on the 18th of March 2020, does not make reference to
12 Leonard and Associates either as a company or a d/b/a. Should
13 it have done so?

14 A. What page are you looking at?

15 Q. Well, if you look at pages 74 and 75 that we've just
16 been taken to, those are where one might expect to see a
17 reference to Leonard and Associates, as we have done in 2019.

18 A. Okay. I'll have to, again, look at my office and see
19 what's there.

20 Q. Because, would it be right that the June 2020
21 Resolution obviously refers to Leonard and Associates as a going
22 concern. Would it be right that it was a viable entity in
23 March 2020?

24 A. It referred to it as what?

25 Q. It's a going concern. It's a concern that enters into

1 a contract with Government, doesn't it?

2 A. Okay. Is that what the Resolution said?

3 Q. Yes.

4 A. Okay.

5 Q. You were the beneficiary of the Resolution.

6 A. Well--

7 Q. Presumably you're aware or you remember a detail.

8 A. It says my name; right?

9 Q. Yes.

10 A. You read Julian Willock on it.

11 Q. Yes.

12 A. So it means that obviously I would have been the
13 beneficiary.

14 Q. Yes.

15 A. Okay.

16 Q. But at the time that you entered into the contract
17 with Government in June 2020, Leonard and Associates was a going
18 concern, was it?

19 A. When you said "going concern", what do you mean?

20 Q. Was it a viable company?

21 COMMISSIONER HICKINBOTTOM: Was it trading?

22 BY MR RAWAT:

23 Q. Was it trading?

24 A. Leonard and Associates Security, I believe, were--I'm
25 not sure--in 2020? Yes, it was active.

1 The question is whether we had businesses? Whether we
2 had security contracts?

3 Q. Was it trading? That's the question.

4 A. Well, you have to clarify what you mean by "trading".
5 There's trading means what we refer to on the basis of the Stock
6 Market. Trading could mean was it a viable operational company.
7 So you'll have to give me the definition for the purposes of
8 this exercise.

9 Q. Well, without--we don't want the language to get too
10 flexible. Is it a company or is it a d/b/a?

11 A. It's a d/b/a. I think I answered that already.

12 Q. Well, you just called it as a--described it as a
13 company.

14 A. Okay, again--

15 Q. Let's call it a d/b/a.

16 (Overlapping speakers.)And let's read the?

17 A. We--

18 Q. --read the Resolution--

19 A. Commissioner, it's going in circles, and I think it's
20 getting to a time where--we're going in circles.

21 COMMISSIONER HICKINBOTTOM: We're not going in circles
22 but we're--

23 THE WITNESS: I respect your opinion, but we're--I
24 hope you can respect mine.

25 COMMISSIONER HICKINBOTTOM: So--but we're not making

1 the progress I had hoped, so let's press on.

2 THE WITNESS: Yeah, but I'm saying, Commissioner, if a
3 question is asked and answered, I don't want any tricks trying
4 to ask me the same question five and six times.

5 COMMISSIONER HICKINBOTTOM: No, I'm--

6 THE WITNESS: I'm not going to sit here and be bullied
7 by this Commission. I made it clear when I came in here. Asked
8 and answered and then we move on.

9 COMMISSIONER HICKINBOTTOM: These two trading entities
10 which are referred to in the Declarations are both d/b/as.

11 THE WITNESS: Yes. Whatever is there, they're
12 d/b/a's. So, if there was some language that suggests it was a
13 company, as a company under the Registers Act--

14 (Overlapping speakers.)

15 THE WITNESS: That language was not accurate.

16 COMMISSIONER HICKINBOTTOM: I understand that.

17 THE WITNESS: So everything that Leonard and Associate
18 is d/b/a.

19 COMMISSIONER HICKINBOTTOM: Yes, thank you.

20 THE WITNESS: Could you--is that clear?

21 COMMISSIONER HICKINBOTTOM: Yes.

22 THE WITNESS: Good. So we can move off that?

23 COMMISSIONER HICKINBOTTOM: Yes.

24 THE WITNESS: Great.

25 BY MR RAWAT:

1 Q. What the Resolution before the House said, as drafted
2 as you said by the Attorneys General's Chambers, is that it
3 describes you as the Director in the company known as Leonard
4 and Associates which provides private security services in the
5 Territory. It then says whereas the company is desirous of
6 entering into a private security agreement with the Government
7 of the Virgin Islands; then says whereas the Government of the
8 Virgin Islands through the Deputy Governor's office has made an
9 offer to the company by letter dated 14th of June 2020 to
10 provide 24 hours private security services in the form of
11 monitoring persons quarantined in private homes and residences
12 in the Territory from the 2nd day of June 2020 to the 31st day
13 of August 2020 at a hourly rate of \$18.

14 Now, that was the contract, and it refers to the
15 interests that you have in the company.

16 Now, at the time of this Resolution and at the time of
17 the offer from the Deputy Governor's office, was Leonard and
18 Associates active?

19 A. What do you mean by "active"? Do you mean if we had
20 other contracts with other parties?

21 Q. Well, did you--you've said that you are effectively
22 Leonard and Associates. So, did you enter into negotiations
23 with the Deputy Governor's office that led to an offer being
24 made by letter on the 14th of June 2020 to Leonard and
25 Associates?

1 A. Commissioner, allow me to give a little background.

2 In the peak of the COVID-19 situation in the BVI, the
3 Government, I think, through a Cabinet Decision, wanted to hire
4 private security companies to be posted at homes and hotels to
5 assist with people complying with quarantine. They had
6 exhausted all the security companies, because I have resisted
7 working for Government for a lot of reasons.

8 The--I got a letter and a phone call from the Deputy
9 Governor's office saying that they were desperately in need of a
10 security company to assist them. They have gone through all the
11 companies. Some of the guys were exhausted, and they needed
12 help from my company.

13 I said to the Deputy Governor's office that I will
14 help in the situation. However, as a sitting Member of the
15 House, and knowing my history of transparency, I will bring a
16 Resolution. I will ask that a Resolution to be brought to the
17 House so I can get permission to enter into business with
18 Government. Hence, this piece of document.

19 However--and I'm sure you might be disappointed,
20 Commissioner, that you have not found a contract between Leonard
21 and Associates Security and the Government of the Virgin
22 Islands. I know you're very disappointed that you didn't find
23 one because after the Resolution was passed, I did not engage
24 with the Government of the Virgin Islands in any contracts. So,
25 at least I did what was correct, what was lawful in terms of

1 declaring, but there was no follow-up after the Declaration in
2 which I engaged in a contract with the Government.

3 As I said, I know how disappointed you are,
4 Commissioner, but in your research you have not found a
5 contract.

6 COMMISSIONER HICKINBOTTOM: Honourable Speaker, first,
7 there are many contracts we haven't found.

8 Second. The answer to the question is yes.

9 THE WITNESS: Yes, yes as to what?

10 COMMISSIONER HICKINBOTTOM: The question.

11 MR RAWAT:

12 Q. And did Leonard and Associates--

13 THE WITNESS: But I'm sorry. I just want to be clear
14 what he's saying yes to. You're saying "yes" to, Commissioner.

15 COMMISSIONER HICKINBOTTOM: The question was: Did you
16 engage with the Deputy Governor in relation to this offer? You
17 did.

18 THE WITNESS: Yes, I engaged.

19 COMMISSIONER HICKINBOTTOM: Yes. So the answer to the
20 question--

21 THE WITNESS: Engaged to the extent of I went to the
22 House of Assembly to get--because engaged is wide. Engaged
23 could mean you accepted an offer, you signed the contract, you
24 work, so we have to be very specific with this language because
25 I see what's going on here. You're trying to trip people up,

1 but that's not going to happen this morning with me.

2 COMMISSIONER HICKINBOTTOM: No.

3 THE WITNESS: That's not going to happen with the
4 Speaker. I can tell you that.

5 COMMISSIONER HICKINBOTTOM: We're not trying to trip
6 anyone.

7 THE WITNESS: No, no, you are.

8 (Overlapping speakers.)

9 COMMISSIONER HICKINBOTTOM: We--

10 THE WITNESS: Commissioner, I'm going to tell you
11 straight up you are, but it's not going to happen with the
12 Speaker.

13 COMMISSIONER HICKINBOTTOM: There we are. We--you got
14 your answer, Mr Rawat.

15 THE WITNESS: Okay, but let's be clear, Commissioner,
16 that engagement could mean a variety of things. There was
17 limited engagement with the Deputy Governor's office once there
18 was an offer, so I want that language to be on the record.

19 COMMISSIONER HICKINBOTTOM: It's on the record.

20 THE WITNESS: Thank you.

21 MR ROWE: If I may ask, Commissioner, the bundle we
22 received--this is the index to it--did not include this
23 document. We will hope that if there are supplementary
24 documents or if there is, in fact, an omission by the persons
25 preparing it.

1 THE WITNESS: Oh.

2 MR RAWAT: Sorry. Which--

3 MR ROWE: Which documents which we are referring now?

4 BY MR RAWAT:

5 Q. Turn to page 95 in your bundle.

6 A. I have--

7 MR ROWE: I'm at 94.

8 MR RAWAT: Right. Well, it was sent to you as an
9 update.

10 MR ROWE: We received this bundle like this.

11 THE WITNESS: Wow, see, people make mistakes all the
12 time, Commissioner.

13 COMMISSIONER HICKINBOTTOM: But--

14 THE WITNESS: People are late with documents all the
15 time.

16 COMMISSIONER HICKINBOTTOM: But--

17 THE WITNESS: You'll agree.

18 COMMISSIONER HICKINBOTTOM: But some errors are more
19 important than others.

20 THE WITNESS: Oh.

21 COMMISSIONER HICKINBOTTOM: This error isn't important
22 at all because there is no doubt, is there, that this is
23 Resolution number--

24 (Overlapping speakers.)

25 THE WITNESS: Well, commissioner, I can't believe you

1 sit there and say that that's not important. My lawyer is given
2 a bundle with documents missing--

3 COMMISSIONER HICKINBOTTOM: No--

4 THE WITNESS: --and you don't see that as important?
5 It speaks volume of this process, Commissioner. Commissioner,
6 it speaks volume about this process, and you're going to have to
7 convince this country that you have a transparent process. It's
8 not official exercise.

9 COMMISSIONER HICKINBOTTOM: Mr Speaker.

10 THE WITNESS: Yes, sir.

11 COMMISSIONER HICKINBOTTOM: Honourable Speaker--

12 THE WITNESS: Yes, sir.

13 COMMISSIONER HICKINBOTTOM: --page 95--

14 THE WITNESS: Um-hum, which I have in my bundle.

15 COMMISSIONER HICKINBOTTOM: Yes.

16 THE WITNESS: Thank you.

17 COMMISSIONER HICKINBOTTOM: Page 95 is a Resolution of
18 the House of Assembly.

19 THE WITNESS: Um-hum.

20 COMMISSIONER HICKINBOTTOM: A public document.

21 THE WITNESS: Um-hum.

22 COMMISSIONER HICKINBOTTOM: There's no doubt that it
23 is what it says it is.

24 THE WITNESS: Yeah, but why is it--

25 COMMISSIONER HICKINBOTTOM: I'm sorry.

1 THE WITNESS: --missing from my lawyer's bundle?

2 COMMISSIONER HICKINBOTTOM: I'm sorry. Is that right?
3 Is there any dispute that this is a genuine document?

4 THE WITNESS: That's not the question, Commissioner.

5 COMMISSIONER HICKINBOTTOM: It is the question I'm
6 asking.

7 THE WITNESS: The question on this table is whether or
8 not why was this document left out of my Attorney's bundle?
9 That's the question at hand. Don't switch the thing on me now,
10 Commissioner.

11 COMMISSIONER HICKINBOTTOM: It's not.

12 THE WITNESS: Commissioner, we're here as equal.
13 Let's talk to each other. Why--okay. Admit it's a mistake. We
14 all make mistakes.

15 COMMISSIONER HICKINBOTTOM: Firstly, I don't know
16 whether it's a mistake. But secondly, if it is, there's no
17 doubt what this document is. You've answered questions on it
18 quite--

19 THE WITNESS: But that's not the issue. The issue is
20 it's missing from his bundle, Commissioner. Commissioner, how
21 can it be right when it you suits you, and when it suits me it's
22 wrong?

23 COMMISSIONER HICKINBOTTOM: Well--

24 THE WITNESS: --that speaks volume to transparency and
25 ethics and integrity.

1 COMMISSIONER HICKINBOTTOM: Well, I'll have to
2 consider those submissions, Honourable Speaker.

3 Is there anything else on page 95?

4 BY MR RAWAT:

5 Q. No. The next question is whether during the course
6 of--well, during the course of this engagement with the Deputy--

7 A. Let me just say, in your research, Commissioner, did
8 you find a contract between Leonard and Associates and the
9 Government of the Virgin Islands?

10 COMMISSIONER HICKINBOTTOM: I don't know.

11 BY MR RAWAT:

12 Q. During the--

13 THE WITNESS: No, no, I asked a question,
14 Commissioner.

15 COMMISSIONER HICKINBOTTOM: I've given you my answer.

16 THE WITNESS: Oh, okay.

17 COMMISSIONER HICKINBOTTOM: I don't know.

18 THE WITNESS: Yeah, I'm sorry. You don't know. Okay.
19 That's curious because I was told that one of the first things
20 you guys asked for was to see that contract, a contract that
21 don't exist. Well, that's another story. Continue, sir.

22 BY MR RAWAT:

23 Q. I will continue with the questions.

24 A. Continue. I'm here at your disposal.

25 COMMISSIONER HICKINBOTTOM: And to answer--

1 (Overlapping speakers.)

2 THE WITNESS: Ask away.

3 COMMISSIONER HICKINBOTTOM: Thank you very much.

4 THE WITNESS: Ask away.

5 COMMISSIONER HICKINBOTTOM: Mr Rawat.

6 BY MR RAWAT:

7 Q. During the period of engagement with the Deputy
8 Governor, did Leonard and Associates become Eagle Security?

9 A. Leonard and Associates Security--no. Leonard and
10 Associates Security was my company. I had a friend who also was
11 interested in the security business, and what I said to him was
12 why don't we form another company so that Leonard and Associates
13 Security, who was Julian Willock doing business, will not be
14 mixed in with his interest, so we formed another company called
15 Eagle Security.

16 Q. And were you--so, you and that friend--is that a d/b/a
17 or a company?

18 A. Yes. Yes, sir.

19 Q. Let's call it a d/b/a so we don't get confused.

20 A. Yes. Yes, yes, yes.

21 Q. That d/b/a, were you part of that d/b/a? Was it a
22 joint d/b/a?

23 A. Yes, it was a joint, yes. Both names are on the trade
24 license.

25 Q. Right. And in terms of the issue that the--or the

1 area in which the Deputy Governor was interested, did Eagle--did
2 Eagle Security then engage with the Deputy Governor's Office in
3 relation to the provision of security services?

4 A. What happened is that when I lost interest via Leonard
5 and Associates Security, I think my business partner pursued the
6 venture because I told him that I no longer have interests in
7 working for the Government, and he pursued the same contract
8 under Eagle, but again it never materialised.

9 Q. So, if we break that down, as Leonard and Associates,
10 you engaged with the Deputy Governor in relation to provision of
11 security services for quarantine purposes, but your evidence is
12 that never materialised into a contract; is that right? Did you
13 sign a contract?

14 A. Well, you didn't find one, so--

15 Q. Well--

16 A. You will be aware that that is accurate.

17 Q. But you were a potential party to the contract. You--
18 (Overlapping speakers.)

19 A. Of course. I went to do a Declaration.

20 Q. Yeah, but did you sign a contract or did you not as
21 Leonard and Associates?

22 A. With the Government of the Virgin Islands?

23 Q. Yes.

24 A. The answer is no.

25 Q. Fine.

1 A. You did not find a contract. You went searching for a
2 contract, Commissioner. You didn't find one, so the answer is
3 no.

4 Q. Did Eagle Security sign a contract--

5 A. Not to my knowledge. Not to my knowledge.

6 Q. Well, were you--at any point did you cease to be part
7 of Eagle Security?

8 A. No, I'm still part of Eagle Security.

9 Q. And your partner didn't tell you whether or not he had
10 signed a contract?

11 A. Well, he could not have signed a contract because then
12 I would have to go back and declare because remember now it's a
13 different company.

14 Q. So--

15 A. Remember I'm transparent.

16 Q. Right.

17 A. Okay.

18 Q. Your evidence is now that Eagle Security did not sign
19 a contract.

20 A. Eagle Security did not sign a contract, yeah, because
21 I would have known because again, Commissioner, I would have had
22 to declare under the law, in keeping with my transparency.

23 Q. If you go back, please, to page 86, Advanced Marketing
24 and Professional Services, please, can you remind the
25 Commissioner, please, what does that--it's a d/b/a, first of

1 all; is that right?

2 A. Yes, sir.

3 Q. And what does it--you've given some detail about it,
4 but what does it currently do? What services does it provide?

5 A. Advanced Marketing and Professional Services, right
6 now we're kind of limited because I had to kind of take a
7 semi-leave from the company since I became the Speaker, so the
8 most thing they do now is advertising and a news site, an online
9 news site.

10 Q. And what's the on-line new site?

11 A. It's called Virgin Islands News Online.

12 Q. And you said that when you became Speaker, you took a
13 step back.

14 A. Yes, yes. I wrote--I had an agreement with both the
15 former Governor, Jaspert--your friend, Commissioner--and the
16 Premier, that once I became the Speaker I'm to remove myself
17 from all the editorial surrounding Virgin Islands News Online.
18 It means that I can't write stories. I can't tell anybody what
19 to write. I can't engage in blogs, et cetera, et cetera. So
20 there was a removal. Because we didn't have a Marketing
21 Manager, the only thing I do for the company is try and raise
22 revenue, meaning if someone has an ad, you will send it to us,
23 or send it to me, and we'll get it up for you. That's my
24 method. And that has been long-established now, almost
25 two-and-a-half years that I had nothing to do in terms of what

1 is written on VNO.

2 Q. You said it's an agreement between yourself, the
3 former Governor and the Premier. Was that recorded in a
4 memorandum.

5 A. There are letters--there are letters written.

6 Q. So. But it was an exchange of letters that's been
7 involved.

8 A. Yes, yes.

9 Q. And was that exchange of letters prior to your
10 appointment as Speaker or after?

11 A. No, I think it came after.

12 Q. Right.

13 A. It came after.

14 Q. And so, the level of involvement that you've had with
15 this d/b/a since becoming Speaker, it's is essentially being
16 involved in marketing.

17 A. Yes, yes. Specifically advertising. Yeah, if someone
18 has an ad for VNO, they'll call--

19 Q. They'll call you.

20 A. They call me.

21 Q. Right.

22 Now, because it's a d/b/a, I mean, you've explained
23 that Leonard and Associates is essentially you, who is Advanced
24 Marketing and Professional Services? Is it still just you
25 alone?

1 A. It's a d/b/a with me, but I have one or two persons
2 who have interests in the company, Advanced Marketing, because
3 Advanced Marketing is the parent company of VNO.

4 Q. Right. But is it the d/b/a of VNO?

5 A. It's the parent company of VNO.

6 Q. So, it is a proper company.

7 A. It's a d/b/a.

8 Q. Right. So, as d/b/a, it can be a parent of another
9 entity.

10 A. Yes, as a d/b/a.

11 Q. Right.

12 And so, there are one or two others who are also
13 involved in--

14 A. Yeah, they're involved.

15 Q. --Advanced Marketing.

16 A. Yeah, in Advanced Marketing.

17 Q. Right.

18 A. But it's not in a situation where it's registered so
19 you can go to the Registrar of--what is it called? Reg of
20 Corporate Affairs, where you'll see Director (1), John Brown,
21 Director (2).

22 COMMISSIONER HICKINBOTTOM: But there is a trade
23 license.

24 THE WITNESS: There's a trade license.

25 COMMISSIONER HICKINBOTTOM: And whose name is the

1 trade license in?

2 THE WITNESS: My name.

3 COMMISSIONER HICKINBOTTOM: Thank you.

4 THE WITNESS: Yeah, trade license in my name.

5 BY MR RAWAT:

6 Q. And is it just in your name?

7 A. Just in my name, yes.

8 Q. So, within the BVI, do d/b/a's work on this basis that
9 person A can hold a trade licenses but others can also be
10 involved--

11 (Overlapping speakers.)

