

HOUSE SELECT COMMITTEE MEETING

*Transcript of the Meeting of the
House Select Committee on Elections
held in the Library, Sessions House,
on Monday, 23rd September, 2013,
commencing at 12:00 noon.*

PRESENT:

Mr. Walton Brown, JP, MP - Chairman
Ms. Jeanne Atherden, JP, MP
Ms. Susan Jackson, JP, MP
Mr. Glen Smith, JP, MP
Ms. Kim Wilson, JP, MP
Ms. Meredith Ebbin - Clerk to the Committee

INVITED GUEST SPEAKERS:

Mr. William Alexander Scott, former Premier of Bermuda
Mr. Hubert Kim Eugene Swan, former Leader of the UBP
Mr. Kenneth Randolph Scott, Parliamentary Registrar
Ms. Tenia Woolridge, Assistant Parliamentary Registrar

1 **MONDAY, 23RD SEPTEMBER 2013**

2 --- upon commencing at 12:00 noon

3 **INVITED GUEST: MR. WILLIAM ALEXANDER SCOTT**

4 **THE CHAIRMAN:** This is our first public
5 hearing of the Elections Committee and our first
6 invited guest is Mr. William Alexander Scott, and I'm
7 going to begin by allowing you, Mr. Scott, to introduce
8 yourself, your name, and your profession. And then
9 we'll commence the questions.

10 **MR. SCOTT:** I'm totally without a
11 profession, so this is going to be a short response.
12 William A. Scott; retired; former
13 parliamentarian; and for a period, Premier of Bermuda.

14 **THE CHAIRMAN:** Thank you, Mr. Scott.

15 **MR. SCOTT:** That should do it.

16 **THE CHAIRMAN:** Okay.

17 Now, Mr. Scott, as you know, this
18 committee was set up by Parliament to investigate a
19 number of issues related to elections in Bermuda.

20 One issue is the question of whether or
21 not candidates are required to make a declaration of
22 interests in Government contracts.

23 Another issue that will be examined is
24 the issue of voter intimidation.

25 So it's -- it's focussed, it's not all

1 encompassing but there are a few issues that we wish
2 the look at, and given your tenure in Parliament and
3 your role in various leadership positions, we have a
4 number of questions for you.

5 Can you tell us, when did you first
6 enter Parliament?

7 **MR. SCOTT:** I didn't know you were
8 going to start with the difficult questions.

9 Eighty-five, 1985, I recall being
10 appointed to the Senate.

11 **THE CHAIRMAN:** Yes.

12 **MR. SCOTT:** And in 1993 I do believe I
13 was elected to Parliament.

14 **THE CHAIRMAN:** And you held that seat
15 in Parliament until?

16 **MR. SCOTT:** Until,... Until the most
17 recent election, which would be two thousand and...
18 Probably '12?

19 **THE CHAIRMAN:** Two-thousand-and-twelve.

20 **MR. SCOTT:** Twelve.

21 **THE CHAIRMAN:** Yes. So, Mr. Scott,
22 during the period of your tenure in Parliament, you
23 would have seen and experienced at least one, two,
24 three -- four elections in which you ran as a
25 candidate, and on four occasions you were elected.

1 During the process of preparing yourself
2 as a candidate, can you recall what steps you were
3 required to ensure that your candidacy was valid and
4 proper?

5 **MR. SCOTT:** Before I respond to that,
6 probably one helpful bit of background information.
7 From 1972, thereabouts, I would have been either a
8 consultant to the Progressive Labour Party, or held
9 office in the Party at some level, and I guess I ran
10 the gauntlet. So there is some Parliamentary -- some
11 political involvement in the affairs of the community
12 from 1972, politically, political years.

13 **THE CHAIRMAN:** Okay.

14 **MR. SCOTT:** There has to -- there had
15 always been, from my recollection, the requirement that
16 you declare your interests. That was required by the
17 Parliamentary Process leading up to your successful
18 nomination; however, in the case of the PLP Party
19 itself, you had to also put your signature to a
20 document of principles. Point being made, to achieve
21 the nomination for Parliament, there was always several
22 points of principle either by the party or by the
23 Parliamentary Registrar, or by the process that the
24 individual had to satisfy.

25 **THE CHAIRMAN:** Okay. And when you say

1 "the process", is there anything in particular that
2 you're referring to, or was it just custom and
3 practice? When you say it was the Parliamentary
4 practice or it was the custom to do so, on what was
5 that decision based?

6 **MR. SCOTT:** You were required, not by
7 practice, but you were required to state, at least the
8 significant interests that you held in the community.

9 **THE CHAIRMAN:** In the community.

10 **MR. SCOTT:** Banker, that would be
11 there, probably, interest certainly as it related to
12 the -- your pending, should you be successful,
13 Parliamentary duties, the Party would know that, and I
14 do believe you were -- you certainly were required to
15 do it once you were elected, and I do believe you were
16 required to make that known, if not documented, prior
17 to being successfully nominated. The point being, the
18 Party always wanted full disclosure of your financial
19 interest.

20 **THE CHAIRMAN:** But you would agree,
21 Mr. Scott, that it's one thing for a political party to
22 want to have disclosure, and that it's something
23 altogether for there to be an actual legal obligation
24 to make such declaration.

25 Based on your experience, when you were

1 involved, was there an understanding that there was a
2 legal obligation as opposed to a moral or party
3 obligation?

4 **MR. SCOTT:** I may have missed a step.

5 Based on my recollection, the party's
6 interest in your interests was because it was
7 anticipated that you would have to meet the bar, make
8 the declaration. You would have to declare, legally
9 declare your interests.

10 Our Constitution sets it out, section 36
11 of Bermuda's Constitution reads along those lines.

12 I am not -- well, I'm not sure what the
13 Committee has before it, so I hope you'll just bear
14 with me, going over this ground.

15 **THE CHAIRMAN:** Mm-hmm.

16 **MR. SCOTT:** Section 30(6) of the
17 Bermuda Constitution reads as follows:

18 "(6) Subject to such exceptions and
19 limitations as may be prescribed by the
20 Legislature, a person shall not be
21 qualified to be elected as a member of
22 the House of Assembly if he has an
23 interest in any Government contract and
24 has not, within seven days of his
25 nomination as a candidate for election,

1 disclosed the nature of the contract and
2 his interest therein by means of a
3 notice published in the Gazette or in a
4 newspaper published and circulating in
5 Bermuda."

6 That is what the Party would be
7 preparing you for when they wanted to know your
8 pecuniary interests.

9 **THE CHAIRMAN:** All right. So, to the
10 best of your recollection, --

11 **MR. SCOTT:** Yeah.

12 **THE CHAIRMAN:** -- in the elections that
13 you ran in, --

14 **MR. SCOTT:** Yeah.

15 **THE CHAIRMAN:** -- the four, five or six
16 elections that you ran in, was such a declaration made
17 by the Party on behalf of the candidates?

18 **MR. SCOTT:** To my knowledge. It
19 certainly -- it certainly was known to the Party and it
20 was known to us that this passage exists, in the
21 Constitution, that had to be satisfied, had to be met,
22 this bar had to be met.

23 **THE CHAIRMAN:** Was there ever any
24 debate, as far as you know, within the Party, during
25 your tenure, about varying interpretations of the

1 particular Constitutional requirement?

2 **MR. SCOTT:** No. This is an easy one.

3 There's no grey area; however, given
4 that the Bermuda Constitution evolves out of the
5 British system, even though the British do not have a
6 constitution, per se, to make sure that the language is
7 right, --

8 **THE CHAIRMAN:** They have an unwritten
9 constitution.

10 **MR. SCOTT:** -- they -- well, it is a
11 set of laws and principles under which the UK is
12 governed.

13 **THE CHAIRMAN:** Yes.

14 **MR. SCOTT:** And out of that set of laws
15 and principles has come the wisdom of this point in our
16 Constitution.

17 The significance of that, over time, I
18 have come to appreciate, is that throughout, and I can
19 share -- probably everyone is aware, but I can share
20 with the, your recording secretary, and she can
21 circulate it, if it's deemed to be helpful.

22 **THE CHAIRMAN:** What is that?

23 **MR. SCOTT:** This is going to be just
24 the code -- this is just going to be the code of
25 conduct expected and required in the UK House of

1 Commons.

2 What is the relevance and the
3 significance of that to your business today and your
4 terms of reference? It's stated, as I described in our
5 Constitution, that you must meet the bar, disclose the
6 nature of your contract and his interest by means of a
7 notice published.

8 This, to my understanding, is to give
9 the public, the voter, full knowledge of the motive,
10 interests, conduct and influence that an individual
11 seeking nomination has before the fact. They know the
12 nature of the individual that they are about to, on, as
13 the French would say, "*sur the point de*", on the point
14 of nominating for Parliament. And out of the British
15 system, you will find in that outline of the Code of
16 Conduct, time and time again the requirement of a
17 member to declare -- the declaration of a Member's
18 interests.

19 There is first a register, but that is
20 not the only point of note. Every key point of
21 Parliamentary business, once you become a Member of the
22 House of Commons, and you'll see there -- and I'm not
23 going to burden you with a lot of details.

24 Initially you are required to make known
25 the past and potential interests. Potential interests,

1 the UK Parliament says, has candour and is essential.

2 Relevance, again, this is -- these two
3 sections probably would be the most helpful and most
4 relevant to what you're doing.

5 **THE CHAIRMAN:** Where are those sections
6 from?

7 **MR. SCOTT:** It's going to be under
8 "Relevance" in the Code of Conduct --

9 **THE CHAIRMAN:** Ah. Okay.

10 **MR. SCOTT:** -- of the UK Parliament,
11 House of Commons, that I just shared with you.

12 **THE CHAIRMAN:** Okay.

13 **MR. SCOTT:** And there is going to be
14 this passage:

15 The basic test of relevance should be
16 the same for the declaration as it is
17 for the registration of an interest,
18 namely that a financial interest should
19 be declared if it might reasonably be
20 thought by others to influence the
21 speech. [as read]

22 That's for the occasion when a Member
23 rises and addresses Parliament. We do it routinely
24 here. It is so that the Members can put into context
25 the submission of the Parliamentarian speaking.

1 **THE CHAIRMAN:** Mm-hmm.

2 **MR. SCOTT:** How much more significant,
3 how much more important the Constitution of Bermuda
4 wants you to know that the public should have that
5 knowledge before the fact, because after the Member has
6 been nominated to Parliament, after the Member has
7 taken his or her seat, after the Member is in a
8 position of influence, then it follows, time and time
9 again, that this point of principle, this point of
10 declaration of your interests will recur again and
11 again. That was the relevance just when a Member is
12 going to speak, as per the UK Parliament. And there is
13 a -- that was item 74.

14 Item 75 in the same Code of Conduct
15 speaks to what I think you referred to as a grey area,
16 or is there any counterview.

17 **THE CHAIRMAN:** Yes.

18 **MR. SCOTT:** Our Constitution, section
19 10(4), (4) reads thus:

20 A person who contracts for the supply of
21 goods or services by or to the
22 Government in the ordinary course of
23 conduct of trade, business or
24 profession, or for purchases, lease or
25 use of Government property upon terms

1 and conditions which are standard for
2 any member of the public shall not be
3 deemed thereby to have any interest in a
4 Government contract.

5 And I think have some have reasoned,
6 some have argued -- if I wanted to be prejudicial, some
7 have hidden behind that clause. But that clause only
8 sets apart those who have interests common to all
9 members. That's a lower bar, that's a lower
10 contractual bar, that's a lower contractual
11 relationship.

12 While I was Minister of Works &
13 Engineering, the Ministry would retain, at any given
14 moment, clerical assistants. Someone would have a
15 contract to provide clerical services to the Works &
16 Engineering, trucking to Works & Engineering; should
17 that individual or that person at any given moment in
18 time decide that he or she was going to run for
19 Parliament, it wouldn't have been anticipated that they
20 would have to stand up and say, or on nomination day or
21 at the moment of nomination, I am currently serving as
22 a secretary to Parliament, or I have provided trucking
23 services. It would be similar to the exception that,
24 in the Code of Conduct in the British Parliament, 75,
25 item 75, which follows 74 which I read earlier:

1 Members are, however, not required to
2 declare interests common to all members
3 and solely arising from the specific
4 capacity, for example, in a debate on
5 employment law, Members are not required
6 to declare any interest as employees of
7 staff in relation to those employed
8 wholly in connection with the
9 Parliamentary duties. [as read]
10 Translated: The debate is about
11 employment in Parliament.

12 **THE CHAIRMAN:** Mm-hmm.

13 **MR. SCOTT:** A Member doesn't have to
14 stand up and say, I have a maid, I want you to know I
15 have someone who is providing some type of care or
16 service to a member of my family.

17 Someone might say: A member of my
18 family has worked part-time, for some time, in the
19 Parliamentary process. Not required for that person to
20 declare that in nomination, consistent with this point
21 of principle, and it's not practice; point of
22 principle, in the UK Parliament, which one would have
23 to believe, gives -- speaks to the spirit and the
24 letter of our Constitutional and Parliamentary conduct
25 here in Bermuda.

1 And I'll just, I guess, wind up and then
2 make myself available for any questions.

3 **THE CHAIRMAN:** Yes.

4 **MR. SCOTT:** When the UK Parliament,
5 there is to be any notice given by a Member of
6 Parliament, of some intent, declaration of interest in
7 respect, or written notice is required. Under the
8 resolution of 19 -- July, 1995, Members are required to
9 declare relevant interests on the order paper or notice
10 paper when tabling any written notice initiating a
11 Parliamentary procedure.

12 At all times, and it's repeated, At all
13 times Parliament has a right and the Parliamentarian
14 has a duty to make it very clear his or her interests
15 in the matter that they are speaking to, are involved
16 in, or participating in.

17 How more significant, when your
18 Constitution speaks to that very same principle, that
19 the public -- the Constitution is saying here, the
20 public are required to know. And it's not "may", it is
21 "shall", shall not be qualified to be elected as a
22 Member of the House of Assembly if he has an interest
23 in a Government Contract and has not within seven days
24 of his nomination as a candidate for election disclosed
25 the nature of the contract and his interest therein by

1 means of a notice published...

2 Summarized: the Constitution
3 anticipates the point of procedure, practice and
4 principle as carried out in Parliamentary duties that
5 an individual must at all times provide full knowledge
6 as to his pecuniary interest in a matter as relates to
7 Parliament, and that our Constitution has as a term of
8 legal reference, Constitutional reference, --

9 **THE CHAIRMAN:** Yes.

10 **MR. SCOTT:** -- here in Bermuda.

11 **THE CHAIRMAN:** Okay.

12 **MR. SCOTT:** It may be as clear as mud
13 to you what I've just said and just say I'm out of
14 practise, but that is my understanding of the matter
15 before this Committee.

16 And by the way, let me declare my
17 interests. I do believe that yourself, as the
18 Chairman, really have committed yourself to protecting
19 the integrity of Parliament, and, see, I bought up in
20 the whole practice of making sure that my interest in
21 known. I have a sympathy to what you're doing because
22 what you're doing is very much in the order of how I
23 understand Parliament expects the individuals to
24 proceed, and you are to be -- it's to be noted that it
25 is a worthwhile thing you do.

1 **THE CHAIRMAN:** Thank you very much,
2 Mr. Scott.

3 Your position, your answers to my
4 questions have been very clear, not mud-like at all,
5 and so what I'd now like to do is open up the Panel, --

6 **MR. SCOTT:** Okay.

7 **THE CHAIRMAN:** -- who have questions
8 for you as well.

9 **MR. SCOTT:** Sure.

10 **THE CHAIRMAN:** And I believe
11 Ms. Jackson has some questions that she'd like to
12 direct towards you.

13 **MS. JACKSON:** Anyone else?

14 **THE CHAIRMAN:** Well, you can go first.
15 It's pretty relaxed.

16 **MR. SCOTT:** I would like to declare,
17 for the interest of all here, that Ms. Jackson is my
18 cousin.

19 **MS. JACKSON:** First cousin.

20 **THE CHAIRMAN:** First cousin.

21 **MR. SCOTT:** First cousin.

22 **THE CHAIRMAN:** Well, you might have to
23 be excused right now.

24 Ms. Jackson.

25 **MS. JACKSON:** Good afternoon, Alex.

1 **MR. SCOTT:** Hi.

2 **MS. JACKSON:** My question is, going
3 back to sort of pre the nomination stage for
4 candidates, --

5 **MR. SCOTT:** Yes.

6 **THE CHAIRMAN:** -- so you have described
7 to us what the Party prepares the candidate for?

8 **MR. SCOTT:** Yes.

9 **MS. JACKSON:** I'm just wondering if you
10 might share with us the description of what Government
11 agencies, maybe the Parliamentary Registrar, maybe
12 within Parliament, any of the clerks, may have shared
13 with the Party, any official procedures and processes
14 for making that declaration of interest?

15 **MR. SCOTT:** Good question, and the best
16 response I can give is that we have, as all Members,
17 all interested parties in becoming a Member of
18 Parliament, there is the documentation we fill out, and
19 at that point you satisfy the letter of the
20 Parliamentary procedure as it relates to satisfying
21 your nomination. And I cannot recall now whether such
22 a line, such a reference is included in all of those
23 documents which of the four -- four times I ran for
24 Parliament you said? If it was there --

25 **THE CHAIRMAN:** Well, you were elected

1 four times.

2 **MR. SCOTT:** I was elected four times.

3 **THE CHAIRMAN:** I assume you ran more
4 than four.

5 **MR. SCOTT:** But to be truthful, I ran
6 five times.

7 There was a lack of wisdom on the first
8 group of people who I put myself up to.

9 **THE CHAIRMAN:** But they were all sorted
10 out by the next time.

11 **MR. SCOTT:** We sorted it out.

12 **THE CHAIRMAN:** Yeah.

13 **MR. SCOTT:** But I'm trying to recall if
14 it specifically requires you to declare your
15 Parliamentary interest as per the Constitution. We are
16 aware of it, from --

17 **THE CHAIRMAN:** When you say "we", who
18 do you mean?

19 **MR. SCOTT:** We, as the Progressive
20 Labour Party Members, are aware of it, and I was almost
21 sure we were being prepared for satisfying the point in
22 the Constitution that anticipates and expects that.

23 **MS. JACKSON:** Thank you.

24 **MR. SCOTT:** Okay.

25 **THE CHAIRMAN:** Anyone else have

1 questions?

2 **MR. SMITH:** I do. Thank you.

3 **MR. SCOTT:** Yes, sir.

4 **MR. SMITH:** Thank you, Mr. Scott, for
5 coming in today.

6 Your interpretation of what you've just
7 given us here, as you well know -- well, you are aware,
8 obviously, we have what we call the Bermuda Stock
9 Exchange today, and a lot of Bermudians do participate
10 on the Bermuda Stock Exchange, however they buy
11 shareholdings, or if you have a stockbroker that buys
12 different shares for you.

13 **MR. SCOTT:** Sure. Yeah.

14 **MR. SMITH:** Where do you interpret that
15 you list, declare your interests? I.e., for example, I
16 might decide to buy Bermuda Waterworks today.

17 **MR. SCOTT:** Yeah.

18 **MR. SMITH:** I have no say in the
19 running of Bermuda Waterworks; however, Bermuda
20 Waterworks, I believe, does have a contract with the
21 Government, or might have, I'm not quite sure. But
22 where do you draw the line as to where you should
23 register your interest? And particularly when you're
24 dealing with a broker, as we all do today, he or she --
25 not being sexist here at all -- buys and sells all the

1 time on my behalf. So my interests change, wherever
2 they think that I should be investing my monies.

3 **THE CHAIRMAN:** Can I just interject a
4 point of clarification, because it's spelled out in the
5 Legislation that if you own more than one per cent of a
6 company, then one needs to declare an interest. So
7 that's sort of the threshold. It's one per cent.

8 **MR. SMITH:** Okay. I guess you answered
9 the question, then.

10 **MS. WILSON:** Yeah, the Act --

11 **THE CHAIRMAN:** No, but it's spelled out
12 in the Legislation, in the --

13 **MR. SMITH:** It doesn't say it in here.

14 **THE CHAIRMAN:** In 1969? Not in the
15 Constitution. In the -- what's the Legislation?
16 Members of the Legislatures 1968 --

17 **MS. WILSON:** Members of the
18 Legislature, 1968.

19 **THE CHAIRMAN:** -- piece of Legislation.
20 It gives great detail on at what point do you have to
21 declare an interest. If you're on the board, if you're
22 a low-ranking employee, you don't have to. If you're
23 CEO or a member of the board, then you need to make a
24 declaration.

25 **MS. ATHERDEN:** That's it, the '68 Act.

1 The thing that I'm reading --

2 **THE CHAIRMAN:** That's not the Act
3 there.

4 **MS. ATHERDEN:** But this was talking --
5 it's a definition of an interest in Government Act, and
6 it's talking about the following exceptions and
7 limitations, and that's what I was going to...

8 **MS. WILSON:** But what Walter was
9 referring to is what's in the Act. I don't know if --

10 **THE CHAIRMAN:** That's someone's
11 interpretation. But the Act spells out what the
12 requirements are. But you guys will have a copy of
13 that.

14 **MS. WILSON:** Yeah.

15 **MR. SCOTT:** The only thing I could
16 contribute beyond the observation that the Chairman has
17 given, is that -- is a clause in, again, 10(4), and
18 part of it says "which are standard for any member of
19 the public shall not be deemed thereby to have any
20 interest in a Government contract."