12 A. Yeah, that practice has occurred more than once. You
13 can have--you can open, Commissioner, a car rental in BVI, and I
14 can perhaps--it's in your name, I can come in and invest in your
15 trade license. I can say I'll bring you a car. When it rented,
16 I get 50 percent, so that practice happens in the Virgin
17 Islands.

18 Q. But in terms of leaving aside the fact that you've
19 stepped back because of your Speaker role, because it's a d/b/a,
20 what you would be described as?

21 A. Well, it's--there is a trade license that shows the
22 owner.

23 Q. Right. So, you are the owner of Advanced Marketing
24 and Professional Services.

25 A. According to the trade licence?

1 Q. Yes. And according to the trade licence, you're the
2 sole owner.

3 A. According to the trade licence, my name appears on the
4 trade licence.

5 Q. You say there are other investors. Are you still the
6 majority shareholder in Advanced Marketing and Professional
7 Services?

8 A. That would be correct.

9 Q. Could I just go back to--again, your role as Speaker,
10 and it may be that you can't help us with this, but you
11 have--there should be possibly a loose-leaf piece of paper which
12 is headed "Guidelines for Processing Assistance Grants".

13 A. I will have that--where is that? Is it in this
14 bundle? Just tell me the page if it's in a bundle.

15 Q. It's not in the bundle. It's a loose-leaf piece of
16 paper.

17 A. If I can get a copy.

18 Q. I don't need to take you to the detail of it. What
19 Members of the House of Assembly have said is that, as district
20 representatives or either territorial representatives, they have
21 a fund. They are allocated a fund from which they can
22 distribute assistance grants to individuals. Those individuals
23 have to make an application to them which they will assess, and
24 it then goes to the Clerk of the House of Assembly. It will go
25 elsewhere as well as part of the process, but they've explained

1 in detail how the process works, and the guidelines have been
2 provided to the Commissioner. The Clerk to the House has
3 advised that these guidelines were issued between 2003 and 2007.

4 So, my question to you is: As Speaker, do you have
5 any responsibility at all for the guidance provided to Members
6 of the House of Assembly in relation to assistance grants?

7 A. The whole issue of assistance grant, since I took
8 office, I try my--well, I have made a conscious decision to stay
9 away from that. It's awarded to the 13 elected Members. Those
10 are the ones who are elected by the people of the country, so I
11 have deliberately stayed out of it. It has--it's administered
12 between the Clerk and the individual Member.

13 I am aware to some extent of the guidelines.

14 Q. But you've not been asked to review the guidelines or
15 consider whether they need updating or whether they need
16 revising.

17 A. There's always ongoing discussion about reviewing
18 them. I remember when the matter of the COVID assistance grant
19 came up, which is different from the regular assistance grant.
20 There were calls by Members, rightly so, that they ought to take
21 a look at the general assistance grant policy.

22 Q. Now, were those discussions on the floor of the House?

23 A. No. They were--we have informal meetings where it's
24 closed to the public, so those meetings were--

25 Q. And is your role as Speaker just to Chair those

1 meetings--

2 A. That's--I--

3 Q. --rather than to take a view?

4 A. Wherever there is a meeting of the House of Assembly,
5 it's Chaired by the Speaker, whether formal or informal. And
6 again, I--and as I said earlier, I try not to impose my opinion.
7 I preside as an impartial broker. I let the Members make the
8 decision. I always often tell them I serve at their pleasure.

9 Q. Going back to a piece of evidence you gave earlier,
10 which was about your role, act as the link between Members of
11 the House of Assembly and the administration of the House, have
12 you been asked at all to take forward on behalf of Members of
13 the House of Assembly any concerns they have about the current
14 guidelines?

15 A. There have been discussions about the guideline. As I
16 said, it came up specifically when The Honourable Minister of
17 Finance--during the COVID lockdown, it was a tough time for the
18 country, tough time for people, people lost their jobs, and the
19 Minister of Finance awarded each Member--each of the 13 of the
20 15--a sum of money to help people in and their constituents, and
21 we sat through meetings with the Financial Secretary and the
22 Accountant General and the Clerk, coming up with guidelines on
23 how that fund is to be distributed.

24 At that same meeting, Members would have raised,
25 informally, that there is a need to relook at the whole

1 assistance grant process.

2 Q. Thank you.

3 MR RAWAT: Mr Commissioner, I've reached the end of my
4 questions. I have nothing further. Can I conclude by thanking
5 the Honourable Speaker for coming this afternoon to give his
6 evidence, and also thanking him for the way in which he has
7 given that evidence.

8 COMMISSIONER HICKINBOTTOM: Yes.

9 Honourable Speaker, thank you for your time.

10 THE WITNESS: I thank you, Commissioner, and I hope
11 that you did not equate my passion with any attempt to
12 disrespect your good office. I have the highest regard for you.
13 It's just that I want to see--and this is the wishes of the
14 public--a fair, objective and transparent Commission of Inquiry
15 and not one with--

16 COMMISSIONER HICKINBOTTOM: And that, Honourable
17 Speaker, is what they'll get. Thank you very much.

18 THE WITNESS: And let me just close by saying not one
19 with a conclusion already written, but one that is going to be
20 honestly fair and transparent. Thanks, sir.

21 COMMISSIONER HICKINBOTTOM: You've seen us at work.

22 Yes, Mr Rowe.

23 MR ROWE: When will we get our updated timetable? You
24 said we would--

25 COMMISSIONER HICKINBOTTOM: For next week.

1 MR ROWE: For next week.

2 COMMISSIONER HICKINBOTTOM: Yes, but I'll be corrected
3 if I'm wrong. The updated timetable, the current timetable,
4 it's set for Thursday, which is when we're due to hear from the
5 Premier and the Governor, and we're not hearing from either that
6 day; is that correct?

7 MR RAWAT: Yes.

8 THE WITNESS: I just want to say something, one last
9 thing before I may--if I may.

10 COMMISSIONER HICKINBOTTOM: But what about?

11 THE WITNESS: The--that your--these--these series of
12 meetings and hearings have been very interruptive to the House
13 of Assembly sitting, so I want you to be mindful of that.

14 COMMISSIONER HICKINBOTTOM: We are mindful of it, and
15 we've had extremely good discussions, particularly with the
16 elected Ministers, who are, I suspect, as busy as anyone, and
17 we've managed to accommodate their wishes in terms of sittings,
18 I think--well, yes, in every case, and that's one reason I'm
19 pressing on because I think the next witness is the Premier.

20 MR RAWAT: Yes.

21 COMMISSIONER HICKINBOTTOM: And I'm anxious not to
22 keep him waiting.

23 THE WITNESS: Yes, I am--I concur.

24 (Overlapping speakers.)

25 COMMISSIONER HICKINBOTTOM: --any longer that we need.

1 THE WITNESS: I concur. I can exist the room. Thank
2 you.

3 COMMISSIONER HICKINBOTTOM: Yes. We can rise--
4 (Overlapping speakers.)

5 MR ROWE: --because we don't--we can rise, but sorry.

6 (Recess.)

Session 2

HON ANDREW A. FAHIE, COMMISSION WITNESS, CALLED

COMMISSIONER HICKINBOTTOM: First, Premier, can I apologise for the delay in getting to your evidence. For one reason or another, the evidence of the Honourable Speaker went longer than I hoped.

Yes. Mr Rawat.

MR RAWAT: Thank you, Commissioner.

BY MR RAWAT:

Q. Premier, thank you for coming back to give further evidence to the Commissioner today. There is no need for you to be sworn. You took the affirmation on the last occasion, and that still applies.

On the last occasion, there were some formalities that we dealt with which I would normally do with a new witness. I don't have to do that with you, save, I hope, just to remind you, please, to keep your voice up and speak slowly. The microphone that you see in front of you does not amplify--it just records--and so, if you could observe those rules, it will be helpful so we could accurately record your evidence.

A. Okay. (unclear).

Q. I'm sorry?

A. The mic is on now?

Q. It is on, but it will just record.

(Overlapping speakers.)

1 A. Okay. I thank you so much for that. And as usual, I
2 pray that the Spirit will give us truth and justice and His will
3 be done as we're here as I pray before every proceeding that I
4 do, Amen.

5 Q. On the last occasion, Premier, you also set out to the
6 Commissioner some details about your background, and we also
7 went through your time as elected representatives and the
8 various elections that you stood in, so we have that already on
9 the record, so we don't need to go through it again.

10 So, what--just to give some context, the purpose of
11 the sessions that we are currently involved in is to look at
12 interests held by Members of the House of Assembly and also the
13 interests of Cabinet Ministers.

14 A. Yes, sir.

15 Q. There has been, as you may have appreciated now, a
16 number of current Members of the House and also former Members
17 who have given evidence to the Commissioner.

18 You are primarily being called, Premier, as a Member
19 of the House of Assembly rather than the Premier and the
20 Minister of Finance; so, if I slip occasionally from calling you
21 "Premier" and switch to "Mr Fahie". do forgive me.

22 A. No problem.

23 Q. Now, the first thing I think just to start off with is
24 the question of the Register of Interests Act 2006, and this is
25 a question I've asked of a number of people. The Act, at

1 present, makes--means that the Register cannot be inspected by
2 ordinary members of the public. It can be inspected by, for
3 example, a court or for purpose was a criminal investigation or,
4 as you'll be aware, by a Commission of Inquiry following the
5 amendment. But the Commissioner has heard evidence that, in the
6 past, there have been suggestions--and by "past". I mean--I take
7 you back to 2008 when the Act actually came into force--there
8 have been discussions or proposals that it should be open to the
9 public, and so the first question I would like to put to you is:
10 What is your current view on whether the Register should be
11 published to the public?

12 A. Thank you, Commissioner, for that.

13 I would say that, in 2008, when it came into force, if
14 my memory serves me well on it, there was an overriding thought
15 by all the elected Members at that time that it should not be a
16 public document, and that was in 2008. But as time passed, even
17 before becoming Premier, I saw the need for it to be
18 reconsidered in my mindset, which is something that we were--we
19 are working towards to give the House of Assembly in the near
20 future two options: One, whether there could be a public
21 Register or if it should be publicly accessible.

22 Given the reason that we wanted to stay parallel with
23 what we--what we believe for the Financial Services, should it
24 be a public Register, or should it be a publicly accessible
25 Register? Of course, a public Register speaks for itself.

1 Publicly accessible Register will be now a matter of some checks
2 and balances on the check--on being able to check, not that you
3 want to hide anything.

4 And if I may, Commissioner, to be able to add some
5 more context to it, in Financial Services, we do agree that we
6 should attract transparent and upstanding business. But at the
7 same time, too, we do agree that you should have an opportunity
8 to look into the type of businesses that do business in the BVI,
9 but there should be a safety net for certain parts because, if I
10 can take an example where you might have an older lady or older
11 gentleman--I'm not picking on a lady--an older person, I would
12 say for that, who is filthy rich with assets, and they get
13 someone to look after them and care for them. And if you have
14 the Register open, they may look at it and plan something
15 facetious. In hands we saw that day can somehow end up with the
16 riches. These are things that you see on television but also
17 exist in real life.

18 So, we see that there is a section that has to protect
19 the vulnerable, protect the young, and protect certain other
20 aspects. Of course, no protection for anyone in tourism--sorry,
21 terrorist financing, no protection for anyone that's
22 tax-evading, but we see a layer of protection for them in
23 certain areas for certain entities. That level of thinking, now
24 as I mature more as an elected official because, you know, 2008,
25 you would agree with me that that is 13 years ago, as you get in

1 any profession, if you watch yourself, you will evolve with your
2 thinking.

3 So, that is the concept we were bringing forward. As
4 you know, we started to do the revision of the Register of
5 Interests Act, and it had not reached Cabinet as yet, but there
6 has been some trains of thought about before it reaches in the
7 Cabinet. And even when it goes to Cabinet and when it gets to
8 the House, I can't say what it will ought to be because you know
9 the House of Assembly has a final say and a final vote, but
10 those are the two areas that we had been able to put forward to
11 Members now.

12 Q. The sum of what you've said in terms of the position
13 in relation to the Register of Interests which applies to
14 Members of the House of Assembly is that the two options will be
15 open to the public or publicly accessible.

16 But focusing on that and leaving Financial Services
17 aside, because there may not be Members of the House of Assembly
18 who are either vulnerable or filthy rich or old persons, so on
19 the Register of Interests, which one--which side of the line do
20 you fall on? Are you for open to the public or are you for
21 publicly accessible?

22 A. Well, if I may, I don't think you can leave Financial
23 Services out, and I want to explain something.

24 Q. Sorry to interrupt you, Premier--

25 (Overlapping speakers.)

1 Q. Sorry, I just need to perhaps give some context to my
2 question.

3 A. Right.

4 Q. My question is about the Register of Interests Act as
5 it relates to Members of the House of Assembly. I take your
6 point that, as you have explained very eloquently to the
7 Commissioner, that there are parallels that you see with the
8 Financial Services, but if we could focus it--and the reason I'm
9 not--I'm not trying to be rude to you, but there is quite a lot
10 I need to get through with you.

11 A. Right.

12 Q. So I would just like to kind of button down exactly
13 where you stand.

14 Are you for a publicly accessible Register or one that
15 is open to the public without any checks or balances?

16 A. Well, I would say, Commissioner, I do have something
17 to say about it, and I would need to add that will explain the
18 context of what I'm saying. And it may not be exact answer that
19 you are seeking, but it will bring context, so Commissioner, if
20 I may.

21 COMMISSIONER HICKINBOTTOM: Yes.

22 THE WITNESS: Thank you.

23 The reason that I say you cannot leave Financial
24 Services out is I believe that when you are going to make laws
25 now, you need to be consistent across the board. And we have

1 live in a very small community. You have to see it through all
2 lens. You're talking about 30- to 35,000 persons unlike in the
3 UK where there will be 67 million persons, and you don't want to
4 put whether elected officials or senior public officers' life in
5 danger of the same mind set of what I said with Financial
6 Services of the vulnerable of persons who just would go and
7 look, and you don't know what they will do to you and your
8 family.

9 So, you have to look at it from a security point of
10 view. You just can't look it that you elect it so everything
11 needs to be open, but if it was publicly accessible and persons
12 who go to it can explain why they come into it and what they
13 want it for, and also explain in terms of what they're going to
14 do with the information so that there are some safety nets for
15 whoever is elected, whoever it may be now and in the future.
16 So, that's why I'm saying we have to keep it parallel.

17 BY MR RAWAT:

18 Q. Thank you.

19 I want to just focus on the obligations, as the law
20 now stands, on Members of the House of Assembly in terms of what
21 they have to do in relation to the Register of Interests Act
22 2006. Now, I can do that in two ways, Premier. I can try and
23 summarise it for you or I can take you to the law. Which would
24 you prefer?

25 A. Any one is good for me.

1 Q. Well, if the first option doesn't work, we will
2 default to the second.

3 The first obligation that falls on a Member of the
4 House of Assembly is that, on the day that they are sworn into
5 the House, they have to complete a Declaration of Interests. Do
6 you agree with that?

7 A. That's what the law says.

8 Q. The second obligation is that they have to then do
9 that on every subsequent anniversary of that date?

10 A. That's what the law says.

11 Q. Now, if that Member has not complied with that
12 obligation to file on the date, then they are in breach of the
13 Act, aren't they?

14 A. That's what the law says.

15 Q. The Attorney General, when she gave evidence on
16 Monday, confirmed that the Act doesn't allow for a defense of
17 reasonable excuse; would you accept that?

18 A. That's not a matter of accepting. I could just say
19 that's what the Attorney General says.

20 Q. And so, you're caught--if you don't file on Due Date,
21 you're caught, aren't you?

22 A. If you don't file on Due Date, you're delinquent, yes.

23 Q. And then section 7--so that's section 3 of the Act.
24 Section 7 says that, if the delinquent Member has not filed a
25 Declaration within three months of the Due Date they are--and

1 these are words of the Act--"in breach of the Act". That's
2 right, isn't it?

3 A. That's what the Act says.

4 Q. Then the Act mandates that the Registrar has to write
5 a report to a Standing Select Committee; that's right, isn't it?

6 A. That's what the Act says.

7 Q. And that's the second way in which a Member of the
8 House of Assembly can be in breach?

9 A. In--notified about them being delinquent, yes.

10 Q. If you're outside the three months--

11 A. Right.

12 Q. --you're in breach of it again, aren't you?

13 A. Yes.

14 Q. Obviously, if you file within a month, you will be in
15 breach of section 3 but you won't be in breach of section 7. If
16 you wait six months, then it's a double-whammy, isn't it,
17 Premier?

18 A. I would say on once you file late, you're late.

19 Q. Well, can we look at your Declarations of Interests.

20 A. Yes.

21 Q. And this is again an explanation I've given to a
22 number of Honourable Members who have given evidence to the
23 Commissioner, but what my questions are directed to are looking
24 at the system that is in place at the moment but also asking all
25 Members their views and their experiences of completing the

1 form, and in particular I've directed questions towards whether
2 the form is in any way ambiguous from their perspective as those
3 required to provide information.

4 Could you go, please, to page 153. There should be a
5 bundle in front of you with your name on it.

6 A. Yes.

7 Q. If you take it to page 153, please, Premier.

8 A. Yes.

9 Q. This is a Declaration form in your name. Your name is
10 at the bottom along with your district, and it was provided by
11 the Registrar of Interests to the Commissioner, and it is
12 stamped with her stamp, and you can see that she has written
13 within the stamp the date "19th of July 2017".

14 Do you have that page?

15 A. Yes, sir.

16 Q. If you turn--the document is usually 10 pages long,
17 and if you turn to page 163...

18 A. Yes, sir.

19 Q. Now, you can see there a signature. Can you confirm
20 that that's your signature?

21 A. That's my signature.

22 Q. And underneath there are some dates written. Is that
23 in your hand?

24 A. That is in my handwriting.

25 Q. And you've written "19th of July 2017 for 23rd of

1 June 2015".

2 A. Right.

3 Q. So, this is your June 2015 Declaration--

4 A. Right.

5 Q. --submitted as a date in 2017.

6 A. Yes.

7 Q. So, would you accept, Premier, that in relation to
8 your 2015 Declaration, you were in breach of section 3 because
9 you did not file on the Due Date, which was the 23rd of
10 June 2015?

11 A. I would say that I submitted it, but it was late.

12 Q. And you also submitted outside three months. You
13 submitted it over two years later, so you were also in breach of
14 section 7, weren't you?

15 A. I would say that I submitted it, but it was late.

16 Q. Well, it's important that we be quite specific about
17 what you are accepting and what you're not, Premier.

18 A. I'm accepting that it was filed late.

19 Q. Yes, but are you accepting that it was filed after the
20 Due Date?

21 A. That would constitute why it's late because of the Due
22 Date.

23 Q. Well, the Due Date is the 23rd of June 2015.

24 A. Right.

25 Q. You accept you filed it after the 23rd of June 2015?

1 A. Exactly. I filed it late.

2 Q. And the three months would have been September 2015?

3 A. Um-hmm.

4 Q. Do you accept that you filed it after September 2015?

5 A. Yes. It was late.

6 Q. If you turn to page 164--

7 A. Hm-umm.

8 Q. --there is some manuscript annotations there.

9 A. Yes.

10 Q. Is that in your handwriting at all?

11 A. Yes.

12 Q. And is that annotations that you made on your 2015
13 form?

14 A. Yes.

15 Q. I see.

16 A. Because I have a trade licence, and I realised that I
17 didn't put it on, so I added it on in the back to make sure I
18 was totally being clear about all that's in my name.

19 Q. Well, I'll take you to the detail of what you entered
20 in form shortly, so if you could bear that in mind, perhaps you
21 could clarify that at that point. And if you want to, we could
22 look back at this page.

23 A. Okay.

24 Q. Let's go back to page 142, please, Premier.

25 A. Yes, sir.

1 Yes.

2 Q. Again, you can see on this page a Declaration form in
3 your name.

4 A. Yes.

5 Q. It's stamped by the Registrar of Interests at the top,
6 and she has written within the stamp the date 19th of July 2017.

7 A. Right.

8 Q. Do you agree with that?

9 A. Yes, sir.

10 Q. If you go, Premier, to page 152.

11 A. Yes.

12 Q. I take you to the bottom of that page. It's the last
13 page of that Declaration. Is that your signature, please?

14 A. Yes, that's my signature.

15 Q. And you confirm this, that you have written in your
16 own hand underneath "19th of July 2017 for 23rd of June 2016"?