21 I don't know how standard it is to be
22 invested in corporations and so forth and so fifth,
23 it's not your everyday citizen who is invested in a
24 company, and then invested to the extent that he or she
25 has some pecuniary interest or say, shareholders

1 meeting, et cetera, et cetera.

2 Our background in the Party would have
3 been to declare your interest, and then it follows that
4 should, at any time, it become a question, then it is
5 known. And I think the Constitutional requirement here
6 would excuse those who had insignificant interest in
7 any company, but require those who had significant
8 interest in same said company if it was relevant to --
9 and I would go back to the section 30(6), which would
10 say: If he has an interest in any Government
11 contracts, and has not within the seven days declared
12 et cetera, et cetera. That is, I don't know that the
13 one per cent interest in the waterworks would suggest
14 that that interest would be significantly important to
15 the conduct of that person if elected to Parliament,
16 but if they were a decision-maker, if they were a
17 director, if they had a controlling share, if they had
18 something beyond the standard of any member of the
19 public, then it is -- it would be proper for it to be
20 known.

21 Just, and, you know, we are -- I speak
22 as if I'm still part of Parliament. We are
23 anticipating the possibility of gaming being part of
24 our economic activities.

25 **THE CHAIRMAN:** Mr. Scott, you're

1 looking at venturing into the area of greater
2 controversy?

3 **MR. SCOTT:** Hmm?

4 **THE CHAIRMAN:** You're looking at
5 venturing into the area of greater controversy?

6 **MR. SCOTT:** Then you want to know
7 who -- what a Member stands on the floor of Parliament,
8 in the future, if we have gaming in Bermuda, you really
9 want to know who you're listening to. Are you
10 listening to that Member, are you listening to that
11 Member speaking on behalf of his constituency, or are
12 you listening to that Member speaking to his or her
13 pecuniary interests, which may bring a whole new light
14 to bear on his debate, their debate, and the public,
15 day one, at the nomination, at the point of nomination,
16 should know that. And that thought doesn't originate
17 with me, the thought rises out of the Constitutional
18 requirement here.

19 **THE CHAIRMAN:** Okay. Kim, did you want
20 to --

21 **MS. WILSON:** No, I've got the -- I was
22 just going to show it to Mr. Smith.

23 **THE CHAIRMAN:** Well, you can share it
24 with the Committee.

25 **MS. WILSON:** Okay. It's just so tiny.

1 **THE CHAIRMAN:** You can enlarge it.

2 So, Ms. Wilson's going to just...

3 **MS. WILSON:** Just a minute.

4 **THE CHAIRMAN:** You know what? Maybe
5 not.

6 We're having a little technical --

7 **MS. ATHERDEN:** You can read it. You
8 can read it. Because I think it speaks to a question
9 that I was curious about.

10 **THE CHAIRMAN:** You find the relevant --
11 just handle it gently. It's a gentle machine.

12 So the Legislation speaks -- sorry, you
13 have another question.

14 **MS. JACKSON:** I do.

15 **THE CHAIRMAN:** Go ahead. Sorry, go
16 ahead.

17 **MS. JACKSON:** But it's changing the
18 topic a little, so...

19 **MS. WILSON:** It's going to take me a
20 minute to do, because this is so small writing. Go
21 ahead.

22 **MS. JACKSON:** I have another question.

23 **MR. SCOTT:** Sure.

24 **MS. JACKSON:** I understand that there
25 are levels of declaration and thresholds, such as one

1 per cent interest in a contract and that sort of thing.

2 **MR. SCOTT:** Yeah.

3 **MS. JACKSON:** What is your
4 interpretation of the level of further and in-depth
5 investigation that would be required by any Government
6 or political official to pursue and investigate further
7 and beyond the -- I don't know if "honest" is too
8 strong a word, but just the declaration of interest
9 that appears in -- at the nomination stage?

10 **MR. SCOTT:** If I understand your
11 question, the burden is always on the individual and he
12 or she ignores the practice and the principle of
13 revealing his or her interest at her or his risk; that
14 is, if I am -- I have a significant holding in any
15 particular activity as it, specially as it relates to
16 Government activity, and I fail to acknowledge it, I
17 put myself at risk, and it is not incumbent on the
18 Government to go through everyone's portfolio or
19 holdings; however, at some point in time, if it becomes
20 known and if it becomes relevant to a debate -- well,
21 more than a debate, a decision or something that that
22 member now has an involvement in Parliament, and they
23 have an interest in the company, corporation, so forth,
24 they now certainly, as you have described, warrant
25 further attention from the relevant offices, agencies,

1 officials in Government, to see that all is above
2 board.

3 So, to save yourself the injury of an
4 investigation, to save yourself being exposed, or even
5 being thought to have acted less than honourable, you
6 should always declare, without the Government being
7 required to investigate. That's the nature of the
8 Member of Parliament; thus we refer to each other as
9 honourable men and women. You are supposed to, at all
10 times, do the honourable thing, and the Constitution in
11 this particular narrow context prescribes and describes
12 what that honourable thing is to do, make known your
13 interest. Government isn't supposed to be required to
14 investigate it.

15 Now, if someone does, and they reveal
16 it, you're at risk.

17 **MS. JACKSON:** So, just as a
18 supplementary to that, --

19 **MR. SCOTT:** Sure.

20 **MS. JACKSON:** -- once a candidate has
21 been elected and becomes a Member of Parliament, --

22 **MR. SCOTT:** Yes.

23 **MS. JACKSON:** -- there is yet another
24 declaration of interest that is then published.

25 **MR. SCOTT:** Yes.

1 **MS. JACKSON:** Can you just describe to
2 me what the purpose of that document is?

3 **MR. SCOTT:** That would be, to my way of
4 thinking, just an update of his or her status. I could
5 be, as I remained, before I went to Parliament and
6 after I went to Parliament, a man of straw; I had very
7 little money before, I had very little money after, but
8 if at some point I acquired a few shares in the Bank of
9 Butterfield, which would not make me wealthier, --

10 **THE CHAIRMAN:** Depends when you got
11 them.

12 **MR. SCOTT:** -- I should declare it,
13 because while I didn't have that interest before, and
14 when I was being nominated I now have it, so it's
15 updates and, matter of fact, Mr. Chair, do you know,
16 the Register of Interests, we update it every year, or
17 every quarter, or every...?

18 **THE CHAIRMAN:** I believe it's meant to
19 be updated as updates are required.

20 **MR. SCOTT:** As required.

21 **THE CHAIRMAN:** That's my understanding
22 of it.

23 **MR. SCOTT:** Yeah. Yeah. But it is --
24 the British make it abundantly clear that at all times
25 the Member must make his or her interests known. So it

1 is incumbent upon you, too, and given the Westminster
2 system, that investigation that you talked about is
3 ongoing. Any Member, Backbencher, Cabinet Member,
4 Civil Servant, can, at any given time, take an interest
5 in your financial affairs, so that investigation can
6 exist at all times, can be omnipresent. It is
7 omnipresent, because anyone can say, What is Scott -- I
8 heard Scott talking a lot about that, and they can go
9 into my financial matters and -- to satisfy themselves
10 that I am acting above board or I have been less than
11 honourable when I have been arguing for some given
12 point, which I have an interest in.

13 **THE CHAIRMAN:** Mm-hmm.

14 Ms. Atherden?

15 **MS. ATHERDEN:** Mr. Scott, --

16 **MR. SCOTT:** How are you?

17 **MS. ATHERDEN:** -- I'm not related to
18 you, as far as I'm aware.

19 **MR. SCOTT:** You aren't?

20 **MS. ATHERDEN:** I'm not, as far as I'm
21 aware.

22 **MR. SCOTT:** I wish, because you're
23 bright.

24 **MS. ATHERDEN:** But the one -- I had one
25 question, --

1 **MR. SCOTT:** Sure.

2 **MS. ATHERDEN:** -- and I guess I'm
3 trying to sort of deal with what I call laws which --
4 and acts and stuff that put together, and over time how
5 things evolve and the question becomes, as they evolve,
6 whether you have either interpretations or you have, if
7 you will, modifications. And I guess this whole
8 question of "significant", and when you indicated that
9 back, a one per cent was deemed to be a significant
10 investment. And the reason I say that --

11 **THE CHAIRMAN:** I said one per cent,
12 it's ten per cent.

13 **MS. ATHERDEN:** Well, that was the
14 point. I was going to say --

15 **THE CHAIRMAN:** Had a misplaced zero.

16 **MS. ATHERDEN:** I had the document here,
17 but I didn't want to go on with --

18 **MS. WILSON:** I have the Act. I'm
19 looking at the Act.

20 **MS. ATHERDEN:** This is talking about --
21 and it quotes the Act, et cetera.

22 **MR. SCOTT:** Yeah.

23 **MS. ATHERDEN:** So I'm glad I heard
24 that, because to me ten per cent is more in line with
25 what has happened over common practice.

1 Years ago it would have been one per
2 cent, but that was when most people didn't invest in
3 businesses and so one per cent, if you could afford it,
4 was somebody that could make a difference. But ten per
5 cent, you know, I think everybody recognizes that if
6 you have a ten per cent interest in a venture or a
7 company, et cetera, you're required to disclose it.

8 I guess what I'm also trying to look at
9 is the fact that if one believes that that's a
10 significant investment, the other side then comes down
11 to this whole question of if you are a director, et
12 cetera, because you have people who are statutory
13 directors and you have people who are non-executive
14 directors and other people make all the decisions, even
15 though they are part of the board that actually, if you
16 will, signs off on it.

17 With respect to as things happened when
18 you were involved, if someone had less than ten per
19 cent, back then would you have deemed that person not
20 to have had a significant interest and would not have
21 felt the need for them to turn around and make the
22 declaration before they were nominated?

23 I understand after they're nominated,
24 because I think sometimes people do not understand the
25 difference between an interest and a conflict of

1 interest, and I guess what I'm trying to determine,
2 when you were talking about somebody coming up and
3 speaking on a bill, it's not just the fact that they
4 have an interest, but the public would want to know
5 whether they have a conflict of interest, and by not
6 disclosing it then, presumably, they're not letting
7 their public and their fellow Parliamentarians know
8 that perhaps they are looking at it through rose-
9 coloured glasses or whatever else.

10 So, did those type of things occur, and
11 what would have been done about it, if someone didn't
12 disclose and your Parliamentarians became aware of it
13 afterwards?

14 **MR. SCOTT:** One has to be cautious
15 about whether ten per cent is significant and five per
16 cent isn't, or ten per cent is significant and twenty
17 per cent is very interesting, because you could have a
18 hundred per cent interest in a failing company, which
19 had little or no relevance. It all comes back to the
20 significance of your holding, no matter what the
21 percentage is, as it relates to your, in this case,
22 nomination to Parliament and the appropriateness of the
23 public to know.

24 You may have an interest in some
25 undertaking that is totally unrelated to Government,

1 but if you have an interest, significant or otherwise,
2 related to Government activities, surely the public
3 should be able to see you with unfettered eyes; that
4 is, they should know, all right, Alex Scott's here
5 telling me he's going to be in my service, he's
6 available to help me whenever I want, he'll make sure
7 the lights are on, he'll make sure that the busses run
8 on time. But then they come to know that I really have
9 an interest in some new digital concern, digital
10 company, and upon going into Parliament, lo and behold
11 I very quickly become the Minister for that particular
12 area of endeavour. If I have never declared it, the
13 public really are left to assume that it may have just
14 happened; in actual fact, I may have orchestrated the
15 whole thing in my interest.

16 Now, I have given a hypothetical case,
17 but the public should have the ability to look at me
18 and say: This man is -- he does have holdings and
19 interests in a car company, in a somebody, but I don't
20 think it is relevant to his nomination and I'm going to
21 support him.

22 The practice, again, once you're a
23 Parliamentarian, to have you declare at all points of
24 significant activity, as the British Code of Conduct
25 shows, surely that should be available to the general

1 public as the Country's Constitution prescribes, so
2 that they, too, can make the judgment at an early stage
3 as to I made -- I think I made a note. Look, at 73 I
4 make notes about everything, and then I forget where I
5 put them.

6 **THE CHAIRMAN:** I do that and I'm 53.

7 **MR. SCOTT:** Where did I put the note?

8 The Constitution seeks to ensure that
9 all who seek office shall be qualified to take a seat
10 in Parliament. To that end, he or she discloses the
11 nature of the contracts and his or her interest therein
12 by means of a notice published to inform the voters.
13 The Constitution, in its wisdom, declares the public's
14 right to know.

15 One point I will make. You are -- you
16 have before you the individual who, when in office as
17 Premier, felt it most important that there be the
18 public access to information. That's how important I
19 believe that the Government of the day provide the
20 public that they serve with full knowledge of what we
21 do as a Government, we do it on their behalf. So roll
22 the process back to the nomination of any given
23 Parliamentarian, and my view would be the same, the
24 public has a right to know the nature and the quality
25 of the individuals that put themselves, make themselves

1 available, because it is a very important trust that
2 you are asking the public to put in your hands. And so
3 if you have an -- if you have a financial interest in
4 your mind, related or not, it should be left to the
5 public to know, as once, when we become Government, we
6 become keepers of the archives, that the public have a
7 right to know what is done on their behalf.

8 Finally, if you just revert always back
9 to the public's right to know, then you can easily
10 understand the importance of the exercise that you're
11 undertaking now.

12 **THE CHAIRMAN:** Okay. Thank you. Kim?

13 **MS. WILSON:** No, I was just trying to
14 pull up the Constitution, but I'm fine. Thank you.

15 **THE CHAIRMAN:** Okay. Are there any
16 further questions for Former Premier Alex Scott?

17 Well, Mr. Scott, you've been full and
18 complete in your answers and you have provided us with
19 public access to information in your presentation.
20 Your twenty or more years of experience, thirty years
21 of experience in the Parliamentary process --

22 **MR. SCOTT:** Who's counting?

23 **THE CHAIRMAN:** Who is counting? -- is,
24 though, to be recognised, to be commended, because we
25 can learn from your experience. So I want to, on

1 behalf of the Committee, thank you for agreeing to
2 appear before us today, to answer any and all of our
3 questions and to do so with honour and integrity.

4 Thank you very much.

5 **MR. SCOTT:** And I hope it's helpful, --

6 **THE CHAIRMAN:** It's been very helpful.

7 **MR. SCOTT:** -- and I end as I began. I
8 think it's a significant exercise that you are
9 participating in. It's not sexy, meaning it's not the
10 sort of thing that gets headlines, that folks say, Oh,
11 wow, that is something that really should be done and I
12 understand all the reasons, but it's fundamental to the
13 basis of our parliamentary process. And I keep coming
14 back to the word "the integrity of the process". So,
15 lots of luck with it.

16 **THE CHAIRMAN:** Thank you very much.
17 Thank you.

18 **MS. JACKSON:** Thank you.

19 **MS. WILSON:** Thank you.

20 **MR. SMITH:** Thank you.

21 **MS. SCOTT:** Thank you.

22 **THE CHAIRMAN:** We're going to take a
23 five-minute recess.

24 --- upon recessing at 12:50 p.m.

25 - - - - -

1 --- at 1:00 p.m.

2 **INVITED GUEST: MR. HUBERT KIM EUGENE SWAN**

3 **THE CHAIRMAN:** Okay. Good afternoon.

4 So we're about to commence our second
5 interview today. I'd like welcome Mr. Kim Swan to the
6 Elections Committee.

7 **MR. SWAN:** Mr. Chairman.

8 **THE CHAIRMAN:** And I believe you know
9 everyone around the table, in any event.

10 **MR. SWAN:** Yes. I've introduced myself
11 to everyone around the table as well.

12 **THE CHAIRMAN:** Well, what I would like
13 for you to do, Mr. Swan, is to introduce yourself,
14 state your profession and your political experience.

15 **MR. SWAN:** Yes.

16 **THE CHAIRMAN:** In a descriptive sense,
17 in terms of what positions you've held and when did you
18 enter politics and so forth.

19 **MR. SWAN:** All that. Okay.

20 Well, welcome. Thank you Mr. Chairman,
21 MP, and Members of the Committee. I'm pleased to be
22 here. I want to congratulate you on having this fine
23 Committee established. I think I made some public
24 utterances on the social media that for an Opposition
25 Member to have a Committee go through Parliament is

1 something refreshing and has been tried many times and
2 defeated many times, but I'm pleased to stand here,
3 having brought many motions to Parliament in the -- not
4 many, but a few, to Parliament, in the name of good
5 governance, where I put this particular Committee's
6 remit under.

7 **THE CHAIRMAN:** Okay.

8 **MR. SWAN:** My name is Hubert Kim Eugene
9 Swan, born October 4, 1957 in the great Parish of
10 Southampton, by virtue of King Edward.

11 My political experience started when I
12 was about 17 years old, and even before, introduced to
13 politics through Walter King, who was a golf pro like
14 myself, I'm a golf professional by trade, introduced to
15 the political arena through Walter King, and then
16 through an association of Walter King's to Ralph
17 Marshall, who was my Member of Parliament, and lifelong
18 friend of his son and family. Proudly represented the
19 United Bermuda Party which governed this country for
20 30, 30 years, --

21 **THE CHAIRMAN:** Thirty-four.

22 **MR. SWAN:** -- and was involved in the
23 Branch -- 30 years under the '68 Constitution Order
24 that was issued.

25 **THE CHAIRMAN:** Yes. Yes.

1 **MR. SWAN:** And started formally with
2 that political party in Southampton West Branch, where
3 Members of Parliament Ralph Marshall -- the late Ralph
4 Marshall and the late Harry Viera both served, for many
5 years.

6 **THE CHAIRMAN:** Mm-hmm.

7 **MR. SWAN:** And was encouraged to run,
8 at the age of 25 years, four-months, in the 1983
9 general election in which I ran in the seat of Sandys
10 South against Walter Lister and Walter Roberts.

11 **THE CHAIRMAN:** Mm-hmm.

12 **MR. SWAN:** Safe to say in double seat
13 constituencies receiving about 20-odd per cent of the
14 popular vote, between myself and my running mate
15 Mr. John Harvey, was some 300 votes behind the
16 incumbents, but surely I heard enough Walter Lister,
17 Lister Roberts enough to be a very powerful
18 introduction to the formal political scene, for a young
19 man.

20 **THE CHAIRMAN:** Yes. Mm-hmm.

21 **MR. SWAN:** I continued on writing many
22 letters to the Editor during the '80s, learning
23 politics, helping out at the Branch level, very
24 outspoken towards even my party that I supported which
25 governed for many, many years.

1 Fast forward, when the United Bermuda
2 Party lost Government in '98 I was appointed a Senator
3 by Dame Pamela Gordon, who was then, Ms. Pamela Gordon,
4 MP for Southampton West also.

5 I served in the Senate for nine years,
6 seven of which I was the Leader of the Senate, under
7 four different leaders. First, Dame Pamela Gordon,
8 next Dr. The Honourable Grant Gibbons, then Mr. Wayne
9 Furbert, and finally Mr. Michael Dunkley before -- I'm
10 putting this on silent -- before the 2007 election when
11 I was elected to Parliament after four tries, spanning
12 a 25-year period, was elected in the seat of St.
13 George's West, where I have made my home for, I would
14 say, the last 30 years. So that's a snapshot.

15 I've been involved in many petitions, to
16 both the Parliament and to the British Foreign
17 Commonwealth Office, where we garnered about 8,500
18 signatures in 2000-and...

19 **THE CHAIRMAN:** What was that petition
20 about?

21 **MR. SWAN:** That was the petition
22 dealing with the changes to the Bermuda
23 Constitution, --

24 **THE CHAIRMAN:** Oh, yes.

25 **MR. SWAN:** -- when we felt that wider

1 consultation process should have been taken and the
2 petition reflected as much and I believe there was
3 somewhat of a mini Constitutional Conference convened
4 at Government House, depending on who you ask and how
5 you want to label it, but indeed that resulted, just
6 prior to the Boundaries Commission in 2000--and -- I
7 believe in two, in which Dame Pamela Gordon, actually
8 who went with me to Britain to the Foreign and
9 Commonwealth Office to present that petition, actually
10 participated in that Boundaries Commission on behalf of
11 the United Bermuda Party who were then in opposition.

12 **THE CHAIRMAN:** Tell us about your
13 tenure as -- when were you Leader of the United Bermuda
14 Party?

15 **MR. SWAN:** I was Leader of the Senate
16 for the United Bermuda Party between 2002 and 2007, and
17 upon getting elected was -- became the Leader of the
18 Party in 2000--and -- January of 2008. Served until
19 about May of 2011, when I sort of served out my tenure,
20 together with my colleague, Mr. Charlie Swan, still
21 carrying the same banner that I was elected, albeit a
22 somewhat controversial and lonely political period.

23 **THE CHAIRMAN:** Yes. Okay.
24 Now, throughout your political career,
25 the period when you sought a seat and did not win it,

1 those four elections, plus the one you won in 2007, in
2 St. George's Constituency 2, --

3 **MR. SWAN:** Mm-hmm.

4 **THE CHAIRMAN:** -- there was a
5 particular process that all candidates were required to
6 go through in order to assure that their candidacy was
7 valid under current Bermuda Law. And in light of the
8 focus of this Committee, which is issues relating to
9 eligibility and declaration of interest, can you
10 describe for us the steps that you took, first as a
11 candidate and then as a senior official in the United
12 Bermuda Party, to ensure that both your candidacy and
13 the candidacy of your colleagues was valid under
14 Bermuda Law?