17 A. Right.

18 Q. And so, dealing with that, this is your 2016
19 Declaration. Do you accept that you served your 2016
20 Declaration after the Due Date which was the 23rd of June 2016?

21 A. Yes, I accept that it was filed late.

22 Q. Do you also accept that you'd served it after three
23 months after the Due Date, which would have been 23rd of
24 September 2016?

25 A. I accept that it was filed late.

1 Q. Without putting words in your mouth--and I just want
2 to be clear what your evidence is, Premier--you said in answer
3 to my questions, you accept that it's filed late.

4 A. Right.

5 Q. I wonder if you could be a bit more specific. I want
6 to be clear whether you accept breaches of section 3 and
7 section 7--

8 A. Well, I--

9 Q. That's a matter for you.

10 A. Right, but I would answer it by saying that I accept
11 that filed later based on the Due Date.

12 Q. Right.

13 A. Um-hmm.

14 Q. And that you filed--and that the Due Date is that
15 specified in section 3, so by accepting that you filed late, you
16 accept that you breached section 3?

17 A. I accept that I filed late.

18 COMMISSIONER HICKINBOTTOM: Do you accept the breach?
19 Because I may have to make findings as to the breach.

20 THE WITNESS: Well, whatever the date is, once you
21 hand it in beyond that date, you're late. So, if you call that
22 "breach". I call it "accept that I'm late". So, if the law says
23 within three months and you file after that, well, then, you're
24 in breach of the law, so you're filing late. I filed late.

25 COMMISSIONER HICKINBOTTOM: My understanding--

1 THE WITNESS: We're saying the same thing.

2 COMMISSIONER HICKINBOTTOM: If I'm to put it this way,
3 if you're one day late--

4 THE WITNESS: Yes, you're late.

5 COMMISSIONER HICKINBOTTOM: --then you're in breach of
6 section 3?

7 THE WITNESS: If you are one hour late.

8 COMMISSIONER HICKINBOTTOM: If you're one hour late?

9 THE WITNESS: Yes.

10 COMMISSIONER HICKINBOTTOM: You're in breach of
11 section 3?

12 THE WITNESS: Right.

13 COMMISSIONER HICKINBOTTOM: And if you're over three
14 months late, you're in breach of section 7?

15 THE WITNESS: Yes. You're in breach of both of them.

16 COMMISSIONER HICKINBOTTOM: Yes, in both of them.

17 THE WITNESS: Yes.

18 COMMISSIONER HICKINBOTTOM: Thank you very much.

19 BY MR RAWAT:

20 Q. Thank you for that clarification, Premier. Let's go
21 to page 131.

22 A. Yes.

23 Q. Do you have the page, Premier?

24 A. Yes, sir.

25 Q. Again, a Declaration form stamped by the Registrar.

1 She's entered the date in manuscript 19th of July 2017.

2 Do you have that, sir?

3 A. Yes, sir.

4 Q. If you go, please, to page 141.

5 A. Yes.

6 Q. Can you see, Premier, that on that page there is your
7 signature, isn't there?

8 A. Yes, sir.

9 Q. And you have entered in your own hand underneath "19th
10 of July 2017 for 23rd of June 2017"?

11 A. Right.

12 Q. And this perhaps shows the importance of being clear
13 about what you're admitting to because you were a month--well,
14 just shy of a month late there--

15 A. Yeah.

16 Q. --so you're in breach of section 3, aren't you?

17 A. By a month, yes.

18 Q. But you are within the three months set by section 7.
19 So, on this case, would you accept that you're not in breach of
20 section 7?

21 A. I would submit that in time-

22 Q. Yes.

23 A. --so I would say "no".

24 Q. Can I just clarify one point with you. This looks or
25 is your 2017 Declaration.

1 A. Yes, sir.

2 Q. If you go, please, to page 100.

3 A. Yes, sir.

4 Yes.

5 Q. And we will be looking at some more Declarations in
6 due course, but I just want to put this on the record so it's
7 clear, but a Declaration form in your name again stamped by the
8 Registrar--

9 A. Yes.

10 Q. --she's entered the date 5th of May 2021.

11 Do you have that, Premier?

12 A. Yes.

13 Q. Go to page 110.

14 A. Yes.

15 Q. Again, can you confirm that's your signature?

16 A. Yes, sir.

17 Q. It's the last page of the document, and it's the--the
18 date is a mix of--a mix of manuscript and typescript, isn't it,
19 but is the manuscript entry as to date in your hand, sir?

20 A. Yeah, that's my--that's my writing.

21 Q. And what's written there is "Feb 4 2021 for 23rd of
22 June 2017"?

23 A. Yes.

24 Q. So, it appears that, having submitted your 2017--your
25 2017 Declaration, as we've established a month late, you then

1 resubmitted it in 2021?

2 A. Right. That was an error.

3 Q. Right.

4 A. That was an error.

5 Q. Okay. But where we've got to, then, is that as of the
6 19th of July, you submitted three Declarations together: Your
7 2015, your 2016, and your 2017?

8 A. Yes, I submitted them all.

9 Q. If you go, please, to page 89.

10 COMMISSIONER HICKINBOTTOM: And I think to be fair to
11 the Premier, who has--the form on page 110 was simply an error.
12 If you look at page 111, Premier.

13 THE WITNESS: Yes, sir.

14 COMMISSIONER HICKINBOTTOM: I mean, Mr Rawat may come
15 to this, but the Registrar of Interests wrote to you in
16 February 2021--

17 THE WITNESS: Right.

18 COMMISSIONER HICKINBOTTOM: --indicating that you were
19 delinquent for 2017.

20 THE WITNESS: Right.

21 COMMISSIONER HICKINBOTTOM: So, that probably
22 triggered--

23 THE WITNESS: Triggered--

24 COMMISSIONER HICKINBOTTOM: A second form?

25 THE WITNESS: Yes. That's exactly what happened.

1 COMMISSIONER HICKINBOTTOM: Thank you very much.

2 THE WITNESS: Thank you, Commissioner.

3 MR RAWAT: Thank you, Commissioner.

4 BY MR RAWAT:

5 Q. Let's go to page 89, please, Premier.

6 A. But for the record, Commissioner, you will see that it
7 was already in.

8 COMMISSIONER HICKINBOTTOM: No, no. It was a month
9 late.

10 THE WITNESS: A month but eventually--

11 COMMISSIONER HICKINBOTTOM: Yes, so the second form
12 you sent in for 2017 was sort of--

13 THE WITNESS: Right.

14 COMMISSIONER HICKINBOTTOM: --was an empty gesture.

15 THE WITNESS: I didn't know whether I could find a
16 way--

17 (Overlapping speakers.)

18 COMMISSIONER HICKINBOTTOM: Because it had already
19 been done?

20 THE WITNESS: Yes.

21 COMMISSIONER HICKINBOTTOM: Yes, Mr Rawat.

22 BY MR RAWAT:

23 Q. Yes. Let's go to page 89 and look at the others which
24 you submitted at that time.

25 A. Um-hmm.

1 Q. So again, Premier, a Declaration form with your name
2 on it, it's stamped by the Registrar dated, by her, "5th of
3 May 2021".

4 Do you have that page?

5 A. Yes, sir.

6 Q. And I hope you will be able to confirm that at
7 page 99.

8 A. Yes, sir.

9 Q. We have your signature.

10 A. Yes.

11 Q. And you have put in your--again, you've entered
12 February 4th, 2021, in your own hand, but added to that in
13 typescript are the words "for the 23rd of June 2018".

14 A. Yes, sir.

15 Q. So, this is your 2018 Declaration--

16 A. Yes, sir.

17 Q. --sent in on the 4th of February 2021?

18 A. Yes, sir.

19 Q. So again, for the record, Premier, do you accept that
20 you filed after the Due Date, which is the 23rd of June 2018?

21 A. Yes, I filed but I was late. I do agree.

22 Q. And so that's a breach of section 3.

23 And do you accept that you were also outside the three
24 months set by section 7?

25 A. I was outside of them, although I did submit.

1 Q. Could you go to page 78, please.

2 A. Yes.

3 Q. We will find there another Declaration form stamped
4 again by the Registrar of Interests and dated, by her, 5th of
5 May 2021?

6 Do you have that page?

7 A. Yes, sir.

8 Q. Please go to page 8, which is the last page of that
9 particular Declaration.

10 A. Yes.

11 Q. Again, Premier, can you confirm that that is your
12 signature?

13 A. That is my signature.

14 Q. And if I take it quickly, you've written--or it
15 carries the date that is "February 4th, 2021, for the 12th of
16 March 2019".

17 A. Right. I accept and got them all up to date at the
18 same time, so wherever we get to the next is going to be the
19 same.

20 COMMISSIONER HICKINBOTTOM: There is a pattern here.

21 THE WITNESS: There is a pattern here because I did
22 them all to make sure that I got them in time--not in time, but
23 they were already late but to make sure that I submitted them.

24 COMMISSIONER HICKINBOTTOM: Yes.

25 BY MR RAWAT:

1 Q. Yes. Well, we can get to that detail as we go through
2 them, but what's important at the moment is that we establish
3 dates and what you accept happens about dates, about those
4 dates.

5 A. No problem.

6 Q. So again that's your 2019 Declaration.

7 For the record, do you accept that you filed after the
8 Due Date of the 12th of March 2019?

9 A. I do accept that they were filed and they were filed
10 late, yes.

11 Q. And so not only as after the 4th of March 2019 but
12 also filed after three months--the three months set by section
13 7? Do you agree with you?

14 A. I do accept that they were filed, but they were failed
15 late also.

16 COMMISSIONER HICKINBOTTOM: And in relation to 2020,
17 the next year--

18 THE WITNESS: Yes.

19 COMMISSIONER HICKINBOTTOM: --from what you said,
20 Premier--

21 THE WITNESS: Same thing.

22 COMMISSIONER HICKINBOTTOM: Yes.

23 You accept that it was filed on the 5th of May 2021;
24 it was 10 months late?

25 THE WITNESS: Yes, sir.

1 COMMISSIONER HICKINBOTTOM: So, it was in breach of
2 section 3 and section 7.

3 THE WITNESS: I filed them in their entirety, but they
4 were filed late.

5 COMMISSIONER HICKINBOTTOM: Thank you very much.

6 BY MR RAWAT:

7 Q. If we go, please, to 56.

8 A. Um-hmm.

9 Q. That's your 2021 Declaration which the Commissioner
10 has dealt with 2020, so I will move to 2021, but that's 5th of
11 May 2021 again, isn't it? And you've filed that, it seems, if
12 we look at page 66. You've written there--that's your
13 signature, isn't it, Premier?

14 A. Yes, sir.

15 Q. And you have written there "March 15 2021 for
16 12 March 2021".

17 A. Yes, sir.

18 Q. So, not this time years or months but just a few days.

19 A. On top of lateness, yes.

20 COMMISSIONER HICKINBOTTOM: Thank you.

21 BY MR RAWAT:

22 Q. Now, my question now is not directed to the content of
23 what you have put in these Declarations, but it's about what you
24 understood you had to provide, even though you were providing it
25 late.

1 Were you--did you have in your mind that what you had
2 to give as a Member of the House of Assembly was a Declaration
3 of your interests that were held as at the Due Date or
4 Declaration of your interests held as at the date you submitted?

5 A. I was always of the clear mindset that you have to
6 register your interests. Whenever you register it, when you
7 have it, even if you had divested yourself of any asset or
8 anything you have to register, so no matter when you registered
9 it, it had to include everything that you owned or that you are
10 associated with, even if you were not associated with it anymore
11 because that will allow for full transparency for persons who
12 will take up the Register.

13 Q. Now, you say that you were "associated with". What do
14 you mean by "associated with"?

15 A. Well, what I mean is--not in my case but in general,
16 even if you had some asset or if you had a property and you the
17 sold it or whatever the case may be or you bought something,
18 after the Due Date, you have to make sure that you fully account
19 for whatever you own, whether it's here or abroad because the
20 form doesn't say "land in the BVI". It just says "land". It
21 doesn't say "accounts in the BVI". It just says "accounts".

22 I read the file--to be clear, whatever you own, you
23 have to account for it. That was my understanding from the
24 first time we filled out the form.

25 COMMISSIONER HICKINBOTTOM: The particular question

1 Mr Rawat was asking, I think, is--I mean, we can use an example.
2 On the 5th of May 2021, you submitted the form for the 23rd of
3 June 2017.

4 THE WITNESS: Right.

5 COMMISSIONER HICKINBOTTOM: When you filled in the
6 form, did you fill it in with the assets, et cetera, that you
7 had on the 5th of May 2021 or the assets that you had on the
8 23rd of June 2017?

9 THE WITNESS: Commissioner, if I may, for me, if you
10 look across my whole Declarations, they haven't changed.

11 COMMISSIONER HICKINBOTTOM: Right, okay.

12 THE WITNESS: So, for me, it was the same thing. Only
13 I think in 2021 there was a piece of land that I got, and I
14 added that on. Nothing changed. I didn't have any more assets.
15 I didn't have anything else to add all--what was on there
16 remained the same.

17 COMMISSIONER HICKINBOTTOM: So, you didn't have to
18 bring your mind to bear whether it was 2017 or 2021?

19 THE WITNESS: Right. Nothing to bear at all with
20 that, that's correct.

21 (Overlapping speakers.)

22 COMMISSIONER HICKINBOTTOM: Thank you.

23 BY MR RAWAT:

24 Q. But, obviously, the requirement--the minimum
25 requirement on a Member is to fill in the form once a year,

1 isn't it?

2 A. It is--that is what the law would indicate for sure.

3 Q. But the first page of the form also includes this:

4 "That subsequent changes or additions to your entry should be
5 notified to the Registrar within one month of any changes
6 occurring".

7 So, if within that year you dispose of a piece of land
8 or you acquired a piece of land, did you appreciate that you
9 were expected to notify the Registrar of that change?

10 A. Based on how it was written, yes, but if I may: From
11 the time this was introduced, I think I didn't get to watch or
12 listen to a lot of other testimonies, but I can almost be sure
13 that we would be hard-pressed to find two Members then who were
14 on time with this form or who would fill it out in the same way.

15 And from the time I was in politics and this came up,
16 being younger than you were kind of left to yourself to kind of
17 figure things out. And one of the areas that we want to improve
18 was to make sure that, in the future, you have seminars on this,
19 whether they be the Register Registrar, which would be the one
20 to have it, so that persons won't be lost because this have to
21 guide other persons how to fill the form out or what it means
22 exactly if you, yourself, from the inception, never had that
23 training and no one's fault. It was just another--it was
24 something new that came into the Constitution--I think it's 2008
25 it was passed, if my memory serves me right--and then it didn't

1 come into force until a little while after.

2 Q. Certainly, it came into force. It was passed in 2006?

3 A. 2006. It came into force in 2008. I stand for that
4 correction. I know that was a delay. It came into force
5 2006--passed 2006, came into force two years later, which was
6 2008. And even then, although we were certain and did it, there
7 was still some ambiguity in some of the numbers and the areas.

8 So, it is clear it's a good system, but it was--it
9 definitely needs I would not only say "improvement". but it also
10 needs consistent seminars to help persons to come on the same
11 page with it, along with some additional--additional laws for
12 the choice of words, not just from the Committee but from
13 institution-wise because you can't leave persons who are busy in
14 anything to be the ones to keep them up to date with anything.
15 Although it doesn't sound good, but once you're busy, you need
16 an institution that keeps you, I will call it, "in time" with
17 what you have to file when it you have to file, when we have to
18 do that. In the new amendment that we're doing, we're putting
19 some tears in that would allow for that.

20 And if I may, Chairman--Commissioner--so much for
21 Committees--I would say, too, that one of the areas we're also
22 looking at is that Ministers would have to make sure that they
23 have to account for even more than back-benchers or opposition
24 Members, albeit they are in the Cabinet making some hefty
25 decisions with it.

1 And the form also would have to take into
2 consideration even from Ministers how do we expand that form as
3 executive Members, and that's why we stated in our objectives
4 for the future as to beef up the Cabinet Secretary's Office so
5 we can make sure the Cabinet Secretary's Office that we are
6 "Propriety and Ethics Unit"--I think that's what we call it--to
7 make sure we advise Ministers of conflicts of interest, advise
8 Ministers of timeframes, advise Ministers of dates because this
9 is important. This is an important part of good governance, and
10 it's something that we have to make sure that we have a unit, a
11 body in place to help with this, not just leave it up to the
12 Registrar or leave it up to the elected officials.

13 So, I just wanted to add that.

14 Q. The system that you, as a Member of the House of
15 Assembly, operate under has been in existence for 13 years. The
16 person--the Act does not impose upon the Registrar an obligation
17 to notify you of the need to file a Declaration, nor does it
18 impose on a Registrar the need to send notices to you. But that
19 is what, in fact, this Registrar did. Time and time again, she
20 sent--every year she would send Members a letter, notifying
21 them, supplying them with the Declaration.

22 And if you look at page 119, please, we see examples
23 of letters that she wrote to you, as a Member of the House of
24 Assembly--and I don't want and will not be taking you, Premier,
25 through every single letter, but there are a significant number

1 of them stretching back over years where the Registrar has
2 written to you not only in advance of the date of the
3 Declaration telling you when it was due, but also reminding you
4 that you were overdue.

5 And you just appeared, as other Members also appeared
6 to have done, to simply ignore the Registrar; is that right?

7 A. I wouldn't say "ignore the Registrar". Even now,
8 Commissioner--first of all, I will admit that the institution
9 has to improve. First of all, I will be forced to admit we are
10 working on having it improved. And this is a form that you have
11 to do once a year. And yes, the Registrar did go above and
12 beyond the call, and every now and then I would get a reminder.

13 So, there is no excuse. We understand this issue as
14 to our governance, but this just happened to be one of those
15 areas where we have to review and strengthen because there
16 definitely--Commissioner, let me say this way in my current
17 capacity: Nobody knows what it is to lead a country and a
18 people until they're actually in that role, and you
19 cannot--nobody is like, for example, Prime Minister Boris and
20 President Biden of the UK and USA, respectively, and they cannot
21 know at the same time how it is to lead. It's like comparing
22 apples and oranges, but at the same time we know for sure the
23 complexities of the office, and we know for sure that there are
24 so many things competing for importance and while this was one
25 of them. That is why when we analyze this area, we have to

1 improve it. We have no excuse about it. We have to improve it,
2 but the key is that we are doing so.

3 And in this last few years, we cannot divorce
4 ourselves from the challenges that our representatives are
5 facing from all my area, we haven't rebound from yet, and we
6 cannot divorce from the last 16-17 months of COVID. One would
7 say what does that have to do with it? It has a lot to do with
8 it because we spent over 90 meetings in Cabinet and the next
9 sitting of the House, and there were a lot of things competing
10 for the importance of time, and in competing importance for
11 deadlines.

12 And I do not give any excuse for this, but it just
13 didn't end up on the top of the pile at that time. But it
14 cannot be used as the measuring stick for the competence and the
15 seriousness all Legislators, whether past or present, to allow;
16 position of Government for this and the House of Assembly.

17 So, my answer is germane no matter how many times I'm
18 asked, the House has already dedicated itself to improve the
19 system, and the Government side is working feverishly to get the
20 Cabinet the legislation that is going to hold us more
21 accountable in a manner that we cannot even miss without the
22 Registrar giving us a prompt now and again. I do say that it's
23 not correct, but it does not by any means paint a picture of how
24 responsible we are as elected officials overall. This is one in
25 many.

1 And may I say, Commissioner, with due respect, all of
2 us fall short in our professions now and again in some area, but
3 that doesn't--that doesn't determine who we are, and even
4 without sin would have to cast the first stone. We fall short
5 in this area.

6 I used to teach, Commissioner. I don't know if you
7 know that, but one of the things when you're teaching and you
8 have an item where all the children are getting it wrong, then
9 you can't say that the children are bad. They might get an "A"
10 on the test but get that item wrong, the whole class would have
11 to analyze the item. You have to analyze everything about it
12 and see what did I do wrong, what did the children do wrong, and
13 how do we improve it?

14 So, we welcome recommendations, and we have some
15 that's coming forward so that we can improve in that area
16 because we're deficient in that one area.

17 And I just want to say this because it doesn't reflect
18 who we are. We have a strong opposition, we have a strong
19 government, we have a strong democracy, and in this area we fall
20 short, and we have to do better, and we are going to do.

21 COMMISSIONER HICKINBOTTOM: Premier, I understand
22 that, and I suspect Mr Rawat may have some questions for you
23 about the system that's currently in place--

24 THE WITNESS: Yes.

25 COMMISSIONER HICKINBOTTOM: --with the Registrar and

1 Standing Select Committee. And given all of that--and we know
2 because we've seen a draft bill, and I know it hasn't even been
3 to Cabinet yet, so it's in a very early stage, but we know that
4 reform is being considered--let me put it like that--but it
5 would have been a good start, wouldn't it, and a show of intent
6 if you and, indeed, other Members had actually got their forms
7 in on time in response to the statutory obligation and in
8 response to the Registrar's, I think somebody referred to them
9 as very "assiduous" reminders. That would have been a show of
10 intent, wouldn't it?

11 THE WITNESS: Commissioner, you said it well, other
12 than that I would say, if I may add, sir--

13 COMMISSIONER HICKINBOTTOM: Yes.

14 THE WITNESS: --that we did show that we do not take
15 it for granted but still we did show that it didn't get the
16 importance that it deserved to match with the other areas of
17 importance. And so why do I say that? Every Member even late
18 still made sure that they filed and filed accurately. As far as
19 I'm concerned, I don't have everyone's file based on, you know,
20 what I might hear here and there, but we also show that we are
21 open to criticism with it to make sure that we get better
22 because we are the ones who went and made this public to
23 yourself because the law originally did not allow the Commission
24 of Inquiry to go, Commissioner, as you would know, to the
25 Registrar to get any information.

1 So, we knew going into it that some of us would be
2 late into this, and you would find this. But to assist the
3 Commission of Inquiry, because we're here to make your job
4 easier because we have nothing to hide and to assist the
5 Commission in doing its work, we went and we, as a Legislature,
6 all of us, common and opposition, agreed to get this legislation
7 amended to give you access.

8 So, we are here today because we allowed the access,
9 and we knew that the access would show that we were late. We
10 knew that the access would show the deficiencies of this
11 particular important piece of legislation. But at the same
12 time, too, we did it with confidence, also known we were working
13 with this and other legislations to strengthen it buys we
14 already had the first reading of Integrity in Public Life, which
15 triggers some changes in the Register of Interests. We already
16 just last evening passed the whistleblower legislation to help
17 further strengthen good governance and contractor general
18 legislation.

19 So, we may be delinquent in this area, which we are,
20 but we are making every effort to come in line with it, but we
21 also have shown in other areas that we are doing what we have to
22 do.

23 COMMISSIONER HICKINBOTTOM: I understand the programme
24 that you have involved.

25 Mr Rawat.

1 BY MR RAWAT:

2 Q. The point, though, Premier, is that it's not about
3 what may happen in the future or what changes may come in the
4 feature. You can set up a unit to remind every House of
5 Assembly Member that they have to comply with their obligations.
6 A calendar on a computer might do the same thing.

7 What I'm going to suggest to you is that the evidence
8 that the Commissioner has heard--you, regrettably, are an
9 example of this--is that, irrespective of party, irrespective of
10 experience, irrespective of length of time in the House of
11 Assembly, repeatedly, this is an obligation, a statutory
12 obligation, Members of the House of Assembly, current and past,
13 simply had no regard for; and the Registrar, as the person
14 reminding them, was someone that they simply had no regard for.

15 The correspondence that she has disclosed between her
16 and yourself does not only include any correspondence back from
17 you. The correspondence stretched over years, Premier, and your
18 submissions were put twice, once in 2017 and once in 2021. So,
19 the system doesn't work, and the reason the system doesn't work
20 is because Legislators do not accept that it applies to them.
21 They don't see it as important, do they?

22 A. Well, that is your conclusion, but with due respect, I
23 don't see it totally or even much as you being stated.

24 You have flagged that area, Commissioner, rightfully
25 so, that needs improvement, and I would sit right here and admit

1 to that, but what I can't sit and do with our busy schedule and
2 that all we do, no matter what side of the aisle we sit on, is
3 that reflects the nomenclature of elected representatives and of
4 this House of Assembly and past House of Assemblies. We've all
5 had to be in the country the way it is, and this is one area
6 that we are weak in; we are delinquent in. We did not have it
7 to be on the same level of importance as it should be with
8 certain other areas.

9 But, given that I can't make any excuses for the past,
10 what I can say, as a Legislator, as one of the leaders, is we
11 are working on fixing it, and the only way you can trust a man's
12 word on fixing something is to look at his track record. In the
13 last couple of months we are fighting COVID, but we have done a
14 lot to fix a lot of areas that we realised that we need to fix
15 as we work as a Territory to mature.

16 We--Commissioner, you would agree with this--if you
17 look at us through the lens of the UK, then we could never
18 compete because that's hundreds of years all the country is.
19 These mistakes we are making now was made before, and they were
20 already taken care of. We are 70 years old, 71, of our House
21 Legislative Council being coming back into being, and we are now
22 putting all the different institutions and strengthening and
23 further strengthening them so that when we reach to the point of
24 our self-determination, whatever it is, that we are showing that
25 we can police ourselves. This is an area where we can, but it

1 does not define who we are as Legislators. It does not define
2 who we are as a people.

3 So, I would sit here and say "yes". we're guilty of
4 not putting the importance of this to the level it should be,
5 and the Registrar has done her job, but it isn't because we do
6 not think it is important. It isn't because we are rogue
7 representatives. It is one of those things that just happened
8 over the years that we intend to fix now.

9 I even can't tell you, Commissioner, how it continues
10 to happens. It's just one of those things that keeps happening.
11 We recognise that we cannot leave it up to ourselves anymore to
12 come compliant with these--with the deadline. We can comply
13 with many other deadlines, but now we recognise now that we have
14 to put in mechanisms in place to address this, and we're going
15 to do it, and any other recommendation that we get to do it we
16 can, but I'm not going to let this one thing, Commissioner,
17 define the Territory nor define us.

18 COMMISSIONER HICKINBOTTOM: At the moment, we're just
19 looking at the Register of Interests.

20 THE WITNESS: I understand, but given that it's
21 drilling down, I have to keep saying that because that's the
22 only one the public will hear.

23 COMMISSIONER HICKINBOTTOM: I understand that.

24 THE WITNESS: Right. And I appreciate that.

25 COMMISSIONER HICKINBOTTOM: We'll move on to other

1 topics.

2 THE WITNESS: Yes.

3 COMMISSIONER HICKINBOTTOM: But at the moment this is
4 the topic.

5 THE WITNESS: Um-hmm. And it's correct in terms of
6 analysis in terms of it being late and in terms of being
7 important; I do agree. I'm not--I'm not going to differ,
8 Commissioner, at all.

9 BY MR RAWAT:

10 Q. Page 111 in your bundle. This is the letter of 23rd
11 of February 2021 that the Commissioner referred to earlier, and
12 it was just--I just--so, you'd submitted declarations covering
13 2017 to 2021, and the Registrar thanks you for your letter
14 transmitting those Declarations over those periods.

15 If you go over to the penultimate paragraph, she says:
16 "I've examined all your Declarations and find which that
17 question 1, one word in your answer, which renders up are
18 questionable. And now I accept you also returned those
19 documents so that you may have them corrected and returned to me
20 immediately. Thank you for cooperation in this matter". So,
21 the documents that we showed you, the ones that you submitted to
22 her, she then returned them to you.

23 Did you actually resubmit them?

24 A. Yes.

25 You--given that I have come to realise that you were

1 well-resourced you see the answer is consistent there is no file
2 to all the other years.

3 Q. Yes.

4 A. So, what I was asking the--at that time is, well, what
5 changed? I didn't change. So, you accepted it all those other
6 years, and the answer changed, I think, is a "yes" or "no"
7 answer, according to my memory.

8 Q. Well, what the position seems to be--and I accept,
9 Premier, that in, as you said, with one exception in relation to
10 land--

11 A. Right.

12 Q. --you gave the same information from Declaration to
13 Declaration.

14 A. Right.

15 Q. But my point is--my questions are directed to this:
16 Having caught up, if you like, in 2021--

17 A. Um-hmm.

18 Q. --the Registrar sent them all back to you.

19 A. Right.

20 Q. And it's a simple question. She asked you to resubmit
21 them.

22 A. Yes.

23 Q. Did you resubmit them?

24 A. For sure.

25 (Overlapping speakers.)

1 A. And it's the same as it was years ago.

2 Q. Yes.

3 It's not about whether there was a change in your
4 content. It's about whether you resubmitted because what
5 appears we received from the Registrar were the ones that you
6 had first submitted, so she doesn't appear to have the ones that
7 you say you resubmitted.

8 A. Right, because we cleared it up--because it didn't
9 change.

10 Q. So, just to clarify, you didn't have to have--you
11 didn't have resubmit, in the end; is that what you're saying?

12 A. As far as I know, no, because it didn't change.

13 COMMISSIONER HICKINBOTTOM: And I think to be fair to
14 the Premier, this batch of Declarations is dated the 4th of
15 February 2021.

16 THE WITNESS: Right.

17 COMMISSIONER HICKINBOTTOM: For various dates
18 beforehand.

19 THE WITNESS: Yes.

20 COMMISSIONER HICKINBOTTOM: The Registrar's letter to
21 which Mr Rawat has referred was the 23rd of February.

22 THE WITNESS: Right.

23 COMMISSIONER HICKINBOTTOM: Which is after that date.

24 THE WITNESS: Yes.

25 COMMISSIONER HICKINBOTTOM: But the forms you've dated

1 the 4th of February she has stamped and dated the 5th of May.

2 THE WITNESS: Right.

3 COMMISSIONER HICKINBOTTOM: So, it looks--I mean,
4 consistent with what you've said, that by the 5th of May, as it
5 were, things had been sorted out.

6 THE WITNESS: Yes.

7 COMMISSIONER HICKINBOTTOM: And she had accepted the
8 Declarations.

9 THE WITNESS: Plus the Registrar took ill, and there
10 was some timeframe inside there.

11 COMMISSIONER HICKINBOTTOM: Yes.

12 THE WITNESS: So that caused some of the delay--none
13 towards her because that was also a factor in it, but it was
14 sorted out, and the answer remained the same.

15 BY MR RAWAT:

16 Q. Yes.

17 And to give you some context, Premier, the
18 Commissioner has received evidence in relation to Members of the
19 House of Assembly about the Registrar being unavailable for a
20 certain periods of time in 2021.

21 A. Thank you.

22 Q. Can I just take you to another point, though.

23 A. No problem.

24 Q. Paragraph--at page 6, please.

25 A. Yes.

1 Q. This is a that the Commissioner caused to be sent to
2 you dated the 19th of February 2021.

3 A. Um-hmm.

4 Q. If you turn to page 7, please. It made of you three
5 requests, Premier. The first was to give the dates and contents
6 of each Declaration of Interests you have made at any time
7 during your tenure as a Member, but pause there. I'm not going
8 to ask you about that. We understand that the position you then
9 took was that you--that was something you could not supply to
10 the Commission.

11 A. Yes.

12 Q. But what it asked you at number 2 was: "Irrespective
13 of any such Declarations you have made, the information document
14 that you would provide in such a Declaration, if made now". at
15 now being the date of the letter.

16 And then it asks you this at 3: "If during your
17 period of appointment as a Member you failed at any time to
18 comply with your obligation to make such a Declaration pursuant
19 to section 3(1), in respect of each such failure, a full
20 explanation as to why you did not make such Declaration".

21 Now, if you go, please, to page 9 in the bundle. I
22 can take you to your response, which is 12th of March 2021.

23 Now, The Honourable de Castro has already explained to
24 the Commissioner, so let's try and save you some time, that this
25 was, if you like, a joint letter between the Government Members

1 of the House of Assembly. Each one was at liberty to adapt it
2 if they wanted, but the core of it was the same from letter to
3 letter.

4 Now, what you've said at (a) is that: "As a Member of
5 the House of Assembly and since the introduction of the Register
6 of Interests Act, I have complied with section 3 of same in the
7 form and manner as set out in schedule 1 therein".

8 Now, we've already seen--and you have accepted--that
9 you were, at least 2015 onwards, habitually late with submitting
10 your Declarations.

11 So,, is it actually accurate to have told the
12 Commission that you did comply with section 3?

13 A. Well, in terms of when I read it, I thought at the end
14 that it meant that when you had submitted them, so that would
15 have been a misunderstanding on my part, but I thought they mean
16 that if I had submitted all of what was outstanding, et cetera,
17 et cetera, so I did not understand it way you have said it, so I
18 answered based on the way I understood it.

19 Q. You understood it to be a reference to--

20 A. And submitted it.

21 Q. Did you get it in?

22 A. Yes.

23 Q. Not as to whether you failed to get it in on the Due
24 Date?

25 A. Now I understand that's what you're trying to get at.

1 COMMISSIONER HICKINBOTTOM: And I understand that
2 explanation, but section 3 only does two things. It sets the
3 form, and the form was the form.

4 THE WITNESS: Right.

5 COMMISSIONER HICKINBOTTOM: You submitted the correct
6 form, but the manner in section 3 only relates to timing.

7 THE WITNESS: Yes.

8 COMMISSIONER HICKINBOTTOM: That's the only other
9 thing that section 3 does.

10 So, to say in the form and manner as set out in the
11 schedule--that's not...

12 THE WITNESS: Well, that was a misunderstanding.

13 (Overlapping speakers.)

14 COMMISSIONER HICKINBOTTOM: As you say, that's a
15 misunderstanding. That's what--

16 THE WITNESS: Because I know that you are going to go
17 through the Register anyhow.

18 COMMISSIONER HICKINBOTTOM: Yes.

19 THE WITNESS: So I'm not going to put something that
20 that I know you're going to sort and find it, so that was my
21 misunderstanding of how that was answered.

22 COMMISSIONER HICKINBOTTOM: Thank you.

23 BY MR RAWAT:

24 Q. You should, on the desk in front of you, Premier, have
25 a loose piece of paper, which is headed "Resolution No 3 of

1 2016". If you look to your right, you might find it there.

2 A. Yes, for sure.

3 Q. Now, the evidence the Commissioner has received is
4 that the Act comes into force in 2008.

5 A. Yes.

6 Q. Part of the mechanism of the Act is the Standing
7 Select Committee.

8 A. Yes, sir.

9 Q. Because it's to the Standing Select Committee that the
10 Registrar has to send her Reports.

11 A. Yes.

12 Q. And if there isn't a Standing Select Committee, there
13 is no way she could send a report.

14 A. Yes, sir.

15 Q. Now, Dr Smith gave evidence--and he confirmed
16 that--and others have done so as well--that this Resolution was
17 the first Resolution in the House passed to establish the
18 Standing Committee, and it was passed on the 25th day of April
19 2016.

20 A. Um-hmm.

21 Q. And you were appointed--I think you were then in
22 opposition; is that right?

23 A. Yes, sir.

24 Q. And you were appointed to sit on that Standing
25 Committee?

1 A. Yes, sir.

2 Q. Now, could I ask you this: It's obviously
3 established--it's Gazetted on the 19th of May 2016. How many
4 meetings of that Committee do you remember?

5 A. Which year?

6 Q. 2016 it's established.

7 A. '16?

8 Q. Yes.

9 How many meetings do you remember that there were?

10 A. One meeting.

11 Q. One meeting.

12 And the Chair was The Honourable Mark Vanterpool?

13 A. Yes, sir.

14 Q. Can you confirm what sort of other witnesses have said
15 about how committees worked, that it's down to the Chair to
16 decide when to convene a meeting?

17 A. Yes. It was down to the Chair to decide when to
18 convene a meeting. I remember that there was one meeting in
19 2017, I think it was, and we didn't have the follow-up meeting
20 because the election was in 2019 early, so things got a little
21 busy in the political hemisphere, to be fair to the former
22 Chair, Honourable Mark Vanterpool, so we didn't have that other
23 meeting but we did have one meeting.

24 Q. One of the obligations under the Act--and it's an
25 obligation that falls on the Committee--is to approve the form

1 of the Register, so not only is the Registrar obliged to collect
2 these Declarations, but she has to maintain a Register.

3 A. Yes.

4 Q. She had described in previous reports and has been
5 reported publicly. She described it as being a "blank book".

6 Now, it falls to the Standing Committee to approve the
7 form of the Register. During your tenure on that Committee, can
8 you remember if the form of the Register was ever agreed?

9 A. I don't remember what happened that one meeting well.
10 I'm trying to remember if we discussed the form, so I don't want
11 to give any misinformation. I didn't research that before I
12 come, so I don't want to speak out of turn. I really don't
13 remember if we discussed that form. I'm trying to recollect. I
14 don't know.

15 I know that we discussed in general about the
16 Committee and the functions of the Committee because that was
17 the first Committee to ever meet. So, I know there were general
18 conversations, but I don't remember the form.

19 Q. Now, obviously, since 12th of March of 2019, you are
20 now in Government.

21 A. Yes.

22 Q. And we have heard from Honourable Members who sit on
23 the current Standing Select Committee for the Register of
24 Interests, which I will call the "Register of Interests
25 Committee". and can you confirm that you chair that Committee?

1 A. I'm the Chair of it, appointed by the House of
2 Assembly, but we didn't meet as yet.

3 Q. Yes.

4 It is The Honourable Neville Smith's evidence that he
5 had been assiduous not only in submitting his Declarations on
6 time but checking dates. He said that Committee was set up on
7 the 2nd of September 2019, Gazetted on the 12th of
8 September 2019. Does that accord with your recollection,
9 Premier?

10 A. That accords with my recollection.

11 Q. Is it usual in the House of Assembly to take six
12 months to establish a Standing Select Committee?

13 A. I really have to say I never researched--I like
14 statistics and all that. I don't like to answer just like that
15 because I have done my research, how long it took any other
16 Committee to do, but sometimes it takes a while.

17 Q. But you have been in legislative politics for a
18 significant period of time.

19 A. Yes.

20 Q. From your experience, is it usual to take six months
21 to establish a Standing Select Committee?

22 A. There were committees that took a little while as far
23 as I could remember, but remember now we doing our and you were
24 going to check, so I don't want to say anything that I didn't
25 get to verify.

1 COMMISSIONER HICKINBOTTOM: Can we--can we say this:
2 You recall that some committees over the 20-odd years period--

3 THE WITNESS: Yes.

4 COMMISSIONER HICKINBOTTOM: --you have been in the
5 legislative body.

6 THE WITNESS: Yes.

7 COMMISSIONER HICKINBOTTOM: Over that time, that some
8 of the committees have taken some time to set up.

9 THE WITNESS: Some took some time to set up.

10 And based on the new Constitution that we have, some
11 haven't been set--some most likely haven't been set up yet
12 because we do have our institutional capacity issue, so there is
13 only a certain amount that we can do, given the assistance to
14 the committees usually about the same persons all the time.

15 COMMISSIONER HICKINBOTTOM: Thank you.

16 BY MR RAWAT:

17 Q. And you say that so far the Committee hasn't met?

18 A. Not so far, but definitely we're going to meet.

19 Q. Right.

20 Could I just take you now through a sample of one of
21 your forms as an example because, as you've said--and I will
22 take you to the one change--the information you have provided
23 has been the same since--certainly since 2015, Premier.

24 A. Yes, sir.

25 Q. So let's go to your 2021 form at page 57.

1 A. Yes.

2 Q. Now, going through the form--and I would just like you
3 to confirm this, please, so hopefully we will take it quite
4 quickly, but the first paragraph of form is described as
5 "Directorships", and you answered "yes" to that. And then what
6 you say is: "All below are basically dormant and in most cases
7 absolutely no remuneration is received", and you then listed Big
8 Ben's Incorporations, Big Ben's Superette, Big Ben's Piano
9 School, Big Ben's Properties, Purpose Driven Consultancy, and
10 Organo Gold.