15 **MR. SWAN:** Okay. That's an interesting
16 question to ask me, because for all my life, until the
17 last election, I had the benefit, as did, I would say,
18 more than 90 per cent of the candidates present, to
19 have a political machinery.

20 I remember more vividly the first time I
21 had to prepare, that a form to enter an election was
22 prepared for me. It was prepared for --

23 **THE CHAIRMAN:** When was that?

24 **MR. SWAN:** Nineteen eighty-three, by a
25 gentleman named -- who I believe has since which

1 passed, named Stuart -- became Sir Stuart Newman --
2 used to come to Bermuda, on behalf of the United
3 Bermuda Party, during elections, to assist with the
4 election period. He had friends here, as did many
5 people have good connections overseas, he worked for
6 the Conservative Party in the UK and he helped walk the
7 party through that period.

8 I remember it vividly because I remember
9 the late Charles Collis, who was a lawyer and handled
10 election remits in '83 for, I guess for the Premier, as
11 the leader in the Senate, at that time, and he came up
12 to me and, you know, anybody that knew Collis, he was
13 very, very straightforward himself and I was just a
14 young turk and he came up and says, You don't have any
15 interest to declare, and took my form, and, you know, I
16 was kind of overawed by the process.

17 The reason I say that was that there was
18 a formal process, at that time, to declare. I remember
19 it because it was done --

20 **THE CHAIRMAN:** Back in '83.

21 **MR. SWAN:** Back in '83. And I do
22 remember elections following that that there was
23 usually designated someone from campaign who had
24 experience, I believe Mr. Donald Johnson may have done
25 it for the United Bermuda Party in latter years, having

1 maybe shadowed the late Sir Stuart early years. I
2 can't put my hand on a stack of Bibles and say that's
3 how he learned it, but I would -- Sir Stuart was in
4 Bermuda for sufficient enough elections to be able to
5 have others to have benefited from his good counsel.

6 **THE CHAIRMAN:** So let me just get an
7 accurate recollection. So, just say for example, so in
8 1983 --

9 **MR. SWAN:** Mm-hmm.

10 **THE CHAIRMAN:** -- Charles Collis, then
11 Senator Collis, --

12 **MR. SWAN:** Mm-hmm.

13 **THE CHAIRMAN:** They were called
14 senators in '83, yes.

15 **MR. SWAN:** Only just, yes.

16 **THE CHAIRMAN:** There was a form that
17 all candidates were required to fill out and sign?

18 **MR. SWAN:** You signed it, yeah, and
19 declared your interests.

20 --- the lights went out.

21 **THE CHAIRMAN:** Is that still working?
22 You have power?

23 **THE REPORTER:** I think I do. Yes, I
24 seem to.

25 **THE CHAIRMAN:** Okay.

1 **MR. SWAN:** Harry Viera has since which
2 passed, so if the lights go out it's --

3 **THE CHAIRMAN:** Maybe the lights are on
4 a timer.

5 So, just to get it straight, then.
6 There was a form that one had to sign.

7 **MR. SWAN:** Yes. There was a form that
8 was prepared, and signed, and candidates signed off on
9 them.

10 **THE CHAIRMAN:** Do you have any
11 recollection of the extent to which candidates were
12 required to make that declaration, whether it was for
13 any and all interests in Government contracts? Was it
14 modified? Were there caveats that you can recall?
15 Because you ran in four or five elections.

16 **MR. SWAN:** Yes, I ran in '83, '98,
17 2003, 2007 and 2012.

18 **THE CHAIRMAN:** Okay. Can you recall
19 what happened in 2007?

20 **MR. SWAN:** I can't remember who
21 presented the form to me.

22 **THE CHAIRMAN:** Well, you know that --

23 **MR. SWAN:** The only reason why I
24 remember 1983 is because of the interaction I had with
25 the late Mr. Collis, it stuck with me all my life,

1 since that time.

2 **THE CHAIRMAN:** Right.

3 **MR. SWAN:** But I do recall Mr. Johnson,
4 Donald Johnson, if he is still around and able to make
5 a presentation to you, he may be able to shed some
6 light as to the process.

7 **THE CHAIRMAN:** Right.

8 **MR. SWAN:** But as far as I can recall,
9 there was a campaign agent that handled that for
10 persons and they would ask you to, you know, make
11 available to them any information that needed to be
12 included.

13 **THE CHAIRMAN:** Okay. So it was very
14 clear, then, it was understood by the United Bermuda
15 Party as an organization that one had to make a
16 declaration of interest in any Government contracts.

17 **MR. SWAN:** Yeah. Yeah.

18 **THE CHAIRMAN:** And what did you do in
19 2012, the current one?

20 **MR. SWAN:** In 2012, as a result of --
21 as a result of a notice that went in the paper, I --

22 **THE CHAIRMAN:** What notice was that?

23 **MR. SWAN:** I saw a notice in the
24 paper -- I saw a notice in the paper, and it was late.
25 It may have been around the time or after the time of

1 that, that the requirement --

2 **THE CHAIRMAN:** Between nomination day
3 and the seven-day requirement.

4 **MR. SWAN:** Yeah, and I actually made
5 contact. I can actually check my diary --

6 **THE CHAIRMAN:** No, but what was the
7 nature of that notice you saw?

8 **MR. SWAN:** It was either a notice of a
9 news report talking about interest, and I contacted the
10 Parliamentary Registrar. I remember contacting
11 Mr. Scott, probably in writing as well, because I'm
12 prone to do that from time to time if I don't get him.

13 **THE CHAIRMAN:** Yes.

14 **MR. SWAN:** And I included, for me, I
15 said, Listen, I don't have any Government contracts but
16 I do work freelance at a Government facility, and just
17 to make sure that I was not in breach or that, you
18 know, I actually put something in the paper. I believe
19 Charlie Swan did as well. I can't remember what his,
20 but I do remember just making that declaration. But we
21 didn't have any machinery to be able to prompt --

22 **THE CHAIRMAN:** Organize it on your
23 behalf.

24 So your recollection is that you saw a
25 notice that was published by the Government, or you saw

1 some other party's --

2 **MR. SWAN:** I saw some -- maybe not...
3 I saw something in the paper that prompted me to call
4 the Parliamentary Registrar. It may have been a news
5 report, or whatever. If I were to look at the date, it
6 could recollect my -- help me recall exactly the
7 sequence.

8 **THE CHAIRMAN:** Right.

9 **MR. SWAN:** But I do recall having been
10 promoted --

11 **THE CHAIRMAN:** By something you saw.

12 **MR. SWAN:** -- by something that I read.
13 I'm more inclined to think it's something I read rather
14 than something I heard, --

15 **THE CHAIRMAN:** Right.

16 **MR. SWAN:** -- which prompted me to
17 contact Mr. -- make contact with Mr. Scott.

18 **THE CHAIRMAN:** Okay. And what did he
19 say to you? Can you recall?

20 **MR. SWAN:** Actually -- actually, my
21 particular personal concern that I may have been in
22 violation of anything was not the case. I believe I
23 may -- chances are I probably would have even copied in
24 the Deputy Governor, or something like that.

25 **THE CHAIRMAN:** So you were being very

1 cautious.

2 **MR. SWAN:** Well, you know, yeah,
3 because, you know, if you -- I'm a golfer by trade, if
4 you break the rules you go according to -- you're
5 penalized, that's... And sometimes, you know,
6 sometimes the penalty is, it is what it is, and
7 sometimes it's not what you like, but...

8 **THE CHAIRMAN:** Was there ever a view
9 held by the UBP, to your knowledge, that if one held a
10 Government contract on the same terms that any other
11 member of the public would have a contract with the
12 Government, then there was no need to make such
13 declaration?

14 **MR. SWAN:** Can you just repeat?

15 **THE CHAIRMAN:** Right. Was there ever
16 any concern, or was there ever any understanding or any
17 discussion within the United Bermuda Party, to your
18 recollection, --

19 **MR. SWAN:** Mm-hmm.

20 **THE CHAIRMAN:** -- that one need not
21 make a declaration of an interest in a Government
22 contract if that contract was on the same terms as any
23 member of the public?

24 **MR. SWAN:** Not to my recollection,
25 because, I mean, you have to appreciate, my involvement

1 in general elections was from the candidate's
2 perspective, as a candidate that didn't have any
3 interests to declare.

4 **THE CHAIRMAN:** Right.

5 **MR. SWAN:** I had to give -- I was one
6 of the people that gave up a Government position to be
7 able to get involved in Government.

8 **THE CHAIRMAN:** Right.

9 **MR. SWAN:** But to my recollection, you
10 know, a person declared what they had. And I'm not one
11 hundred per cent sure if it was limited to Government
12 contracts or not, I can't remember, in '83 --

13 **THE CHAIRMAN:** So it could have been
14 more expansive, --

15 **MR. SWAN:** It could have been, yeah.

16 **THE CHAIRMAN:** -- but it was certainly
17 focussed on Government contracts, as one part of it.

18 **MR. SWAN:** Well, like I said, I'd have
19 to see the form again to be able to put hand over heart
20 and say, This is exactly what we had to do, but I do
21 know there was a process.

22 **THE CHAIRMAN:** Right. And this form
23 was, that you speak of, this form was a United Bermuda
24 Party created form as opposed to a Government-issued
25 form? To your recollection?

1 **MR. SWAN:** Mmm, may have been a United
2 Bermuda Party -- I couldn't answer that. Like I said,
3 I wasn't on the preparation end.

4 **THE CHAIRMAN:** Right. You were busy
5 canvassing.

6 **MR. SWAN:** I was, yes, busy canvassing.
7 Had to. But, and during the period when we were
8 leader, we didn't have a general -- I never took the
9 Party to a general -- to election.

10 **THE CHAIRMAN:** Right. Okay.

11 **MR. SWAN:** A bi-election.

12 **THE CHAIRMAN:** Thank you, Mr. Swan.
13 Any questions from...?

14 **MS. WILSON:** Yeah.

15 **THE CHAIRMAN:** Go ahead.

16 **MS. WILSON:** Thanks. This is an
17 extension of what MP Brown just indicated.

18 To your recollection, Mr. Swan, do you
19 recall when you were asked to complete this document
20 that you were speaking about that you said perhaps did
21 come from the UBP, United Bermuda Party, was there any
22 distinctions made concerning Government contracts, or
23 the representation was if you had some kind of
24 Government contract put it on the paper?

25 **MR. SWAN:** I couldn't answer that. The

1 best I could do would be to recall who the people were
2 that were handling that, to be able to, you know, look
3 at the, you know, remember the, you know, remember the
4 sequence of that.

5 **MS. WILSON:** Mm-hmm.