11 Can you confirm that, in terms of those entries,
12 firstly, they are accurate?

13 A. Yes, sir.

14 Q. And they are the same throughout the forms we have
15 taken you to?

16 A. Yes, sir.

17 Q. If you go over to paragraph 2, where you're asked to
18 disclose remunerated employment of an office or profession, what
19 you say is--again, you say "yes". Premier, but you add this
20 explanation in terms of detail. You say: "Big Ben's Superette
21 has been rented to Hazeem Bazaar and Jamaal Bazaar. The month
22 rent is paid on account in the name of Iris Fahie, who's
23 majority owner of Big Ben's Superette who I have accounts with.
24 No set amount of rents have been agreed to be remunerated
25 monthly, however at times benefits of varied amounts monthly is

1 remunerated to me from the rent".

2 Now, again, can you confirm that that is accurate as a
3 Declaration?

4 A. Yes, sir.

5 Q. And it's the same--we're looking at 2021, but you
6 maintain the same detail and, in fact, the same wording
7 throughout your Declaration; is that right?

8 A. Yes, sir.

9 Q. Now, we get to 3.

10 Now, you've answered "no" to 3, which is "Clients".
11 but I want you, please, Premier, just to step back from the
12 answer you have given just to assist the Commissioner with this:
13 What do you think the purpose of paragraph 3 is?

14 A. If any of this is attached to me being as a Member of
15 the House of Assembly or official, but no business that I
16 does--that I do or didn't ever had a contract with Government,
17 so I--and I just look at it as if my position is influenced in
18 any of these businesses is how I read it, or cause me to have a
19 pecuniary advantage or anything along that line, and the answer
20 is "no" because none of them ever did business with Government.

21 Q. Yeah. I'm not--I'm not trying to drill down into
22 whether it's your particular answer or your particular
23 circumstances.

24 A. No, no--

25 (Overlapping speakers.)

1 Q. That's your understanding of what it would require any
2 Member of the House of Assembly to declare, but it's right, it's
3 not about whether or not you hold a government contract, is it?

4 A. Um-hmm.

5 Q. It's about whether you have used or you have used your
6 position as a Member of the House of Assembly to facilitate
7 client access to Government.

8 A. Well, all of that entailed in it, but you see that's
9 why I'm saying that seminars have to be done with this because,
10 if I tell you "Look out below" and I'm on the roof, some people
11 move because they feel something is coming down to land on them
12 or some people may come out and look up.

13 So, persons can read the same thing and have different
14 connotation. That's why now we have come to the conclusion of
15 how to improve it is have seminars because me reading it, that's
16 my interpretation along with what you've said. But your office
17 or your business, whichever one, does not have a pecuniary
18 advantage to get with the contracts from Government or to be
19 able to get certain things that you're using your office for.
20 So, I never used any of my business to do that. Big Ben's
21 Superette is a supermarket. You come in and buy bread, milk,
22 and water, and leave, so there is no contract to have with
23 Government with that, and we ran that and then rent it out.

24 So, we--as elected official, I have no business--the
25 Government never had business with that contract or anything

1 along those lines.

2 Q. You've returned again to the theme of seminars, but is
3 it a deeper question than that, that the form needs revisiting?
4 If different--if there is a risk that different Members will
5 look at the same wording and interpret it in a different way--

6 A. Yes.

7 Q. --fundamentally, doesn't it mean that the form needs
8 revisiting?

9 A. You're a hundred percent correct, but we have to add
10 on, you know that.

11 Q. Well, I'm not--

12 A. Commissioner, you have to add because the form isn't
13 the only problem. The institution of building on it and also
14 some extra layers of laws to help with the timeliness is needed.
15 I say that because changing the form or adjusting the form alone
16 obviously is not going to do it because the same problems will
17 arise.

18 Now, in hindsight, which is always 20/20, I recognise
19 being younger in politics with this and now being older and
20 watching it from two different lenses of age, I would have made
21 sure, which we are going to do now, that there are more legal
22 eyes on this and to explain to us legally what is happening. At
23 that time, we were glad to fulfill--I was in the opposition but
24 I give the Government today the credit from the 2007
25 Constitution to move in this direction, so we were glad that we

1 were advancing politically and constitutionally, but we needed
2 some more legal advice on these.

3 Now that we're here, 2020, I see that because some of
4 the things that we have been reading into these over the years,
5 obviously listening to you today and other times, I recognise
6 they could have been interpreted differently, so that's why I'm
7 saying that we need other layers, not just the form but other
8 layers.

9 COMMISSIONER HICKINBOTTOM: So, just to summarise it,
10 but tell me if this is wrong, the form needs clarification, but
11 that's not enough?

12 THE WITNESS: That's what I'm saying, Commissioner.
13 You're exactly correct.

14 COMMISSIONER HICKINBOTTOM: Yes, yes.

15 BY MR RAWAT:

16 Q. Could I actually just jump forward in your form to
17 page 60, Premier.

18 A. 60?

19 Q. Six-zero.

20 A. Thank you.

21 Q. This is "Sponsorship", it's headed?

22 A. Um-hmm.

23 Q. There are two aspects to it which, firstly, is about
24 benefiting from sponsorship before election to which you
25 answered "no", and secondly: "Do you benefit from any form of

1 sponsorship or financial or material support as a Member of the
2 House of Assembly?" Now, you have answered "yes" to that, so
3 that's ongoing sponsorship, financial or material support as a
4 Member of the House of Assembly. But when you are asked to give
5 details, what you have written on each form "See #2". What does
6 that mean, Premier?

7 A. Yes.

8 Where is it?

9 Q. Well, it's--

10 COMMISSIONER HICKINBOTTOM: Page 60.

11 BY MR RAWAT:

12 Q. Page 60.

13 A. The "See #2". for me, basically says that, if I could
14 remember correctly--I could stand corrected--is that we now work
15 these forms, whether leaked or otherwise, which is not the way
16 we want to be, tried to make sure that we are as detailed as
17 possible. So, Big Ben's Superette Incorporation never operated
18 as a company; it only operated as a d/b/a. So, for me now, it
19 would have been to explain that that's where I would have
20 received any monies based on what I explained earlier in the
21 front part of the page.

22 Q. So, were you referring back to paragraph 2?

23 A. That's what I was referring to with that.

24 Q. I see.

25 So--

1 A. Not "See #2", but based on my memory, I know that's
2 what I would be saying or any other area I am doing business as.

3 Q. Right.

4 A. Yes.

5 Q. So--but if you look at what you're asked to declare in
6 terms of or the guidance you're given--

7 A. Yeah.

8 Q. --is you're asked to Register any financial or
9 material benefit, direct or indirect, for example, the provision
10 of free or subsidised accommodation or provision of services of
11 a research assistant. So, what you are you're asked in this
12 section, as a Member of the House of Assembly, is to declare any
13 support that you might be receiving--

14 (Overlapping speakers.)

15 Q. --of sponsorship to do your job, so if someone came
16 along and offered you a free office to be a Member of the House
17 of Assembly, you would have to declare that. Was that your
18 understanding of what you were supposed to be doing here?

19 A. Not at that time when I was filling these out, no. My
20 understanding was that if you had any other's income that's
21 coming to you other than your House of Assembly income that
22 supports what you're doing. That's how I understood that at
23 that time.

24 Q. Right. Possibly there may be a need for more than one
25 seminar, Premier.

1 A. You see, you majored in law. So, for me who didn't
2 major in law, this is where I'm saying where the ambiguity was
3 because, Commissioner, you would see it that way along with--

4 COMMISSIONER HICKINBOTTOM: Well, it's worse than
5 that, Premier--

6 THE WITNESS: Okay.

7 COMMISSIONER HICKINBOTTOM: --because this form is
8 scheduled to the statute.

9 THE WITNESS: Yes.

10 COMMISSIONER HICKINBOTTOM: So, this is the form at
11 the moment--

12 THE WITNESS: Right.

13 COMMISSIONER HICKINBOTTOM: --that has to be
14 completed, and many Members have said it lacks clarity. It's
15 clear from other Members that it is filled in in different ways.

16 THE WITNESS: Right.

17 COMMISSIONER HICKINBOTTOM: But at the moment it's a
18 statutory form.

19 THE WITNESS: Absolutely, but Commissioner--you're
20 correct, and there is no dispute on that, but until I came here
21 today, I did not read it the way that my law firm has stated it.
22 So, for me, you know, that's what I'm saying, that more than the
23 seminar we are going to have on this new paradigm that we're
24 doing with it to have more legal eyes on it and also help with
25 the legal eyes to do explanation. Never before did we have

1 legal opinions on these forms in terms of explaining to us or
2 any explanation at all. The most you would do is try to get by
3 the Registrar and see if she would help, and that limited what
4 she can do. You know, she would state what she can or can't do,
5 so you're left on your own from the time I was in politics.

6 So, a lot of what I learned really relates to this
7 since this was something new, was routinely done, and that's why
8 I'm saying there is room for a lot of improvement here.

9 COMMISSIONER HICKINBOTTOM: I understand that.

10 THE WITNESS: Yes.

11 COMMISSIONER HICKINBOTTOM: But I say this with the
12 caveat--and it's a big caveat--

13 THE WITNESS: Yes.

14 COMMISSIONER HICKINBOTTOM: --that the draft bill that
15 you referred to has not been to Cabinet let alone the House of
16 Assembly yet, but the schedule is the same. The form is the
17 same in the draft bill. But that's with a big caveat. That has
18 not been considered by Cabinet or House of Assembly yet.

19 THE WITNESS: And I'm glad that you brought that up
20 because now it's important because there are some additions that
21 they already noted down by our Members for being carried
22 forward. But being here today and now hearing some other items
23 that I didn't look at in that light has me to add on some more
24 areas to look at. That's why I'm saying this has to be looked
25 at with eagle's eyes and not just regular eyes but also with

1 legal eyes to help us to know we make sure we're all reading
2 into each question exactly what is intended because there are
3 times, Commissioner--you will appreciate this--in the House of
4 Assembly we pass bills, and we are clear--even when we are in
5 dispute of certain areas, we're clear what we have passed, but
6 sometimes when you see being administered in the courts and you
7 will hear how it's interpreted, you saw that's not how we
8 intended it when we passed it.

9 COMMISSIONER HICKINBOTTOM: I well understand that.

10 THE WITNESS: So this happens to be another one before
11 reaching the courts, which we should not say is going to--that
12 we have to hammer down and drill down on more.

13 COMMISSIONER HICKINBOTTOM: Yes.

14 THE WITNESS: So I do admit that we have to improve in
15 this area here.

16 COMMISSIONER HICKINBOTTOM: Thank you.

17 THE WITNESS: I never read it that way before.

18 BY MR RAWAT:

19 Q. If I could just take you to 4(a), please, and it's
20 not--again, I stress asking you about the answers that you've
21 given, but again it's about your understanding of the form.

22 The Member of the House of Assembly is asked: "Did
23 you benefit from any sponsorship before election where, to your
24 knowledge, the financial support in any case exceeded in
25 aggregate 2,500?" The note at the bottom--and it's Note 2,

1 Premier--is: "You should register money given to you by your
2 Election Campaign Committee, money spent by your Election
3 Campaign Committee in connection with your election with your
4 permission".

5 Now, I hope it's a simple question, but what do you
6 understand by the term "sponsorship before election"?

7 A. Sponsorship would be--I would see any financial
8 assistance given towards the campaign above that amount of
9 money. That's what I would understand it.

10 Q. So, would you take it to include a donation to your
11 campaign above 2,500?

12 A. If that's a sponsorship--in our culture, once
13 you--once you see and maintain anything for whatever reason, if
14 it happens--I'm not saying that it happened with me, but it's
15 looked upon as a sponsorship, and that's the only way you can
16 look at it upon it as this. Even if you phrase it as a
17 donation, it would be legally a sponsor. I'm not saying it
18 happened in my case, but my interpretation of a sponsorship
19 would be in kind or cash. That's a sponsorship.

20 Q. So, the provision of in-kind services that went over
21 2,500 is something that you would consider should be declared?

22 A. Well, Commissioner, in this community that is so
23 small, some of these answers are straight "yes" and "no", and
24 why do I say that? And I want to help the Commission to bring
25 context to a culture while making submissions. Most persons

1 here are family, and so if you are doing a function to say--to
2 feed homeless children or homeless parents and you get whatever
3 your sisters or whatever to help you cook, that's a donation of
4 time. But, in our culture, we want to register that as a
5 sponsorship to you. They're helping you, yes, but they help the
6 community.

7 So, those are things that we don't register as
8 donations. We look at it as--we call it working together for a
9 better community even in the middle of an election.

10 So, when we are going to define these things, even
11 with the amendments coming up and even with recommendations, we
12 have to do them context of our culture.

13 COMMISSIONER HICKINBOTTOM: Thank you.

14 BY MR RAWAT:

15 Q. So, can I just move forward through to page 62,
16 Premier.

17 A. Yes, sir.

18 Q. Now, this is section 6, and it's headed "overseas
19 visits". I'm not going to ask you anything about overseas
20 visits, to be honest. I'm going to ask you about the note at
21 the bottom. Can you see that there is a reference at the bottom
22 "Guidance Pamphlet on Registration and Declaration of Member's
23 Interests"?

24 A. Yes.

25 Q. Now, this is 2008. I mean, I think that--you know,

1 that's a number of Houses of Assembly in which you have sat. At
2 any point have you been given a Guidance Pamphlet?

3 A. I heard about it, but I don't remember seeing it. I
4 heard about it.

5 Q. When did you hear about it? Take it from 2008,
6 Premier.

7 A. Yes. That's why I have to be careful here because
8 whenever you say you are going to look, I don't want to say the
9 time when I read it, but I don't think it was early, though. It
10 was later on I heard about some pamphlet, but I never received
11 one.

12 Q. Did you go and ask for it?

13 A. No, I didn't go and ask for one because, for me, that
14 was clear.

15 Q. The Guidance Pamphlet, Premier, with respect, I don't
16 think it's just a guidance pamphlet on overseas visits.

17 A. Yes.

18 Q. It's a guidance pamphlet on registration and
19 declaration of Members' interests, so it seemed to be a pamphlet
20 that's been prepared to give guidance on how to fill in this
21 form, so it's somewhat surprising that (a) Members of the House
22 of Assembly don't know it--know about it; and (b), if they do
23 know about it, they go and ask for it.

24 A. Well, I heard about the pamphlet somewhere in the past
25 in all the years, but that's what I mean: That shouldn't be

1 something I'm hearing about: "That's supposed to be something
2 from the time you're elected. This is your packet. We are
3 going to do orientation, and let us go through this pamphlet".

4 So, I heard that in passing somewhere, but then you're
5 already in routine to fill out the form, so all that you were
6 doing, it wasn't something that struck out to me to go and get
7 the pamphlet because you thought you were filling out the forms
8 correctly and didn't know it existed. It was not a big talk
9 among elected officials a problem, so I can't say that I heard
10 from it from officials. I just heard about it in passing, but I
11 want to be truthful to the Commission. I heard about it, but I
12 never saw it.

13 COMMISSIONER HICKINBOTTOM: Thank you.

14 BY MR RAWAT:

15 Q. Paragraph 8, please.

16 Now, that deals with land; and, as you've pointed out,
17 it just doesn't deal--it's not specific to land in the BVI.

18 A. Yes.

19 Q. But it is--it does exclude land that you use solely
20 for your personal residential purposes.

21 A. "Exclude", you said?

22 Q. Yes.

23 A. Okay.

24 Q. So, you're not obliged, are you, to put in your home?

25 Now, we're looking at your 2021 form, taking it back

1 to throughout--and this is a point you made earlier--in earlier
2 Declarations, you leave this blank. Here, in 2021, you've made
3 an entry saying the nature of the land is residential. And I
4 didn't give the detail, but the address is Fresh Water Pond D,
5 Spyglass Hill and Towers, but can you just clarify to the
6 Commissioner a little bit more about what this piece of land is
7 about?

8 A. Well, I didn't have that piece of land before in all
9 the other submissions, although candidly they were late, but
10 this one now that I was able now to get in my name piece of land
11 now, so I wanted to make sure that when I did my Declaration
12 that I let the Registrar know and put it on the file that I now
13 own this piece of land so that it wouldn't be something that,
14 when searching for my interests and it's not declared and they
15 find it, they will ask if I ever go and see what lands I have,
16 "How come you didn't declare this?"

17 So, I was trying to be as brutally honest as I can be
18 by registering it.

19 Q. And looking at paragraph 8, is the obligation on you
20 to declare any land you hold, or is it to declare land also held
21 by your immediate family?

22 A. Well, again, Commissioner, you have to define, in a
23 small society like the BVI, what we mean by that "immediate
24 family" and what we mean by "family".

25 COMMISSIONER HICKINBOTTOM: But leaving that aside

1 because I understand that it may be a grey area, but does
2 paragraph 8 refer just to you personally, or to any wider family
3 as well?

4 THE WITNESS: Well, it said, "Do you have any land
5 other than homes used solely for the personal residential
6 purpose of you or your family", "residential purpose of you or
7 your family". So, with that, I look at it as any land that I
8 would own. That's how I read the form very clearly.

9 COMMISSIONER HICKINBOTTOM: Thank you.

10 BY MR RAWAT:

11 Q. If I could take you--we can skip through this. When
12 you were asked at paragraph 9 to disclose shareholdings, you
13 always answered "no" to that, but go to paragraph 10 because the
14 answer that you've given in relation to paragraph 10 which is
15 headed "Miscellaneous", you set out a number of interests. You
16 were asked there: "If bearing in mind the definition of
17 'purpose' set out in the instruction to this form". and I could
18 take you to that if you need to remind yourself of it, Premier,
19 "If you have any relevant interests which you consider should be
20 disclosed but which do not fall within the nine categories set
21 out above, please list them".

22 Now, what you've said is that--and you referred to a
23 building in Mount Sage, and you say one building with four
24 apartments in which three are rented and "my family and I live
25 in one". You then speak of your wife and yourself being

1 invested in a dot.com enterprise with its Shares in a start-up
2 web page, which has not yielded any significant remuneration to
3 date, and then a trade licence for Andrew Fahie d/b/a, "I
4 Deliver Reality" and then trade licence for Andrew Fahie d/b/a
5 Tortola Eastern Kim Natural Medicine Business Doty Estate. Is
6 that Doty Estate?

7 A. Yes, sir.

8 Q. That's your full Declaration here.

9 A. Yes, sir.

10 Q. So again, before we get into the detail--and as you
11 have said, this you set out in every form, but did you
12 take--you've referred to interests held not just by you alone
13 but by your wife.

14 A. Yes.

15 Q. So, did you take this paragraph 10 to encompass that,
16 to encompass not just you, Andrew Fahie, but also your spouse?

17 A. Commissioner, the answer would be "yes", but as we go
18 through this more and more, I'm sure that each Member would have
19 a different interpretation, which goes back to what the impetus
20 of what I'm saying from answer of why we are revamping this
21 whole area in terms of amendments, in terms of strengthening
22 with different things because everyone--not everyone, but most
23 persons are reading the same sentences and having different
24 interpretations.

25 COMMISSIONER HICKINBOTTOM: Yes.

1 THE WITNESS: But one thing I must put for the record,
2 Commissioner, which you will bear me out with, is that, no
3 matter where I put them--and for a legal mind it might not sound
4 right, but no matter where I put the interest, I made sure I
5 registered everything.

6 COMMISSIONER HICKINBOTTOM: No, Mr Rawat's questions
7 aren't going towards your--

8 THE WITNESS: It's my interpretation of it.

9 COMMISSIONER HICKINBOTTOM: It's your interpretation--

10 THE WITNESS: Right.

11 COMMISSIONER HICKINBOTTOM: --of the form and the lack
12 of clarity in the form?

13 THE WITNESS: Exactly, which lends to all Members.
14 They may--most likely will have all the information scattered
15 probably in the different or incorrectly, depending on how you
16 interpret what each section says your interpretation of it.

17 COMMISSIONER HICKINBOTTOM: Yes, thank you.

18 BY MR RAWAT:

19 Q. Can I ask you, just to move on to one topic--and I
20 will take it shortly--if you go to page 11 in your bundle,
21 please, Premier.

22 A. Yes, sir.

23 Yes.

24 Q. If you give me a moment, please.

25 (Pause.)

1 Q. This was a letter sent to you as Premier.

2 A. Yes.

3 Q. And it related--it was in relation to Declarations of
4 Interests under the Cabinet Handbook. And it set out there the
5 relevant extracts from the Cabinet Handbook.

6 Now, 2.25, if I draw your attention to that on the
7 next page, please, Premier, says that: "Ministers or Members
8 having doubts or uncertainty about their interests in a Cabinet
9 matter should inform the Premier in advance of the matter coming
10 up for Cabinet discussion", and you were then asked whether to
11 give details of whether any Ministers or Members had raised
12 matters with you, and your reply is at page 14.

13 A. Right. Which interests prior. I remember that.

14 Q. Yes.

15 A. That word "prior".

16 Q. I'm trying to save it shortly.

17 A. The word "prior" is very important.

18 Q. I will read it out properly for you, Premier.

19 A. Okay.

20 Q. "Since your appointment as Premier to date, please
21 provide details of whether any Ministers or Members have raised
22 matters with you under paragraph 2.25 of the Cabinet Handbook
23 which were not then later raised in the Cabinet meeting itself".

24 Now, your answer is at page 14.

25 A. Right.

1 Q. March 12, 2021, addressed to the Commissioner from
2 yourself, and you say: "I do not recall an occasion on which
3 Ministers or Members raised matters with me under paragraph 2.25
4 of the Cabinet Handbook that were not later raised in the
5 Cabinet meeting itself". A little bit of time has passed on,
6 and I just wanted to clarify your position.

7 Is it the case that, since you have sat in Cabinet as
8 Premier, no Member or Minister of Cabinet has approached you
9 under paragraph 2.25, or is it the case that you can't remember
10 them doing so?

11 A. Let me state, Commissioner--and also make sure that we
12 don't have a mix-up in interpretation of language.

13 COMMISSIONER HICKINBOTTOM: Yes.

14 Can I just say this, this may be the point that you're
15 making. Paragraph 2.25 refers to lack of clarity. If there is
16 a lack of clarity or you're uncertain, go and see the Premier.

17 THE WITNESS: Right.

18 COMMISSIONER HICKINBOTTOM: It doesn't bear on the
19 separate question where you have a conflict that you recuse
20 yourself, you leave the room. That's a different--

21 THE WITNESS: Oh, okay.

22 COMMISSIONER HICKINBOTTOM: That's a different issue.
23 This is purely on where there is a lack of clarity, go and see
24 the Premier, in paragraph 2.25 it says.

25 THE WITNESS: We never had a lack of clarity like

1 that, but again when it comes to Cabinet, the convention has
2 been that once you identify that there is a conflict with
3 anything that has come to the Cabinet, the particular Minister
4 would recuse himself from the meeting, and he would leave--he or
5 she would leave the meeting, and we would then discuss the
6 matter and make whatever decisions without the Minister.

7 And generally, believe it or not, although we may be
8 in the same Government, we never go back to that, they would see
9 in the minutes, of course, how many minutes, how it was decided,
10 but they would have recused themselves.

11 Sometimes persons would know about the context of
12 matter being discussed, but the intricacies of the Ministries
13 that we deal with ideally were no more than all the Ministers
14 who are not in that Ministry; meaning that sometimes some of the
15 information that comes out of the Government you may discuss
16 general topics, like should we put--allow persons who are
17 vaccinated to be allowed in the Territory as an example, and
18 then we would have a lot of paragraphs, as an example, and then
19 we would have a lot of paragraphs--as an example, we would need
20 to hire/fire persons to do so with some kind of procedure, and
21 then the procedure would be taking place. It may come to
22 Cabinet and say, "All right, these are the names". and that is
23 when you may know that, "Well, one of those persons may be a
24 relative". and then I will excuse myself or the person would
25 excuse themselves.

1 I just want to make clarity to it.

2 COMMISSIONER HICKINBOTTOM: Thank you. That's
3 perfectly fair. Right.

4 BY MR RAWAT:

5 Q. Under the Cabinet Handbook, have you ever had to
6 recuse yourself from a Cabinet meeting either when you were as
7 Premier or as Minister of Finance, or I think you have served in
8 the previous administration as Minister of Education?

9 A. I don't recall whether I had to or not because again,
10 more for all of the country, especially coming out of a
11 well-timed event such as this, although most persons may say
12 otherwise, it gives us the scope now to realise that we have to
13 define certain things, define the sort of legal--we know the
14 definition based on our culture, of what is family, who is
15 family in terms of that context, how fair it would spend. And
16 for us, "immediate family" means your wife and children or your
17 husband and children if you are female. So, that's what we
18 understand by "immediate family" or if it's--or if it's, I
19 guess, be a mother or father, but even then the culture may be
20 that your mother and father are not together or it's a step-dad.
21 There are all kind of variations here in this Territory because
22 of our small nature and our culture and our makeup.

23 So, I cannot recall having to leave--that's the
24 answer--but at the same time to this exercise we have to first
25 off recognise that we can't take certain definitions anymore for

1 granted. We have to have them fully defined.

2 Q. Since assuming the Office of Premier/Minister of
3 Finance, you have not exempted yourself from a Cabinet meeting?

4 A. I cannot say "yes", I cannot recall because I don't
5 want to say "no" and then the record shows that I did it.

6 COMMISSIONER HICKINBOTTOM: You can't recall any?

7 THE WITNESS: Yeah.

8 So, I don't recall it at this time. I'm trying to
9 scrape my mind. I don't recall at this time. But if it is
10 there, I will stand corrected, but I can't recall.

11 BY MR RAWAT:

12 Q. Final topic, I hope, Premier. We--the Commission has
13 taken evidence about the operation of section 67 of the
14 Constitution of 2007, and specifically that a motion can be
15 brought before the House, where the House decides that an
16 Honourable Member can be exempted from the requirement to vacate
17 his or her seat in circumstances where they have a contract with
18 Government.

19 And the Commissioner has heard in particular about the
20 circumstances of The Honourable Neville Smith, and he explained
21 those in detail to the Commissioner, so we don't need to go over
22 that or into that particular situation.

23 But the first question is this: Since 2019, when you
24 assumed the Office of Premier, have you, yourself, ever been
25 exempted from vacating your seat under section 67?

1 A. I want it to be abundantly clear: No. I could never
2 have any contracts with Government. I stayed away from
3 contracts with Government because the--the--it is something that
4 I recognise that I don't--I just stayed away from that because,
5 you know, sometimes when you're trying to get someone, you have
6 got to needle him, so I make sure I stay away from any contracts
7 with Government. I'm not saying that other persons would not
8 have because they may have expertise, and as a small country you
9 may need it. There may be in a profession that you need. They
10 may have material and equipment that you need and as a small
11 country.

12 So, some of them may be elected officials or immediate
13 family around you, so you have to make sure that you come and
14 ask to be exempted, so it is possible that it could happen for
15 anyone else. But for me I stayed away from it. Like a cat's
16 fear of water, I stay away from any contract with Government.

17 Q. Now, can you remember, since 2019, how many
18 resolutions under section 67(7) have been brought before the
19 House?

20 A. They don't come fast and furious, but the number of
21 them--I don't remember how many of them. I didn't research
22 that, but I know a few of them came in my tenure.

23 Q. And when they do, is it the convention that it is the
24 Premier that moves the motion?

25 A. Yes. It's always the Premier that moves the motion.

1 Q. I said that I have got to the last to topic. I spoke
2 too soon. I just want to ask you--

3 A. No problem. I put aside all day for the Commission.
4 I want to help you as much as I can.

5 Q. What I hope you also have on the desk in front of you
6 is a report headed "Office of the Deputy Governor Report from
7 the ad hoc Elections Legislation".

8 A. I do.

9 Q. We've already asked questions on this of The
10 Honourable Marlon Penn because he sat on the Committee, but just
11 to help you orientate yourself around the document, if you look,
12 Premier, at page 1--

13 A. Yes.

14 Q. --you will see there that, to summarise it, the
15 Cabinet agreed an ad hoc Elections Legislation Committee be
16 appointed by the Governor. At the bottom we see that the Deputy
17 Governor was appointed serve as Chair, and there is a list there
18 of a number of persons both from both sides of the House but
19 also from the public service and from the private sector who
20 were asked to sit on that Committee.

21 A. Yes.

22 Q. I just want to ask for your response to a couple of
23 recommendations the Committee made.

24 A. Yes.

25 Q. First, if you go, please, to page 6, Premier.

1 A. Yes. I'm right there.

2 Q. It says: "Electoral campaign financing Rules be
3 drafted to regulate campaign financing". That's the date.

4 Do you see that?

5 A. Yes.

6 Q. That was a recommendation to supervise the election
7 from the 2019 General Elections?

8 A. Yes.

9 Q. The Committee agreed that and said this: "The
10 Committee agrees with this recommendation as it creates a fair
11 and transparent process and eliminates acts of corruption.
12 However, research will be undertaken to determine how this will
13 work in the Territory. The following comments were made:
14 Options of financing should be included in the rules to support
15 those who do not have as much money to finance their campaign
16 but still have an opportunity to fully participate. Some
17 controls may be necessary".

18 I want, before I put my question, Premier, just to
19 take you to page 14.

20 A. Okay.

21 Q. And we're dealing with a now the Committee 's
22 responding to the Observer Mission's recommendations from the
23 2019 General Elections, and the recommendation made then at 10
24 was this: "To increase trust in the system comply with the
25 UNCAC"--I think that's the UN Convention Against Corruption?

1 A. Yes.

2 Q. And remove the risk of corrupt practices, "The Virgin
3 Islands authorities must legislate and institute policies for
4 candidates and party financing and the registration of political
5 parties for financial reporting services. Committee agreed with
6 that recommendation and said--

7 COMMISSIONER HICKINBOTTOM: The comments, I think, are
8 identical.

9 MR RAWAT: Exactly the same.

10 COMMISSIONER HICKINBOTTOM: Those Mr Rawat read under
11 paragraph 8.

12 MR RAWAT: Yes.

13 BY MR RAWAT:

14 Q. So, the question becomes this, and I appreciate that
15 there may be detail behind this, but we don't need to go into
16 that, but as the position of principle, do you agree that there
17 is a need for campaign finance reform in the BVI?

18 A. Commissioner, I don't know if you could reform it. It
19 just doesn't exist. I agree that it needs it because there is
20 no law on campaign financing.

21 Q. That's very helpful, then, Premier.

22 A. Yes.

23 Q. Because it then comes down this, and you agree that if
24 there was such, I appreciate someone can be legitimately make
25 the point that the ins and outs will need discussion.

1 A. Right.

2 Q. But that if there was campaign finance reform, it
3 would increase trust in the system and it would decrease the
4 risk of corrupt practice?

5 A. Well, first of all, we have to conclude that they have
6 corrupt practices. That's not why we needn't--why it would
7 help. I want to make that clear.

8 Q. You, I think--listen to my question, Premier, with
9 respect.

10 A. Yes.

11 Q. What I said is that--I said I didn't premise it on the
12 basis that there was corrupt practice.

13 A. Right.

14 Q. That it would decrease the risk of corrupt practice,
15 if you had it.

16 A. Right. But that's always the first thing that people
17 draw to make the topic attractive, but you need it so that you
18 can further show to the people of the Virgin Islands and
19 yourself that you have the ability as a country moving towards
20 self-determination to police yourself. That's how I look at any
21 legislation that brings in--that comes in.

22 Of course, you hope it reduces any illegal activity as
23 much as you can, but it further strengthens your good governance
24 to assure that you can police yourself, and it then shows as
25 much as possible, although this doesn't exist, is the word that

1 we say, it creates a playing field among persons who may have
2 the ability to come and represent the people but may not have as
3 much cash as someone else who may have big corporations funding
4 them; and, therefore, their message will not get out because
5 they don't have that same kind of financial backing.

6 COMMISSIONER HICKINBOTTOM: So, for those reasons,
7 it's a matter of principle.

8 THE WITNESS: A matter of principle.

9 COMMISSIONER HICKINBOTTOM: There is a lot of detail--

10 THE WITNESS: Yes.

11 COMMISSIONER HICKINBOTTOM: As a matter of principle,
12 you would support the implementation of some form of regulating
13 public financing?

14 THE WITNESS: I said that publicly.

15 But I want to add this, Commissioner, if I may,
16 because this is a very important topic. This is one area we
17 want to work on legislatively. And if you ever, which I know
18 given when I recognise the work that the Commission is doing
19 that you are thorough in terms of research, our legislative
20 agenda and also our House of Assembly meetings are one in which
21 we continue to be bring more and more legislation to help, as I
22 say, add more layers of good governance to further strengthen
23 our good governance.

24 But one of the areas of challenge which I say that we
25 cannot divorce COVID-19 is we had delays due to COVID-19, and

1 the Attorney General's Office, we used to have a joke and call
2 it the "Ministry of Health's Attorney General's Office" because
3 everything for the AG's Office was dealing with health, and
4 rightfully so. So, we had to shift our resources there.

5 So, they only have a certain number of manpower or
6 womanpower, personpower--let me get out of gender--peoplepower
7 inside the Attorney General's Office to be able to help bring
8 about this legislation.

9 COMMISSIONER HICKINBOTTOM: Now I understand.

10 THE WITNESS: That's why some of these reforms--even
11 the Registrar of Interests reform got not on the back burner
12 because we wanted it to but because we're trying to save lives
13 by making sure all these suppression orders and all these
14 amendments to the health are there so that we can have our
15 people safe so that we could go to the second leg of the journey
16 of policing ourselves further and for our self-determination by
17 policing ourselves.

18 Now, we have a little breathing room because teams are
19 helping and other people of this Territory and the Government of
20 how we handled COVID-19. So, if you notice, we speed up
21 somewhat our legislative agenda, independent of anything that's
22 happening but they have always been worked on in the pipeline
23 but now we can give some more help. But again, though, we have
24 to look at the capacity issue in the Attorney General's Office
25 and different areas that also plays a factor, so I just need to

1 chip that in.

2 To state the long story--to state the short story,
3 Commissioner--thank you for letting me say--is that this is one
4 of the areas that we will be bringing forward in terms of
5 campaign legislation.

6 COMMISSIONER HICKINBOTTOM: Now, I understand why you
7 made that point, Premier. The long story is, in fact, for
8 another day, but I understand why you made those points now.

9 THE WITNESS: Yes.

10 MR RAWAT: Commissioner, I have come to the end of my
11 questions. Can I conclude firstly by thanking The Honourable
12 Premier for the time that he's given us today, but also thanking
13 him for the way in which he has given the evidence to the
14 Commission.

15 THE WITNESS: Thanks.

16 COMMISSIONER HICKINBOTTOM: And can I echo that.
17 Thank you, first of all, for your patience at the beginning, and
18 thank you for your time and the clear and courtesy way that you
19 have responded to the questions.

20 THE WITNESS: Commissioner, I thank all of you who are
21 coming out of this. And as I tell the people of the Virgin
22 Islands that we're going to come out better because we're a
23 young nation growing and going to come out much better with
24 these recommendations and many other things that we're working
25 on. It's only going to make us stronger, so I thank you.

1 COMMISSIONER HICKINBOTTOM: Thank you, Premier.

2 MR RAWAT: Commissioner, can I ask to rise briefly
3 whilst we prepare the room for the next witness?

4 COMMISSIONER HICKINBOTTOM: Yes, I will.

5 Mr Olympitis, are you staying for the next witness?

6 MR OLYMPITIS: Well, I was going to address you, sir,
7 on whether I could make the submissions you're expecting from us
8 before the next witness.

9 COMMISSIONER HICKINBOTTOM: How long will they be,
10 then, Mr Olympitis?

11 MR OLYMPITIS: Very short. I can make them now.

12 COMMISSIONER HICKINBOTTOM: How short is "short"?
13 Because I know you're a lawyer, Mr Olympitis, and sometimes
14 shortness of time for a lawyer is not that short.

15 MR OLYMPITIS: All I'm going to do this afternoon is
16 ask you for an extension until tomorrow. You need to know what
17 it is that I'm asking to be extended. Not the submissions.
18 What I'm asking--let me tell you--

19 COMMISSIONER HICKINBOTTOM: Mr Olympitis, firstly, if
20 they are going to be brief, as brief as your First Submission, I
21 will hear them now, but can we release the Premier now, please,
22 because he will no doubt have other things to do.

23 THE WITNESS: Thank you so much.

24 COMMISSIONER HICKINBOTTOM: Thank you, Premier.

25 (Witness steps down.)

1 COMMISSIONER HICKINBOTTOM: Yes, Mr Olympitis, because
2 the Honourable Mark Vanterpool has been waiting for some time.

3 MR OLYMPITIS: I saw him outside.

4 COMMISSIONER HICKINBOTTOM: Yes.

5 MR OLYMPITIS: Sir, just in relation to two matters
6 that were mentioned in the letter that the Attorney General
7 wrote to you yesterday and there has been a lot of
8 correspondence about in reply to you today, in connection with
9 the Minister's Position Statements, there are documents that you
10 want, and there are submissions that you want. In term of the
11 documents, they are being prepared, and I'm hoping that you will
12 have some of those tomorrow. And more I'm expecting you will
13 have and the total by Wednesday, which is what we had said in
14 the letter.

15 The other aspect was that you wanted legal submissions
16 today in respect of the various issues in relation to the
17 allegations that were being made. You may know that Sir
18 Geoffrey Cox was delayed last night. He has arrived in the
19 Territory but he was unwell when he got here. He has said to me
20 that he has the draft, wants to review it. You will have it
21 tomorrow morning.

22 And as for time, I would like to say 11-ish. Given
23 it's midday, there is only so much in the day left.

24 COMMISSIONER HICKINBOTTOM: Thank you very much,
25 Mr Olympitis.

1 Particularly in light of the directions I gave this
2 morning, I'm content to give until noon tomorrow for the legal
3 submissions, and those legal submissions will set out precisely
4 the criticisms the Ministers are making, and I say that because,
5 in their Position Statement, which I know is currently
6 confidential, but I can refer to it to this extent. In that
7 Position Statement, for example, in paragraph 25, it says: "The
8 elected government strongly believes that the UK Government
9 has". and it goes on to say, "acted unconstitutionally and not
10 in accordance with the law".

11 And I understand that beliefs are very important, but
12 I'm also interested in the legal basis for any allegations that
13 the United Kingdom or the Governor acted unconstitutionally, not
14 in accordance with their own policies or not in accordance with
15 international law, and then submissions focused on those precise
16 allegations--criticisms.

17 MR OLYMPITIS: Yes.

18 COMMISSIONER HICKINBOTTOM: Yes?

19 And in relation to the documents, you're going to get
20 those to us, what? On a rolling basis before next Wednesday?

21 MR OLYMPITIS: Precisely.

22 COMMISSIONER HICKINBOTTOM: Given the change in next
23 week's business.

24 MR RAWAT: We will have to live with Mr Olympitis has
25 told us. I think what would be helpful is, ahead of that, if we

1 could get indication of the loading of documents that they
2 anticipated, that might be helpful.

3 COMMISSIONER HICKINBOTTOM: Yes.

4 MR OLYMPITIS: I can't answer that because I left the
5 office and the copying is being done, so I just don't know the
6 answer.

7 MR RAWAT: Perhaps a short e-mail would prefer.

8 MR OLYMPITIS: You did say in the letter that if we
9 could get you some by Friday, we would; otherwise, rolling basis
10 until Wednesday.

11 COMMISSIONER HICKINBOTTOM: As long as we get it all
12 in by 4:00 p.m. on Wednesday because this disclosure--this is
13 obvious, but this disclosure will not end with us because this
14 is disclosure in relation to criticisms of essentially the
15 Governor, and consequently he will need a proper opportunity to
16 respond before the 12th of July, which is the date I have set in
17 the directions.

18 Good.

19 MR OLYMPITIS: Before we finish, one other matter just
20 to mention to you for your consideration in relation to--

21 REALTIME STENOGRAPHER: M r Olympitis, can you
22 come closer to your microphone, please.

23 MR OLYMPITIS: Thank you.

24 In relation to the breaches of the Register of
25 Interests Act.

1 COMMISSIONER HICKINBOTTOM: Yes.

2 MR OLYMPITIS: I'm troubled, and so I'm mentioning
3 this really for you to consider further rather than me making
4 specific submissions on, but I'm troubled in relation to
5 Mr Rawat when he says there are two breaches, section 3 and
6 section 7.