6 **MR. SWAN:** So, yeah.

7 **MS. ATHERDEN:** I had two questions, and
8 I guess it's to try and jog your memory as it relates
9 to two aspects of it. One is the question of a
10 declaration which is in the paper as opposed to a
11 declaration which is done after one was elected and is
12 relevant to any legislation or anything that come up.
13 And do you remember, once you got elected, do you
14 remember filling out a form in which you indicated any
15 sort of interest that you had and whether, in filling
16 that form out, whether there was any sort of guidelines
17 as to --

18 **MR. SWAN:** Well, when I was a -- in
19 2003 and in 2007 I was a Senator, and I was also on the
20 Members' Interests Committee, so we had, by virtue of
21 the Members' Interests Committee we had to then
22 declare. I was never a Cabinet Minister, and I believe
23 Cabinet Ministers had the declarations that appeared in
24 the, you know, in the paper.

25 **MS. ATHERDEN:** Mm-hmm.

1 **MR. SWAN:** And the reason why I
2 mentioned I remember '83 is, I didn't get elected in
3 '83. I only ran in an election, and I wasn't in -- it
4 was another, between '83 and '93, 2000, it was a lot of
5 years under the water, you know, between '83 and '78 --
6 and '98 when I actually went in the Legislature. So
7 the interest that I was passed over, because I didn't
8 have any interest, was before the fact, and I do know
9 when I was in the Legislature, by virtue of -- by
10 virtue of the Members' Interests, then it was
11 commonplace for us to submit our Members' Interests.

12 **THE CHAIRMAN:** Right. Do you have a
13 follow up?

14 **MS. ATHERDEN:** And when you submitted
15 that interest, was there any, to your recollection, was
16 there any sort of, if you will, differentiation between
17 the size of an interest, or a threshold interest and a
18 differentiation between an interest in a Government
19 contract -- an interest in something that was
20 Government or a proprietary interest in any sort of
21 entity that might have been a supplier?

22 **MR. SWAN:** I can't recall those
23 differentiations.

24 **MS. ATHERDEN:** Can't recall? Okay.

25 **MR. SWAN:** Yes.

1 **THE CHAIRMAN:** Mr. Swan, would you
2 agree that the Members' Interests Register that
3 Parliamentarians are encouraged to fill out is on a
4 different order of obligation than the requirement to
5 disclose interests in Government contracts to validate
6 one's candidacy, because one part, the candidacy
7 component, is statutory and contained in our
8 Constitution, the Members' Interests component is
9 something that has been agreed by Parliamentarians,
10 that is sort of a moral pressure to sign it as opposed
11 to an actual legal requirement. Would you not agree
12 there is a different order of priority of --

13 **MR. SWAN:** No, there is a different --
14 there is a difference there.

15 **THE CHAIRMAN:** Mm-hmm.

16 **MR. SWAN:** I guess the difference would
17 be that if you had an interest prior to Parliament, it
18 would encourage greater transparency, so that --

19 **THE CHAIRMAN:** If you disclosed your
20 interest prior to.

21 **MR. SWAN:** -- if you did -- right --
22 the two would match up, or should match up, save and
23 except for anything that you may have generated in
24 between that period of filling out there.

25 **THE CHAIRMAN:** Right.

1 **MR. SWAN:** So I see it as two separate,
2 two separate things.

3 **THE CHAIRMAN:** Okay.

4 Is there anything that you want to add
5 to help us in our deliberations, that you think might
6 actually enhance the integrity of the process?

7 **MR. SWAN:** Yeah. It would have been
8 helpful if -- see, I started wrapping my mind around
9 what I wanted to ask you, so --

10 **THE CHAIRMAN:** Well, you're not in the
11 role to ask questions.

12 **MR. SWAN:** Well, no, that's --

13 **THE CHAIRMAN:** But you can try.

14 **MR. SWAN:** Well, I could try. Not ask
15 you, but --

16 **THE CHAIRMAN:** Go ahead.

17 **MR. SWAN:** -- submit to you, in the
18 interest of you being a Member of Parliament and a
19 person of the Legislature to behave as a Select
20 Committee of a House matter, be able to hear something
21 from the, just general public. So just as an aside, as
22 someone who's come to you --

23 **THE CHAIRMAN:** Sure.

24 **MR. SWAN:** -- following Mr. Scott,
25 who's far more knowledgeable than I on this subject,

1 from being around elections far longer, it might be
2 helpful for those coming to you to know that you're
3 going to ask them specifically about time periods,
4 because I would have wrapped my mind around those time
5 periods. I've been wrapping my kind around some of the
6 things, you know, I would like to share. You asked one
7 of your questions dealt with that, --

8 **THE CHAIRMAN:** Yes.

9 **MR. SWAN:** -- so I had made some notes,
10 of which in between what I do I wasn't able to, there,
11 but...

12 **THE CHAIRMAN:** So what do you want to
13 share with us?

14 **MR. SWAN:** Well, there's just from
15 experience that, you know, disclosures, I had made a
16 note, Financial disclosures by all electoral candidates
17 and updated by the elected and appointed members of the
18 Legislature. That was one note.

19 **THE CHAIRMAN:** Mm-hmm.

20 **MR. SWAN:** Speaks to the benchmarks,
21 which I did a motion on benchmarks, and 155 of the CPA
22 debt benchmarks states: Members should not required to
23 place themselves under any financial obligations to
24 outside individuals or organizations, so, based on --
25 based on, you know, if we're going to eventually try to

1 dovetail into the benchmarks, I was just -- see, I was
2 looking at the process going the other way, but so I,
3 to be honest with you I hadn't wrapped my mind around
4 those specific periods that you had --

5 **THE CHAIRMAN:** Sure. That's fine.
6 Well, we wanted people to come fresh. I didn't want to
7 try to structure anybody in any particular way, --

8 **MR. SWAN:** Well, yeah, well,...

9 **THE CHAIRMAN:** -- and just get your
10 knowledge and experience.

11 **MR. SWAN:** Yeah.

12 **THE CHAIRMAN:** But to that point, you
13 know, there is a motion -- has it been passed? I don't
14 think it's been passed -- by the Government with Cole
15 Simons to ensure that this Parliament adheres to CPA
16 guidelines for Best Parliamentary Practice.

17 **MR. SWAN:** Mmm. Yeah.

18 **THE CHAIRMAN:** So that's a matter
19 that's in the loop.

20 **MS. ATHERDEN:** There is a committee
21 which --

22 **THE CHAIRMAN:** It's now been set up;
23 right?

24 **MS. ATHERDEN:** Yeah, it has been set
25 up.

1 **THE CHAIRMAN:** It's now been set up.

2 **MR. SWAN:** Okay. So that went to --
3 okay, good, good.

4 **THE CHAIRMAN:** Okay, yeah. So that
5 should help address that concern.

6 **MR. SWAN:** Well, that particular
7 benchmark ties in to some of the questions and so my
8 other note is redundant, based on that.

9 So your remit doesn't allow me to put in
10 a plug for fixed electoral roll?

11 **THE CHAIRMAN:** I believe that's the
12 commitment of the current Government.

13 **MR. SWAN:** Okay. All right, well, I
14 just --

15 **THE CHAIRMAN:** I'm sure they'll address
16 that when the timetable permits.

17 **MS. ATHERDEN:** But it's good to at
18 least say it.

19 **MR. SWAN:** That's where I was wrapping
20 my mind, so when you asked me questions about
21 particular --

22 **THE CHAIRMAN:** Yeah. No, no, feel
23 free, feel free.

24 **MS. ATHERDEN:** It's good at least to
25 say it. I think it's good to get it on the record.

1 **THE CHAIRMAN:** I'm sure Ms. Atherden is
2 very happy to hear that.

3 **MS. ATHERDEN:** Yes. Thank you.

4 **THE CHAIRMAN:** And Mr. Smith, no doubt.

5 **MR. SWAN:** No. Fixed Electoral Roll,
6 from my experience in elections, that's where my mind
7 was wrapped around in preparation to coming here.

8 **THE CHAIRMAN:** Yes. Yes.

9 **MR. SWAN:** My experience has been that
10 45 to 50 days, when an election is called, particularly
11 looking at it from the point of view of not having any
12 machinery, puts a person who has good intentions, but
13 no money and no resources, at a distinct disadvantage,
14 and we all know Parliament and we're all looking for
15 greatest level of fairness. It's certainly, you know
16 the average person is at a total disadvantage when the
17 Government system favours those who are heavily
18 weighted with big money. Right?

19 **THE CHAIRMAN:** Right.

20 **MR. SWAN:** So I certainly was wrapping
21 my mind around fixed. Obviously, you know, I'm a
22 supporter of a fixed electoral date to allow people to
23 prepare themselves in advance.

24 **THE CHAIRMAN:** Mm-hmm.

25 **MR. SWAN:** And as we're at --

1 **THE CHAIRMAN:** But just --

2 **MR. SWAN:** Just a minute.

3 As we're talking about that, and there
4 is a model in Britain, the Electoral Commission is
5 something that I had put forward to the Foreign and
6 Commonwealth Office that Bermuda may need to look at
7 taking parts or some of on board.

8 **THE CHAIRMAN:** Right.

9 **MR. SWAN:** So,... And the other thing
10 is, you know, we may need to look at, as the questions
11 that you were posing to me dealt with, disclosures.
12 The day has come for political parties to have
13 disclosures.

14 **THE CHAIRMAN:** Financial disclosures.

15 **MR. SWAN:** Yeah, even if it's to the
16 Electoral Commission, because they have privacy of
17 donors. I respect that. But at least if there was a
18 commission that they were responsible before, because
19 at the end of the day, usually it's one of the major
20 parties that going to end up governing the country and
21 the whole purpose of the disclosure that you're looking
22 for an individual, needs to be looked at the collective
23 as well.

24 **THE CHAIRMAN:** Right.

25 **MR. SWAN:** And that also is covered in

1 the CPA Benchmarks that I was very familiar with there.

2 And there's one final pet one of mine
3 that I'll take the opportunity to drop here.

4 **THE CHAIRMAN:** What's that?

5 **MR. SWAN:** Is that intimidation at
6 polling booths. That's where my mind went. I mean, I
7 know --

8 **MS. ATHERDEN:** There's another meeting
9 on another day on that.

10 **MR. SWAN:** I would like --

11 **THE CHAIRMAN:** Well, speak to that,
12 where you have any example. What is the face of
13 intimidation?

14 **MR. SWAN:** Well, the --

15 **THE CHAIRMAN:** In Bermuda.

16 **MR. SWAN:** Well, okay. The opposite of
17 intimidation at the polling booths is having a no-go
18 zone at election day, where a person who wants to vote
19 walks up to a polling station, no banners, no anything.
20 They walk up to a polling station, they go in. They're
21 met by the Returning Officers, and there's no glad
22 handling or anything, there's no, you know, there's no
23 intimidation. It's a day when people go, and if
24 political parties have a -- they could be within, you
25 know, a half a mile zone to do any formal activities.