7 COMMISSIONER HICKINBOTTOM: Yes.

8 MR OLYMPITIS: Section 3 imposes a duty. It imposes a
9 duty to make a Declaration.

10 COMMISSIONER HICKINBOTTOM: An obligation.

11 MR OLYMPITIS: Obligation.

12 COMMISSIONER HICKINBOTTOM: It's a statutory
13 obligation.

14 MR OLYMPITIS: I accept that.

15 COMMISSIONER HICKINBOTTOM: If you don't comply with
16 it, you're in breach.

17 THE WITNESS: You're in breach--well, let me--
18 (Overlapping speakers.)

19 MR OLYMPITIS: Let me take it a little bit further.
20 It doesn't say you are in breach of the Act until
21 three months have gone by.

22 COMMISSIONER HICKINBOTTOM: I mean, I'm not going to
23 hear this, not to be discourteous, but these are the submissions
24 I'm yet to hear on Monday. But Mr Rawat has put the legal
25 position as follows: That section 3 mandates--it's a statutory

1 obligation to put in Declarations on a particular date.
2 Consequently, if a Member does not put in his Declaration or her
3 Declaration by that date, that is in breach of section 3.

4 Section 7, he says, is a separate breach, as he puts
5 it, to which there is a sanction--there is no sanction for a
6 breach of section 3 but there is a sanction in section 7.
7 Whether those are looked at as a single breach or continuing
8 breach or two breaches I'm not sure matters very, very much, but
9 those are the matters I'm going to hear.

10 MR OLYMPITIS: That's my point. It could be other
11 possibilities.

12 COMMISSIONER HICKINBOTTOM: Yes, but I will hear
13 submissions on that on Monday.

14 Yes, thank you very much, Mr Olympitis.

15 So, I will just leave for a few minutes while the room
16 is reconstituted. Thank you very much.

17 (Recess.)

18

1 A. Yeah.

2 Q. The last thing just to ask you to do is just please
3 keep your voice up and to speak slowly. The microphone that's
4 in front of you does not amplify; it just records, but we do
5 want, and this is important that we get, an accurate record of
6 your evidence this afternoon.

7 A. Thank you.

8 Q. Can I start off, as I have done with all the Members
9 of the House of Assembly and, indeed, former Members that have
10 given evidence thus far, and that is to ask you to give a brief
11 outline of your professional background before you entered
12 politics.

13 A. I first started as a teacher for a short, brief
14 period, and then I entered the banking profession, followed by
15 entering into my own business in the late 1980s.

16 And then in 1999, I was elected to office, in the
17 House of Assembly at the time as new Council.

18 Q. I'll come to that in a moment. So, in effect, have
19 you run your own business or businesses since leaving the
20 banking profession?

21 A. Yes, pretty much so.

22 Q. You mentioned that you were elected first in 1990 to
23 the Legislative Council, and it was on behalf of the National
24 Democratic Party, was it?

25 A. Yes.

1 Q. And it was to represent the Fourth District.

2 A. That is correct, sir.

3 Q. And have you been their representative ever since?

4 A. I had a brief sabbatical in 2007 to '11, when I lost
5 the election that I contested in that large constituency.

6 Q. I see. You're right, of course. I should have taken
7 it in stages.

8 Obviously, you went into politics in 1999,
9 successfully elected. So, between 2003 and 2007, you were
10 actually in opposition because you had left the NDP and joined
11 the Virgin Islands Party; is that right?

12 A. Correct, in about 2002, I think.

13 Q. And then you--as you mentioned, you were unsuccessful
14 in the 2007 election, but you returned as the representative of
15 the Fourth District in 2011, and that was now again as the NDP
16 candidate, wasn't it?

17 A. That is correct.

18 Q. Now, in that administration, which 2011 to 2015 would
19 be the Second House of Assembly, did you hold any ministerial
20 office at that time?

21 A. Yes.

22 Q. And what was that?

23 A. Minister of Communications and Works.

24 Q. In 2015, when there was the next election, you were
25 again successful as a representative. Did you--in that

1 administration, which was Dr Smith's administration, did you
2 hold Ministerial office again?

3 A. Yes, same office, Minister of Communications and
4 Works.

5 Q. And again, you were re-elected again in the most
6 recent election in 2019. I appreciate that for--we'll come--we
7 don't need to go into the detail, but for various reasons, you
8 were actually sworn into the House at a later date than every
9 other Member of the House of Assembly.

10 A. That is correct; in July I think it was.

11 Q. I think it was the 16th of July 2019.

12 A. Yes, sir.

13 Q. Now, how many people live in your district?

14 A. We have about 1200 registered to vote. How many live
15 might be more than that, but that's the registration, registered
16 voters.

17 Q. Do you have an idea of what the population of voters
18 and non-voters is?

19 A. I don't really have an accurate--you know, it's in
20 cities, they're estimated probably about a total of 5,000 people
21 maybe living in the vicinity, in the area.

22 Q. And I'd just like you to confirm this, but the
23 official record on the BVI Government website was that in the
24 2019 Election, 889 votes were cast. You received 442 of those
25 votes, which equated to 49.70 percent of the votes cast. Does

1 that accord with your recollection of your success at the polls?

2 A. I can't remember, but it's possible, yes.

3 Q. Now, one of the topics or issues that the Commissioner
4 has been taking evidence on is the operation of the Register of
5 Interests Act of 2006. You'll be aware, having voted for it in
6 the House of Assembly, of the most recent amendment that's been
7 made to the Act, but one thing that hasn't changed about it is
8 that the Register itself is not available to the public for
9 inspection.

10 Now, where do you stand on that point? Are you in
11 favor or against publication of the Register to the public?

12 A. I have no objections to that.

13 Q. Have you always held that view?

14 A. Yes.

15 I accept that it's the law and presently that it's not
16 available to the public, but it--I don't object to it being
17 available to the public. And it depends on which form it is.
18 In other words, you know, I'm always a bit cautious that your
19 Declaration that may--that you may have to declare, it depends
20 on how--what--what level of details, especially of businesses
21 that may be exposed to the public. But generally speaking,
22 whatever businesses you own and whatever interests you may have
23 should be made public, yes.

24 Q. So, in principle, you're for the proposal?

25 A. Correct.

1 Q. I appreciate that there may be, as there often is,
2 details to be worked out as the measure goes through.

3 The Register of Interests Act--and I can take you to
4 the law, if you want me to, I can take you to the Act itself,
5 but I hope you'll suspect this from me. What it requires from
6 you as a Member of the House of Assembly and indeed every other
7 Member of the House of Assembly is that on the day you're sworn,
8 what you should do is to file a Declaration of Interests with
9 the Registrar of Interests.

10 A. Um-hmm.

11 Q. Do you agree with that?

12 A. Yes. That's the--

13 Q. That's the law.

14 A. That's the law.

15 Q. Yes.

16 A. Yes, it is.

17 Q. And what it then requires you to do is to file that
18 Declaration on every subsequent anniversary of that date.

19 A. That is the requirement as I understand it, yes.

20 Q. And that, just so that you can be clear, Mr Vanterpool
21 is it comes under section 3 of the Act.

22 A. Yes.

23 Q. Section 7 has a--provides that if within three months
24 you still haven't sent in your Declaration, within three months
25 of the date that it's due, then you are--you're taken to be in

1 breach of the Act, and the Registrar must write a report about
2 you to a Standing Select Committee. Was that a provision that
3 you were aware of?

4 A. Yes.

5 Q. So, in effect, there are two potential risks under the
6 Act for a Legislator: Firstly, that you'll be in breach if you
7 don't file on the date it's due; but, secondly, you will be also
8 be in breach if you haven't filed within three months, but in
9 that occa--on that instance, the Registrar has to write a report
10 about you. Would you accept that's the framework in which you
11 have to operate?

12 A. Yes. I haven't read the law that is stated that is
13 the case, yes.

14 Q. Now, obviously, you have been--apart from your brief
15 sabbatical--you have been in either Legislative Council or the
16 House of Assembly for some years. The Register of Interests
17 came into force and into effect in--on the 18th of
18 February 2008. From that time, has it always been your view
19 that it's the responsibility of each Member of the House to
20 confirm and complete their own Declaration?

21 A. Yes.

22 Q. And so, it's not for more senior Members to police the
23 activities of more junior Members or more inexperienced, shall
24 we say.

25 A. The answer to the question is yes.

1 Q. So, in your time, has anyone ever come to you and
2 asked for advice about how do I fill this annual form?

3 A. Not that I can recollect, no.

4 Q. And when you, yourself, if you have done, have sought
5 advice about the form, where have you gone?

6 A. On the form is I don't think very complicated, but,
7 you know, you need clarity on certain things, and when I had
8 completed a form, I would have consulted in certain instances
9 with the Registrar or asked for advice, sometimes perhaps
10 legally, as to how to complete it in certain areas of the form.
11 But it is not a complicated form. It just can be onerous if
12 you--especially the first time you fill it; after that, it's
13 fairly straightforward.

14 Q. Could I just take you to the forms, the copies of the
15 forms that we have. They've come from two sources. One is from
16 the Registrar herself and the other one is yourself because you
17 supplied copies of the forms that you held.

18 And I'm going to take you to the ones from the
19 Registrar. If we go to page 96, please.

20 Now, this is the copy that came from the Registrar.
21 You can see her stamp at the top of the page, and can you see
22 the date on there, 15th of September '20?

23 A. Yes, sir.

24 Q. And I'm going to suggest that this is your 2020
25 Declaration.

1 A. Yes.

2 Q. If you go, please, to--through to page 104.

3 A. Yes.

4 Q. You have it.

5 A. Yes.

6 Q. Thank you.

7 104, is that your signature?

8 A. That is.

9 Q. It's dated the 7th of September.

10 Now, what we've got to remember is you're slightly--in
11 fact, it is your unique position that, of course, the date on
12 which it was due would have been the 16th of September--the 16th
13 of July 2020 rather than 12th of March 2020, which would apply
14 to every other Member of the House.

15 Now, in this case, would you accept, Mr Vanterpool,
16 that you filed your Declaration for 2020 after the date it was
17 due?

18 A. Yes.

19 Q. And it's within--so, you're in breach of section 3,
20 but you're not in breach, are you, of section--if my math is
21 right, of section 7 because you're within three months of that
22 date, aren't you?

23 A. That would be my interpretation, yes.

24 Q. If you go, please, to 105, this is stamped by the
25 Registrar, dated the 3rd of September 2019, and it's your

1 registration form for 2019. So, you'll see the last page is at
2 112.

3 If I could have a moment, please, Commissioner.

4 COMMISSIONER HICKINBOTTOM: Yes.

5 BY MR RAWAT:

6 Q. Yes, I've got it. 112, please, Mr Vanterpool, sorry.
7 Again, can you confirm that's your signature on that?

8 A. Yes, sir.

9 Q. And it's dated the 17th of July 2019.

10 Now, again, that is, I think, to be fair to you, it's
11 just a day out after the day on which it was due, so that's your
12 2019 Declaration. So, technically would you accept that you
13 missed the due date in that case?

14 A. It's off a day, it's off a day, certainly, yes.

15 Q. The other Declaration that we have for you is your
16 2017 Declaration, which if you look at the version that the
17 Registrar gave us, it's at 113. Do you see that?

18 A. Yes, sir.

19 Q. It's not stamped this time, but if you go back through
20 to 120, you can see there that it's got the date of 20th of
21 February, hasn't it?

22 A. Yes, sir.

23 Q. With your signature on it.

24 A. Correct.

25 Q. If you turn through, please, Mr Vanterpool, to

1 page 23, I can take you to the first page, if it will help you,
2 but this came from you, and it appears to be another copy of
3 your Declaration for 2017, which is--carries your signature,
4 doesn't it, sir?

5 A. Yes, yes, sir.

6 Q. But the one I showed that came from the Registrar is
7 dated the 20th of February 2017. The one that came from you is
8 dated the 4th of July 2017.

9 Can you help at all with the difference in dates?

10 A. 20th of February that's--the 20th of February is the
11 Registrar's copy; right?

12 Q. Yes.

13 A. And the 4th of July--I think both are identical, but
14 there could have been another Declaration I did that was due for
15 the period. Let me--I haven't compared it, too, so I don't
16 know.

17 Q. If it assists, I have tried to compare the two, and
18 they do appear to be identical apart from the date, but if you
19 can't shed any light on it, you can't.

20 A. Not I can recall, but, yes--

21 (Overlapping speakers.)

22 Q. Thank you.

23 A. That's a separate Declaration, I suspect.

24 Q. But if you look there, on the table in front of you,
25 there should be a file which is not the file that you're in at

1 the moment but one headed "Governor's Disclosure'. It should be
2 one of the black files.

3 A. "Governor's Disclosure", you said?

4 Q. Yes.

5 A. Ah, yeah.

6 Q. You have it, thank you.

7 A. Yes.

8 Q. I don't want to go through the detail of what I'm
9 going to take you to, Mr Vanterpool, but if you go to the
10 page--if you go through and you'll see a memorandum from the
11 Governor, and it's dated the 20th of December 2020.

12 COMMISSIONER HICKINBOTTOM: Which page number, Mr
13 Rawat?

14 MR RAWAT: The first two pages are numbered one and
15 two, and then we start again with the numbering, and it's page 1
16 when we start again.

17 COMMISSIONER HICKINBOTTOM: That's it on the left-hand
18 side, Mr Vanterpool.

19 THE WITNESS: Okay.

20 BY MR RAWAT:

21 Q. And it's got the date on it, typed date of 20th of
22 December 2020.

23 A. I'm with you, yes.

24 Q. Yes.

25 Now, what it's referring to is it's addressed to the

1 Registrar of Interests, it's dated 20th of December 2020, and it
2 is thanking her for what is described as a status report on
3 Members of the House of Assembly. You will find the Report
4 itself starting at page 3.

5 And what--to summarise, the Registrar has set down
6 there is the obligations under section 3 on a Member, and at the
7 bottom she refers to you as the Member of the Fourth District.
8 She makes the point that you took office late on the 16th of
9 July, and then refers to you submitting your 2019 Declaration
10 late, which you've already talked about. But if you turn over
11 through, on page 4 the Registrar signs and dates the status
12 report as 15th of December 2020. But if you go to page 5,
13 please.

14 A. I'm with you.

15 Q. You're with me.

16 This is a report which shows--it said show the status
17 of all Members of the House of Assembly. I don't want to read
18 it all out, but it just draws your attention to the last
19 sentence, which I do have to read out: "The Honourable Mark
20 Vanterpool did not file a single Declaration for the period 2011
21 through 2018".

22 Is that something that you accept, Mr Vanterpool?

23 A. Until 2017. I filed a Declaration in 2017 as you
24 correctly pointed out, yeah.

25 Q. So--

1 A. So 2018 is not correct.

2 Q. Right.

3 A. But it's--

4 Q. But subject to that correction, what--in your evidence
5 is that what this should say is that The Honourable Mark
6 Vanterpool did not file a single Declaration for the period 2011
7 through 2017.

8 A. 2016, correct.

9 Q. 2016.

10 A. Yes, because I filed one in 2017.

11 Q. Right. But that was for 2017.

12 A. Correct.

13 Q. So, you had missed 2016 as well.

14 A. So that's why I said 2011 through 2016.

15 Q. I see.

16 So, for all of those years, you accept that you
17 completely failed to file any declarations.

18 A. I accept that, sir.

19 Q. Now, during your time as a Member of the House of
20 Assembly, did you, like other Members of the House, receive
21 notifications from the Registrar reminding you of the Due Date
22 for Declarations and, in fact, sending you a form?

23 A. Yes, I have.

24 Q. And did you receive from her, and another Member
25 described her as assiduous in sending correspondence, but did

1 you receive from her reminder letters when, you had, in fact,
2 missed the Due Date?

3 A. As I recall, yes, I had, on occasions.

4 Q. Could we go, please, in your bundle, to page 10. It's
5 a letter addressed to you from the Commissioner, 19th of
6 February 2021, and it's asking about the Register of Interests
7 Act 2006. If you go, please, to 11.

8 A. Page 11?

9 Q. Yes.

10 A. It's page 10?

11 Q. You've got page 10. If you go to the bottom of
12 page 10, the requests from the Commissioner start there, and
13 they continue over to page 11.

14 A. Ah, yes, I'm with you.

15 Q. Numbers 2 and 3.

16 A. I'm with you.

17 Q. One of the questions that was asked of you was: "If
18 during your period of appointment as a Member you failed at any
19 time to comply with your obligation to make such a Declaration
20 pursuant to section 3(1), it's in respect to each such failure a
21 full explanation as to why you don't make such Declaration".

22 Now, your answer we find at page 13. And what you say
23 there is: "I enclose all documents relevant to the above in my
24 possession at this time". And in fairness to you,
25 Mr Vanterpool, what I should say for the record is what you

1 disclosed was copies of those Declarations that you had in your
2 possession together, indeed, with copies of Election Notices
3 that you'd filed.

4 Your letter continues: "This letter gives consent to
5 allow the Registrar of Interests to provide the Commissioner
6 with a copy of the pages of Register that register my
7 Declarations of Interests".

8 But what you did not do was answer the question that
9 the Commissioner had asked. Why didn't you disclose that for
10 six years you had not even filed a single Declaration?

11 A. Commissioner, I would not try to defend anything or
12 try to make an excuse. It was not done. It was negligent on my
13 part, and I have learned my lessons from that, and it's
14 something of such importance I would suggest, especially for the
15 purpose of future persons involved, that it need not--you need
16 not be negligent on important matter like this, but I was, and I
17 don't have any specific reason I can give you to make an excuse
18 for that.

19 Q. Because what you also failed to reveal to the
20 Commissioner in response was that, even after 2016, you had
21 failed to file on time on instances; that's right, isn't it?

22 A. That is correct.

23 Q. Now, you described this as an important obligation.
24 The obligation is to fill in a form sent to you by a Registrar
25 of Interests once a year. From your perspective, why is that

1 such an onerous obligation?

2 A. I did not suggest it was onerous. I suggested that it
3 was negligent on my part. It wasn't done, so that is the best
4 explanation I can give, and I wouldn't add anything to that or
5 subtract anything from that.

6 Q. Now, 2021, you--I think your Due Date for 2021 would
7 be the 16th of July 2021, so you're not yet in difficulties.
8 Have you taken steps in relation to your 2021 Declaration?

9 A. Yes, Commissioner, I have. In fact, I have it. It's
10 ready to go. I believe, in the next day or two it should be
11 with the Commission--with the Registrar.

12 Q. Now, part of the mechanism under the Act is to have a
13 Standing Select Committee.

14 A. Yes.

15 Q. And again I hope that those on the desk in front of
16 you, a Resolution from 2016, which for the first time set up
17 that Standing Select Committee.

18 Now, we have read into the record reports and letters
19 from the Registrar which point to her seeking the establishment
20 of a Standing Select Committee between 2008 and, certainly,
21 2014. It wasn't set up until 2016. You were obviously in the
22 Legislature at the time that the Act came into force. You would
23 have--and the Registrar wrote in one letter that she was reduced
24 to begging Members to complete their Declarations. You would
25 have been in the House of Assembly when the Registrar was making

1 her pleas to the House. And yet it took six years for a
2 Standing Committee to be established. Again, because you were
3 there, from your recollection, can you give the Commissioner any
4 reason as to why it took so long to set up a Standing Select
5 Committee?

6 A. Commissioner, I don't--I can't say specifically why it
7 wound up taking that long, but the only thing I can recall in
8 terms of the technicality of it was that the Standing Orders did
9 not include such a committee, and, therefore, the Standing
10 Orders Committee had to be convened to make that adjustment to
11 establish such a Committee.

12 Now, there is no excuse for it taking that long for
13 that to happen, but until the Standing Orders Committee was
14 convened and revised to include such a committee, it wasn't
15 done, but that, there's no excuse for it taking that long. But
16 I understand that was on the technicalities that had to be
17 established.

18 Q. That step had to be there--

19 A. Yes.

20 Q. --before the Committee could be established.

21 A. Yes.

22 Q. And, you know, you've accepted it took six years. In
23 effect, it spanned two houses of Assembly, didn't it?

24 A. Correct.

25 Q. And the--again, from your experience, if the Standing

1 Orders Committee needs or wishes to move quickly on something,
2 they can do so, can't they?

3 A. Yes. You know, it first has to be established in each
4 House, and then once it's established, the Standing Orders
5 Committee must make its amendments and bring them to the House
6 for approval.

7 And I recall that there was a major upgrade, I should
8 say, a major overhaul of the Standing Orders that were not
9 overhauled for maybe 20 or 25 years, and the Standing Orders
10 Committee proceeded to upgrade the Standing Orders and included
11 this Committee in that upgrade.

12 Q. Now, the Resolution I hope you found had not only
13 effect of establishing the Committee, but making you the
14 Chairman of it.

15 A. Yes.

16 Q. Now, the evidence that--and you can correct this, if
17 you wish, but the evidence from other Members who were on that
18 Committee and have already given evidence and includes former
19 Members was that the Committee met once and then did not meet
20 again in that session. Is that your recollection?

21 A. Yes, that is correct. Met in, I think it was, 2017.

22 Q. Can you give the Commissioner a sort of idea of when
23 in 2017 it met?

24 A. I don't recall the exact date, but I know we met at
25 the Office of the Registrar and established the Committee there,

1 and that was in 2017. It could have been mid-to early 2017.
2 I'm not sure. And then the Committee had met since then, yes,
3 that is correct.

4 Q. So, Committee is established in April 2016, and in
5 effect has its first meeting a whole year later.

6 Now, one of the tasks of the Committee--and it falls
7 to the Committee to do this--is to approve the format of the
8 Register. If there isn't a Register, the mechanism under the
9 Act has not been fully complied with. To your recollection, did
10 the Committee which you chaired approve the format of the
11 Register?

12 A. I don't recall specifically, but I know the meeting
13 that we had on that date at the Registrar's Office, from my
14 recollection, the Register was established thereafter and,
15 therefore, it must have been some format agreed, from my
16 recollection, but I don't recall all that transpired on that
17 date.

18 Q. Now, you--if there is a Standing Committee, and if
19 there are--and this has been the Registrar of Interests'
20 words--if there are delinquent Members who fall afoul of
21 section 7, she's obliged to write a report.

22 Now, did you--this is 2016 that you were appointed the
23 Chair. Did you not see that there could be a potential conflict
24 of interest for you in chairing and being a Member of a
25 committee where you, in effect, had been habitually

1 non-compliant with the Act?

2 A. I may say so, but I think when we convened and tried
3 to get the Committee moving, I think the effort was made by many
4 persons at that time to submit the form and become compliant,
5 and so--you know, yes, it may--it can be considered a conflict
6 of interest, yes.

7 Q. Did it trouble you?

8 A. It would have concerned me, yes, but we--we proceeded
9 to try to make that correction, but yes, it is not something
10 that would be--would have been comfortable to me.

11 Q. And to be fair to you, Mr Vanterpool, you did
12 thereafter, after 2016, begin to submit Declarations?

13 A. Correct.

14 Q. But would it also be fair to say that it didn't
15 concern you sufficiently so that you actually started submitting
16 Declarations on time? You were still late, weren't you?

17 A. Yes, that is correct.

18 Q. I'm not singling you out for criticism because other
19 members of the House of Assembly and former Members of the
20 House--I think with one exception--have accepted before the
21 Commissioner that they, too, failed to comply with their
22 statutory obligations under the Act, but you are someone who was
23 there from the beginning. You are still there.

24 Doesn't the fact that it took so long to set up the
25 Standing Committee and the current Standing Committee has yet to

1 meet in this session, but taking of all that together and using
2 you as an example, doesn't it actually come down to a set of
3 Members of the House of Assembly who showed a complete disregard
4 for this important statutory obligation?

5 A. I would not describe--I would not describe it that
6 way, "disregard". I would say that it's an important aspect of
7 our duties. However, we did not pay sufficient attention to it,
8 and we should have, but I would--I cannot say in your words that
9 it was disregarded.

10 Q. Well, what word would you use to describe someone who
11 doesn't file declarations for six years?

12 A. I just--I just said that we didn't pay enough
13 attention to it, but we should have, but I cannot say it was
14 disregard. We filed it sometimes, we filed it sometimes late.
15 That is no excuse. That's not correct, but it's not--I wouldn't
16 say it's disregard.

17 Q. Could I ask you, please, just to turn up page 32. I
18 just want to ask you some questions about your--the details of
19 your Declaration.

20 Page 32 is the first page of the form. The form is
21 attached to the Act, so it is what it is. The words are what
22 they are, and they won't be changed. But what it says is: "The
23 main purpose of the Register of Interests is to provide
24 information of any pecuniary interest or other material benefit
25 which a Member receives which might reasonably be thought by

1 others to influence his or her actions, speeches or votes in the
2 House of Assembly or actions taken in his or her capacity as a
3 Member".

4 So, asking you, firstly, as a Member of the House of
5 Assembly required to complete these forms, but also as someone
6 who was appointed as Chair to the Standing Committee, what did
7 you take to be the purpose of the Act? What was it trying to
8 get you to do?

9 A. In my words, the Act--the purpose of the Act was to
10 ensure that Members will declare within the Registry their
11 interests as they operate within the House or within the
12 Executive Branch of the Government that there would be no
13 conflict of interest and that there is--one can check with the
14 Registry to ensure that and see where that might have been.

15 Q. And I think you will accept that this purpose is only
16 fulfilled if, from the beginning, people file on time?

17 A. That is correct.

18 Q. And it's only fulfilled from the beginning that the
19 detail is accurate and can be checked?

20 A. Yes, that's correct.

21 Q. And where you have a situation where any Member--and
22 you're not the only one who doesn't file on time--the first step
23 in the process isn't working, is it?

24 A. That is correct.

25 Q. And the Act--the sanctions under the Act include a

1 fine and include being suspended from the House of Assembly. To
2 your knowledge, has that ever occurred?

3 A. No, it hasn't. It hasn't occurred, to my knowledge.

4 Q. Now, if we look at page 33, you've set out there--and
5 I don't need to read them out, but--and I'll explain why--

6 A. For those before you, I was following this today and
7 realised that there are two companies missing, if I may add
8 those.

9 Q. Can I take--can I take those in stages, if necessary?

10 A. Okay, no problem. Yes. Thank you.

11 Q. If I explained, Mr Vanterpool, the reason--the
12 reason--and this is if I've got my cross-referencing right, if
13 we look at your Directorships from A to I--and I can show you
14 this, if you need to see it, but from A to I, which is "Umbrella
15 Construction Limited recently incorporated". all of those
16 details and the wording is exactly the same appear in your 2019
17 Election Notice. If you want me to show you it, I will--

18 A. No, that's okay. I agree with you.

19 Q. And then J, Shoreside Development was actually the
20 subject of a resolution before the House, wasn't it?

21 A. Yes.

22 Q. And you've added additional details which include
23 Shoreside East Development Limited. Is that linked to Shoreside
24 Development BVI Limited?

25 A. It's not linked, no. It's two different companies.

1 Q. I see.

2 Now, it's a matter for the Commissioner, but it may
3 not be necessary for you to--if you have two additional
4 Declarations and/or companies, they're going to be on the 2021
5 form, I don't think we necessarily need to put it into evidence
6 at this stage.

7 A. I missed that.

8 Q. You mentioned a moment ago that there were two
9 additional companies that you wanted to declare.

10 A. These are two companies that I missed from declaring.

11 Q. I see.

12 A. That should have been declared long ago, and I went
13 back and checked, and they weren't on it.

14 Q. All right.

15 A. I need to make note that these were not declared.

16 Q. So, your evidence is in effect that--I mean, you have
17 listed under Directorship, Directorships in various companies
18 from A to N, but that having reviewed your forms, you note that
19 there are two companies that should have been on these forms
20 from long ago, and you've omitted them.

21 A. That's correct.

22 Q. So, in that sense, the forms are deficient?

23 A. Yes, correct.

24 MR RAWAT: I think we can leave it there,
25 Commissioner, unless you want me to explore it.

1 COMMISSIONER HICKINBOTTOM: Thank you very much.

2 BY MR RAWAT:

3 Q. Could I just take you through to page 35, please. And
4 it's a question I've asked about those. You will see at 4 there
5 is a reference to "Sponsorship".

6 A. Yes, sir.

7 Q. And you've answered "no" to this question. I don't
8 need to--it's not about exploring your answer or the accuracy of
9 it, but it's about your understanding of the information you're
10 being asked to provide.

11 You're asked: "Did you benefit from any sponsorship
12 before election where, to your knowledge, the financial support
13 in any case exceeded in aggregate 2,500?" My question is this:
14 What do you understand by the term "sponsorship before
15 election"?

16 A. I would suggest it means any donations or financial
17 contributions to a campaign or any--directly into the campaign
18 or any sponsorships; let's say a radio programme or something
19 like that. That's what I understand it to be.

20 Q. So, if someone were to sponsor a radio programme on
21 your behalf, you would have to declare that--

22 A. If it exceeds \$2,500, yes, sir.

23 Q. --at that point?

24 Yes, but it's also if they turned up and gave you a
25 donation of 2,500 or above, that's something you should declare?

1 A. That is correct.

2 Q. Can you confirm this--and others have said this as
3 well, but there is--there aren't any rules, are they, governing
4 how much you can spend on your campaign? It's just down to you
5 as an individual.

6 A. Not to my knowledge in the general rules, no.

7 Q. I don't--I mean, the Honourable Neville Smith said to
8 the Commissioner that you could spend \$2 and lose and spend
9 \$2,000 and win. You may not want to adopt those words, but
10 there is no upper limit, is there?

11 (Overlapping speakers.)

12 A. I don't have any rules that I'm aware of.

13 Q. Can I turn to a different topic, if I may.

14 You have served in Cabinet in a previous
15 administration.

16 When you were in Cabinet, what was the process if you,
17 as a Minister, needed to declare an interest in an agenda item?

18 A. You would inform the--either the Cabinet Secretary or
19 the Chairman if there were a conflict, and you would not enter
20 the room for the discussions or the decisions on such a subject.

21 Q. And if you had any doubts or uncertainty over whether
22 a conflict did, in fact, exist, who would you take those doubts
23 or uncertainty to?

24 A. I think you would normally discuss it with the
25 Premier. In the past--if I had an item sometimes I would ask

1 the Attorney General's opinion, if that were necessary.

2 Q. And I just want to--one of the--I suppose one of the
3 themes that has emerged from the evidence that different
4 witnesses have given is the concept of family in the BVI. More
5 than one witness has said, and I quote, "we're all related".
6 but--and it's the idea of what is "immediate family" and where
7 the line is struck. Can I take you to the large grey bundle
8 that you see there, just...

9 Turn, please--I'll explain--

10 A. The one that says--

11 (Overlapping speakers.)

12 Q. Yes. I will explain what this is in a moment. The
13 Commissioner made a request of the Cabinet Secretary, Sandra
14 Ward, and the request was to make an affidavit exhibiting those
15 Cabinet Minutes that she could locate where a Declaration of
16 Interests had been made, and you featured in one of those, and I
17 just wanted to just ask your opinion or will invite you to give
18 evidence on the point.

19 If you go, please, to I think it's page 5, please.
20 And it's the slightly larger numbering in the bottom.

21 A. I have it.

22 Q. I think if we're on the same page, it will be the
23 Cabinet meeting on Wednesday, the 22nd of August 2018.

24 A. I'm with you.

25 Q. And you are there in your capacity as Minister for

1 Communications and Works.

2 If you take--if I take you through to page 13, please.

3 A. Um-hmm.

4 Q. I don't want to go or need to go into the detail, but
5 one of the agenda items was reappointment of Members of
6 Scholarship Trust Fund Board, and the first entry if you see, is
7 yourself as Minister for Communications and Works declares an
8 interest in the matter due to the fact that the Chairman is a
9 family member, and we see the name of the Chairman there, Dion
10 Vanterpool. What was the family connection, or what is the
11 family connection?

12 A. That's my son.

13 Q. I see.

14 And in terms of guidance as to where to draw the
15 family line, were you given any once you sat in Cabinet?

16 A. I don't think there was necessarily any direct
17 guidance, but one would have to obviously use his right judgment
18 in a case like this, for example.

19 Q. For you, what sort of criteria guided your judgment?

20 A. I saw family members within the ambit of children and
21 spouse.

22 Q. If, for example, a Cabinet Minister had a--there was
23 an agenda item that involved a Cabinet Minister's first cousin,
24 adult first cousin, is that the sort of thing that you would
25 expect them to declare?

1 A. No. I mean, where do you draw the line? I would
2 say--I would suggest that I wouldn't--I wouldn't necessarily
3 think that I have to declare that.

4 Q. So, for you, the line would be spouse and adult
5 children?

6 A. Yes.

7 Q. So, if your brother had an interest, you wouldn't
8 declare that?

9 A. I would--I would say depends on what it was, but you
10 have to--one has to use judgment, you know. Depends on what it
11 is. For example, if it was a Board that was being formed and my
12 brother was on the Board, I wouldn't suggest I need to declare
13 an interest for that. If it's something that involved financial
14 matters, I probably would.

15 Q. Yes.

16 A. Depends on the circumstance.

17 Q. Thank you very much for that.

18 Can I move on to a different topic, and I'll take you
19 back to your own bundle, please. And the last page.

20 The Commissioner has been taking evidence from the
21 operation of section 67 of the Virgin Islands Constitution of
22 2007. Section 67 governs the tenure of Members of the House of
23 Assembly, but it also sets out circumstances in which you have
24 to vacate your seat.

25 A. Correct.

1 Q. Under section 3(e), you would have to vacate your seat
2 if you became, putting it simply, a party to a contract with
3 Government.

4 A. Um-hmm.

5 Q. Now, you could be exempted from that if in the
6 circumstances it appeared just to the House of Assembly to do
7 so, so it's not automatic. The House has to vote on it, and
8 they may vote against you being exempted.

9 A. Yes.

10 Q. Now, if we look at page 121 and 123 of the bundle that
11 is, if you like, your bundle--

12 A. Yes.

13 Q. --there are two resolutions of the House there both
14 made on the same day, 22nd of September 2020, Resolution No 18
15 and Resolution No 20. If I look, please, with you at 121 in the
16 first resolution, that was an exemption which was--I'll
17 summarise it, but it's: "Whereas The Honourable Mark Vanterpool
18 is a director of K Mark's Foods Limited trading as OneMart, and
19 a company which is said to provide the sale of general food,
20 furniture, appliances, and household items.

21 And then it continues: "Whereas you have been
22 providing items to all government ministries and departments and
23 residences and offices of the governor". and it sets out that
24 the Ministry had made an offer to you and entered into a
25 contract with you, with your company, to provide food and

1 sanitary supplies in the amount of \$869,773.34. And then that
2 was to assist the Virgin Islands population during the COVID
3 pandemic.

4 So that was an exemption because, otherwise, you would
5 have had to leave your seat; that's right, isn't it?

6 A. Um-hmm.

7 Q. Now, in relation to that contract with K Mark's, was
8 that a contract entered into without a tender process and
9 without any kind of procurement process?

10 A. Yes. It was without--without that.

11 Q. I see.

12 And how long did the contract continue on for?

13 A. Commissioner, may I have to just quickly explain so
14 you can make your own judgment there.

15 This was--I think it could have been a day before what
16 we called one of the lockdowns that the country had, the major
17 of it the day before. I got a call from the Governor at the
18 time, as the owner for K Mark's, and asked if it's possible that
19 I could provide--my company could provide a certain number of
20 food packages within 24 hours, and I said, "In the
21 circumstances, yes, we will attempt to do so". and he said
22 "Okay". It was a very short conversation. He said: "You will
23 hear from the Department of Disaster Management".

24 And very shortly thereafter, the same day--I think it
25 was Sunday afternoon--I got an e-mail or text or something from

1 the Disaster Management Chief, who suggested--who asked me if I
2 could do that formally, and we answered "yes". and she let me
3 know that myself and two other competitors--two other companies
4 would do a similar process, similar amounts, and we agreed to do
5 so, and that's--that was done a day or two after that to provide
6 such packages to the Government.

7 Q. And, obviously, the House voted positively on a motion
8 to exempt you?

9 A. That's right.

10 Q. Now, what it also says in this resolution is that the
11 company has been providing services for the sales of general
12 food, furniture, appliances, and household items to all
13 government ministries and departments and the residence and
14 Office of the Governor. Now, in those circumstances where there
15 is, if I describe it as an "ongoing relationship" between your
16 company and various entities of Government, why did you not
17 have--as the Director, why did you not have to be sort of
18 regularly exempted?

19 A. Those I don't consider as contracts. That--we have a
20 supermarket. Anyone comes to purchase, including Government
21 offices and Members. They don't come to me to ask for contract.
22 I don't go to them to ask them--to make an offer. They come and
23 buy. So, that's the day-to-day purchasing. It's small amounts,
24 but it's what happens on a day-to-day basis.

25 Q. And presumably, when somebody walks in and buys some

1 food, you don't know whether it's being bought for the Office of
2 the Governor or for a private business?

3 A. No, no, not at all.

4 Q. So, aside from that, your company didn't at that time
5 have any other contracts with the Government of the Virgin
6 Islands?

7 A. No, sir.

8 Q. Can I turn to the second resolution which is at 123,
9 please, and which may not be a COVID-specific resolution, but it
10 was again a vote in your favor made on the same day. And what
11 it is is a--it refers to, if I call it an "agreement". it
12 identifies you as the Director in the company known as Shoreside
13 Development BVI Limited, which has a registered office in Mount
14 Sage, registration section of Pockwood Pond, and says that you
15 have received a transfer of Government lease number, so you had
16 a transfer of Government land from an individual as a personal
17 representative of the estate of someone being transferred to
18 Shoreside Development?

19 A. Correct.

20 Q. Now, is that--is that a transfer of Crown Land, in
21 effect?

22 A. Yes, in effect it is.

23 Q. Right.

24 And I think for the record, to sort of avoid
25 ambiguities, Mr Vanterpool, what we should put into the record

1 because I have taken your Declaration shortly--

2 A. Yes.

3 Q. --is that under paragraph 10 of your Declaration--I
4 can take you to it if you want, just look at page 39.

5 A. Which one is this?

6 Q. It will be 2020, but if you go to page 39.

7 A. Oh, 39, yes.

8 Q. I just want to, in fairness to you, to put this into
9 the record.

10 A. Yes, yes.

11 Q. What you did do on your Declaration of Interests form
12 of 2020 was to declare that--that transaction, didn't you?

13 A. Yes.

14 Q. Right.

15 A. Under "Miscellaneous" there.

16 Q. Yes.

17 But, in relation to this, what was the reason for
18 Shoreside Development acquiring this Crown Land?

19 A. Shoreside Development was purchasing effectively six
20 acres of property from an individual. Of that six acres, I
21 think, is about .2 of an acre that sat on the shores--on the
22 water, natural water, had a Crown as what you call a "seabed
23 lease". Four years had expired on that lease. And, therefore,
24 in order to consummate the purchase of the property, the Crown
25 Lease would have had to be transferred to Shoreside. Therefore,

1 Shoreside applied to the Government--I don't remember the
2 Shoreside or the seller, I think, applied to the Government, to
3 allow them to transfer the lease to Shoreside, and that is how
4 it transpired.

5 Q. I'm taking to you another area, but the Commissioner
6 has received some evidence about Crown Land, if you like.

7 A. Yes.

8 Q. Now, from the time that the seller of the Shoreside
9 made the application to transfer the lease to the time when it
10 was done, how long was that?

11 A. That's a good question. Probably three months. I
12 don't recall the exact time, but it could have been.

13 MR RAWAT: If I could just have a moment, please,
14 Commissioner.

15 COMMISSIONER HICKINBOTTOM: Thank you.

16 MR RAWAT: Commissioner, those are my questions.

17 Can I conclude, first of all, by apologising to
18 Mr Vanterpool for the delay in hearing his evidence, but more
19 importantly I hope by thanking him for coming to give evidence
20 and also for the way in which he has done so.

21 THE WITNESS: My pleasure.

22 COMMISSIONER HICKINBOTTOM: Can I echo that. Thank
23 you very much for your time. Thank you very much for your
24 assistance.

25 THE WITNESS: My pleasure, Commissioner. Thank you.

1 MR RAWAT: Thank you.

2 (Witness steps down.)

3 COMMISSIONER HICKINBOTTOM: Mr Rawat, that is all for
4 today?

5 MR RAWAT: All for today. And we start at 10:00 on
6 Monday.

7 COMMISSIONER HICKINBOTTOM: Good. Thank you very
8 much.

9 (Whereupon, at 5:18 p.m., the Hearing was adjourned.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

A handwritten signature in cursive script, reading "David A. Kasdan", is written above a solid horizontal line.

DAVID A. KASDAN