1 **THE CHAIRMAN:** Yeah. Right.

2 **MR. SWAN:** Because, you know, when you
3 have elections that's won by four votes, eight votes,
4 22 votes, 17 votes; I've been on all the sides of that,
5 I've been involved in all of that. And so there's a
6 very thin line in democracy.

7 It shouldn't be about who. It should be
8 about the purest sense of a person going to a polling
9 station, making up their mind in the quietness of their
10 mind, and not be intimidated by the reds, the blues,
11 the greens, the oranges and all that. And I think if
12 we're looking to modernize our democracy, those are the
13 things that we need to look at.

14 And I experienced that from '83,
15 right -- I've seen it all in my -- myself.

16 **THE CHAIRMAN:** So, what did the
17 intimidation look like?

18 **MR. SWAN:** Oh, boy. In Bermuda?

19 **THE CHAIRMAN:** Yeah. Yeah.

20 **MR. SWAN:** When -- imagine yourself 25
21 years old, standing next to someone who may not look
22 like you, that you're supporting, and then maybe having
23 a family member, who can't understand why you would
24 stand next to that person, almost disowning you and
25 disassociating themselves with you in the most rawest

1 and harshest way, that could have a profound impact on
2 that relationship from that day forward. That's what
3 happens in Bermuda politics.

4 **THE CHAIRMAN:** So that was one voter
5 intimidating a candidate or another voter?

6 **MR. SWAN:** That's one voter -- that's
7 one voter intim -- that's -- no, no, it's more than one
8 voter.

9 **THE CHAIRMAN:** Okay.

10 **MR. SWAN:** That's one party, because in
11 Bermuda you're the caravan that makes the circuit. So
12 that's one person, coming to a polling booth, seeing
13 another person standing next to the candidate of their
14 choice, experiencing, their introduction to politics
15 is: Why the heck did you make that decision and disown
16 your family by being right there.

17 **THE CHAIRMAN:** I see. Right.

18 **MR. SWAN:** And if we really want
19 political maturity, if we said: Today is Election Day,
20 the politicians have had their day. This is the
21 people's day. I shouldn't be able to be there
22 intimidating you, my cousin, because you're deciding
23 too that you're coming to the poll being green, or you,
24 my sister's coming to the poll wearing red.

25 **THE CHAIRMAN:** Right.

1 **MR. SWAN:** Leave the colours alone, let
2 the people go there, make their decision and go.

3 I've seen it since I was 20-odd years
4 old and I know how the type of effect it could have on
5 keeping a community apart, and in a community as small
6 as us and with the vote margin as narrow, intimidation
7 plays a part in how people, at the end of the day, put
8 their "X" down.

9 **THE CHAIRMAN:** So are you saying that,
10 in your view, candidates should not be at the polling
11 stations? To avoid intimidation?

12 **MR. SWAN:** Candidates, political
13 parties.

14 **THE CHAIRMAN:** Right. So, there should
15 be no political party representation at any polling
16 station.

17 **MR. SWAN:** No politics at the polling
18 station. I do believe there are jurisdictions that do
19 that. I do believe. In doing all my research for, you
20 know, for benchmarks, I can't put hand over heart and
21 say, You can go to X, Y, Z and that's what happens.

22 **THE CHAIRMAN:** Right.

23 **MR. SWAN:** But it's not, you know, we
24 don't have to follow everything everybody else does.

25 **THE CHAIRMAN:** But you say that might

1 help clear up some of those issues.

2 **MR. SWAN:** Yeah. But I don't mind
3 looking into it. But that's just a personal feeling
4 that I have that I feel, in the interests of good
5 governance, would help Bermuda.

6 **THE CHAIRMAN:** Okay.

7 **MR. SWAN:** And all my other stuff has
8 been covered.

9 **THE CHAIRMAN:** Right. So I have a
10 question regarding -- just because your raised it.

11 **MR. SWAN:** Yes.

12 **THE CHAIRMAN:** About the fixed-term
13 elections.

14 **MR. SWAN:** Yes.

15 **THE CHAIRMAN:** How do you deal with an
16 issue of a vote of no confidence on a fixed term
17 election structure.

18 **MR. SWAN:** I believe --

19 **THE CHAIRMAN:** Or failure of Government
20 to pass an important piece of legislation, which, in
21 the British system means the Government falls.

22 **MR. SWAN:** Yes. The CPA benchmarks
23 covers both -- doesn't cover fixed-term elections, but
24 it certainly covers votes of no confidence, in fact --

25 **THE CHAIRMAN:** That's clear.

1 **MR. SWAN:** That's clear. It's not
2 clear in our Constitution. It's not clear in our
3 Constitution. There's a bit of ambiguity.

4 **THE CHAIRMAN:** Custom and Practice.

5 **MR. SWAN:** I brought a motion of no
6 confidence against -- in a situation that persons
7 viewed it as party versus personal and it got --

8 **THE CHAIRMAN:** Under Premier Brown.

9 **MR. SWAN:** Yes.

10 **THE CHAIRMAN:** That vote right there.

11 **MR. SWAN:** But in my experience of
12 bringing that vote, and since that time, the benchmarks
13 came out and I've worked very closely with the CPA in
14 the region, and even on the national level, on
15 occasion, could see that we could benefit by even
16 having that clearer. And there are -- but I do see
17 some benefits, great benefits, because of the --
18 Bermudians probably travel as much per capita as any
19 country in the world.

20 **THE CHAIRMAN:** We travel more.

21 **MR. SWAN:** Probably more. All right.
22 So it's more likely Bermudians being disenfranchised
23 only because they have to be away because of business
24 and the like, and I certainly feel that a fixed date
25 would allow people to know that once every four years

1 I'm going to be in my country to cast, you know, my
2 vote, and --

3 **THE CHAIRMAN:** Right. But would you
4 accept that fixed-term elections, in our current
5 Parliamentary structure, are constrained by the
6 provision of a vote of no-confidence or a government
7 defeat on an important piece of -- especially a money
8 bill.

9 **MR. SWAN:** Well, there are always, you
10 know, you put five, you know, a few lawyers together
11 and you get different opinions, but I certainly feel
12 that if the country were to look at fixed term
13 elections it certainly need to look at extraordinary
14 circumstances that would lead to a Government being
15 brought up on a no-confidence, or a member being
16 censured, which are the two examples that we have in
17 our -- in precedent in Bermuda within the last twenty
18 years. We have had a member that was -- a Premier that
19 was censured, and we have had a Premier who was
20 challenged on a vote of no confidence. Dr. Saul was
21 censured, a Progressive Labour --

22 **THE CHAIRMAN:** Refresh my memory about
23 that one.

24 **MR. SWAN:** Dr. Saul was censured by a
25 motion led by the Progressive Labour party, brought by

1 Dame Jennifer, and supported by --

2 **THE CHAIRMAN:** That's right, that's
3 right. Key members of the...

4 **MR. SWAN:** -- the United Bermuda
5 Party's back bench. And so --

6 **THE CHAIRMAN:** But that was different
7 than a vote of no confidence.

8 **MR. SWAN:** Yes, and --

9 **THE CHAIRMAN:** But had it been a vote
10 of no confidence, the government would have collapsed;
11 would you not agree?

12 **MR. SWAN:** Yes, had it been --

13 **THE CHAIRMAN:** That's what a vote of
14 no-confidence is.

15 **MR. SWAN:** Yeah, yeah, yeah, had it
16 been... But the Bermuda Constitution, that's clear the
17 way you put it, but the Bermuda Constitution isn't as
18 clear as you just put that.

19 **THE CHAIRMAN:** I see. Okay. Okay.

20 **MR. SWAN:** And so, in the provisions of
21 the section that deals with no confidence, you know,
22 it's nothing to stop us -- and this could very well
23 just be sort of a clarification point rather than an
24 advancement of our Constitution, to make it a little
25 bit clearer as to how you deal with those particular

1 aspects.

2 **THE CHAIRMAN:** Right. I'm sorry. Yes.

3 **MS. ATHERDEN:** But the one thing I was
4 going to say which I think is important is the fact
5 that when you mentioned about the vote of censure
6 versus no confidence, I think to -- what I'm finding in
7 talking to persons in other jurisdictions that many
8 times people view using a vote of no confidence, they
9 really want to say that they're unhappy with what the
10 Government was doing, and because the vote of no
11 confidence is implied as sort of bringing the
12 Government down, many times people do not then go
13 behind, rally behind it, because then you have what I
14 call the party whip, which sort of says, You better do
15 this, you better do that, in which case you don't
16 get -- you don't actually get the result which is to
17 say something had been done, which people are not happy
18 with.

19 **MR. SWAN:** Mm-hmm.

20 **MS. ATHERDEN:** And I guess what I'm
21 saying to you is that, if people would accept using the
22 vote of censure more than the vote of no confidence,
23 then having a fixed term election isn't a bad thing in
24 the sense that you might not really be ready to bring
25 the Government down, but you really want to let them

1 know that you're unhappy, --

2 **MR. SWAN:** Right.

3 **MS. ATHERDEN:** -- and collectively, the
4 will of the people says, We're unhappy. And so I'm
5 just sort of saying that that is perhaps another way of
6 looking at this whole issue of...

7 **THE CHAIRMAN:** Right.

8 Kim?

9 **MS. WILSON:** No, no, no, I have no
10 questions. Thank you.

11 **THE CHAIRMAN:** Yes. Glenn?

12 **MR. SMITH:** Yes. Thank you.

13 Kim, you mentioned financial disclosure.
14 When you talk about financial disclosure, how far are
15 you saying for a candidate to give his financial
16 disclosures? I.e., are you saying got to prove that
17 you paid all your taxes, Land Tax and so forth? Are
18 you saying you want the candidate to put forward what
19 his personal assets are? I mean, what -- it goes a
20 long -- if you can narrow it down, or are you saying,
21 where, as what the Constitution says, has a certain
22 amount of shares in a firm that has something to do
23 with Government. You mentioned --

24 **MR. SWAN:** I think the Government -- I
25 would be more interested in the parties doing some type

1 of annual financial to an Electoral Commission and the
2 candidates disclosing what their interests are that
3 could link them to the Government.

4 **THE CHAIRMAN:** So you don't want a
5 financial report, on the individual.

6 **MR. SMITH:** That's what I wanted to get
7 clarification from.

8 **MR. SWAN:** I haven't seen any need for,
9 you know, I didn't come here with any remit for that.
10 I just think that a disclosure before you stand,
11 fulfilling the obligation of the Members' Interests,
12 which Parliament may decide to tighten up or put as
13 regulations, and then looking at clarifying censure
14 versus no confidence, because obviously a person could
15 do something contrary to the will of their cabinet.

16 **THE CHAIRMAN:** Yes.

17 **MR. SWAN:** And the hindsight's 20-20 a
18 lot of times, but certainly having the benefit of
19 knowing that the way it's described in the Constitution
20 could leave persons -- could be more ambiguous and
21 cause confusion, it's not -- doesn't ask too much just
22 to make it a little bit clearer.

23 **THE CHAIRMAN:** Right.

24 **MR. SWAN:** So that it's not tied to the
25 argument against fixed-term elections.

1 **THE CHAIRMAN:** Right. Okay. Yes.

2 **MR. SMITH:** In regards to fixed-term
3 elections, you mentioned if we knew when an election
4 was coming then perhaps one would stay home or knew
5 they had to be home on a certain date to vote. What
6 are your feelings on absentee voting?

7 **MR. SWAN:** Well, absentee balloting,
8 provided that the people -- that you know the persons
9 are in that constituency, which ties in -- which ties
10 in to the point I made about a cut-off Electoral Roll.
11 Right? So when the election date is called on November
12 1st, then I'm not out there find -- someone's not out
13 there finding cousin Johnnie and Uncle Kim to come home
14 to be registered by December, or November 27, so that
15 they can fly -- could fly in there.

16 **THE CHAIRMAN:** Right.

17 **MR. SWAN:** I mean, I just think that
18 the rules just need to be -- just need to protect the
19 basis of fairness. I hope that, you know, helps.

20 **MR. SMITH:** I guess where I'm going,
21 Mr. Chair, if I can, --

22 **THE CHAIRMAN:** Mm-hmm.

23 **MR. SMITH:** -- is, for example, if you
24 worked at an HSBC, for argument's sake, and you were
25 seconded to work for them in Hong Kong and the election

1 was coming but you couldn't get back to Bermuda to
2 vote, do you think -- and that individual has paid his
3 or her taxes but they're out of the Island at the time
4 because they've been seconded to go to work for that.
5 I guess where I'm going a step further is with an
6 absent ballot we're obviously talking about postal
7 voting, or electronic voting and so forth.

8 **MR. SWAN:** Mm-hmm.

9 **MR. SMITH:** Do you have any thoughts on
10 that?

11 **MR. SWAN:** Well, I'm paying bills using
12 computers every day, which it's incredible with these
13 security devices that you carry around, which I'm sure
14 there's someone out there trying to, you know, break it
15 down. I don't see any reason why we shouldn't be
16 looking at, you know, modern ways to be able to -- for
17 people to cast their ballot.

18 And there are other countries with
19 smaller communities that are, you know, that are
20 tackling that. I mean, I think what we need to do is
21 to look at the jurisdictions with small communities to
22 make sure that what we're getting is protected from
23 fraud, because I think that would be the main thing,
24 but -- and not prevent those persons from those
25 reasons, because if someone's at Lahey because they're

1 not well, but they're not well because they've been
2 worrying about who's been, you know, what's been going
3 on in their country, you know, and they're stressing
4 out and they find themselves, and they say, Oh, man,...
5 You know, that's hurtful for a person to miss that. So
6 they'd be able to vote as a consequence.

7 But, you know, the system needs to be
8 such.

9 But I think if we address mechanisms
10 that prevent people from getting on the roll after the
11 date of the writ, in sufficient enough time for them to
12 be challenged.

13 **THE CHAIRMAN:** Mm-hmm.

14 **MR. SWAN:** See, that's what I worry
15 about. When a writ's dropped in November, I know for
16 me as a candidate, when I had a machinery, right, that,
17 you know, my campaign man's saying, Look, I don't want
18 to see you, and if he does, I says, Well, meet me in
19 St. George's. Right? Because I need to be out there.

20 But it would be nice to know that up
21 until November 1st that up until that period is the
22 period that, Okay, I need to make sure that everybody
23 that's there is legitimately there, 'cause once the
24 bell's rung, you need to be worrying about making sure
25 that that person's going to walk down that driveway to

1 the polling station, hopefully without someone, you
2 know, waving flags and jumping in their face and
3 intimidating them, to be able to cast their, you know,
4 their ballot and do what they've waited that period of
5 time to do.

6 **MS. ATHERDEN:** You've raised an
7 interesting thing which I guess if I look at the other
8 side of it, and you talk about the fixed roll. I guess
9 it's not just -- presumably it's not just the fact of,
10 if you're on the roll as of the date -- let's just say
11 if it's November 3rd, or whatever else, but to be
12 assured that the constituency that you're is actually
13 the -- do you believe that it's important that the
14 constituency that you're in is the one that you're
15 registered to vote in?

16 **MR. SWAN:** Oh, yeah. And the
17 Parliamentary Registrar, with the assistance of an
18 independent Electoral Commission, would have some
19 latitude to be able to make discretionary decisions.

20 **MS. ATHERDEN:** Right.

21 **MR. SWAN:** But those are the type of
22 things that would be on the pre-writ-drop side of the
23 equation, as to -- instead of in the 45-day window, or
24 50-day window when the writ is dropped, and it will be
25 minimal amount of, I would say, corrective windows,

1 corrective changes.

2 **MS. ATHERDEN:** Mmm. And would you
3 agree that is one did have fixed term elections, then
4 it enables one to focus on the time, if you will, to do
5 the prep -- the Registrar to focus on the time to do
6 all the tidying up and making sure that --

7 **MR. SWAN:** Well, one good thing that's
8 taken place, which lends itself to fixed-term, and one
9 of the changes that, in hindsight, I see, through
10 experiences, is having not -- having a running roll

11 **THE CHAIRMAN:** Right.

12 **MR. SWAN:** Because with a running roll,
13 then --

14 **THE CHAIRMAN:** A running electoral
15 roll.

16 **MR. SWAN:** A running electoral roll.
17 I can't be registered for the 1998 election and then
18 magically I disappear in 2003.

19 **THE CHAIRMAN:** Right.

20 **MR. SWAN:** So the Registrar, in 1998,
21 can say, Mr. Swan was on the Register in 1998. He
22 hasn't resided overseas. I know he's staying at 7 Fort
23 George, St. George's. It's been an error. The
24 scrutineers from the major political parties or any
25 independent there could say, Yes, that's true, and that

1 person's restored to the roll.

2 **THE CHAIRMAN:** Right.

3 **MR. SWAN:** And with the date cut off,
4 those type of administrative thing would be an on-going
5 thing.

6 **MS. ATHERDEN:** Also, then, as an
7 extension, if the Registrar knows that you live at Fort
8 George, or whatever, then would he also be able to say
9 that: But Mr. Swan has forgotten to move his
10 registration from Southampton, and if there was a
11 challenge then be able to support the fact that he does
12 live in Fort George and there --

13 **MR. SWAN:** Well, yeah, but that's a
14 little bit different than someone, you know, being
15 found from overseas that's --

16 **MS. ATHERDEN:** No, I agree with you.
17 Finding from overseas is important, but also if you're
18 going to -- and especially if you're going to have a
19 Boundaries Commission that's going to come through and
20 try and divide off the country in as many as 36 nice
21 little blocks.

22 **MR. SWAN:** Mmm.

23 **THE CHAIRMAN:** Mmm.

24 **MS. ATHERDEN:** But if the Registration
25 vehicle that you're using doesn't have the fact that

1 people have moved all around, then surely that's going
2 to make that nice little exercise then an exercise
3 which is not going to benefit what everybody wanted,
4 which was one man, one vote.

5 **MR. SWAN:** Mmm. Well, you know, it's
6 been pointed out to me that the boundaries now cross
7 Parish lines, so when they do do the divide up every
8 seven or so years when the Boundaries Commission comes
9 up, then that will be the exercise of the Parliamentary
10 Registrar, once it's been recalibrated, to get out the
11 Electoral Roll and it's -- there's still going to be
12 some administrative work to be able to do to make sure
13 of whose there --

14 **MS. ATHERDEN:** Oh, I understood that.
15 I think the point I was making was that the Registrar
16 is looking at the roll as he states, but if you have
17 moved, I mean if your car is registered up at Somerset
18 but you're still registered on the roll down in St.
19 George's, then the Registrar unfortunately is looking
20 at an inaccurate sort of roll when he's cutting it.
21 He's cutting this 44,000 votes, and people, the same
22 way we say people move a lot, travel, unfortunately in
23 Bermuda people move around from place to place equally,
24 and so to me the year before you get ready to vote is
25 the most important time to worry about where they are.

1 Where they were four years ago is not relevant, it's
2 where they are right now, if you're going to talk about
3 that.

4 **MR. SWAN:** Well, it is relevant ongoing
5 because bi-elections, very important bi-elections pop
6 up, and Lord forbid a bi-election pops up in an area
7 that's been determined by seven, eight, four, three
8 votes only --

9 **MS. ATHERDEN:** And maybe I was in
10 error. I shouldn't say it's not -- it is important.
11 I guess ideally one would like to, like you say, they
12 would like to have the roll being updated
13 automatically, and perhaps using some of the tools that
14 would help.

15 Would you -- and this is my last
16 question -- would you agree that one of the tools
17 that's available to the Registrar, and it's probably --
18 other than your telephone system, it's probably the
19 only other one, is the Transport Control Mechanism?

20 **MR. SWAN:** I mean, I'm not in a
21 position to speak on behalf of the Registrar, but I
22 would think from personal --

23 **THE CHAIRMAN:** He'll be here shortly.

24 **MR. SWAN:** -- by persons who served on
25 the Boundaries Commission would know better than I that

1 the Registrar has at his disposal a great deal of
2 resources from anywhere, so I would venture to say that
3 Bermuda's probably the beneficiary, been the
4 beneficiary of the technology that's available, without
5 speaking on behalf. I would venture to say that's
6 already -- it's probably not enshrined, but I'd be
7 surprised if it wasn't already utilized.

8 **MS. ATHERDEN:** All right. We'll speak
9 to him when he comes.

10 **THE CHAIRMAN:** Okay. Yeah, he'll be
11 here shortly.

12 My final question for you, Mr. Swan, is,
13 if there is someone who has an interest in a Government
14 contract and who has not declared it, what would be
15 your assessment of their candidacy and eligibility to
16 hold office?

17 If someone holds an interest in a
18 Government contract, --

19 **MR. SWAN:** If the rules clearly state
20 that you must do this, and someone hasn't done that and
21 it's a rule that's tied to the Constitution, then you
22 have to follow the rules. That's the painful -- that's
23 the painful situation, because they're -- and if the
24 rules, if it says "may be", or the Rules said "Shall",
25 a lawyer knows better than me, than what that has.

1 But I know in golf, when it says you
2 must do such and such and, you know, the penalty is
3 thus, then you have to take your medicine.

4 **THE CHAIRMAN:** Right.

5 **MS. ATHERDEN:** I guess, and then I just
6 want to ask you this question, since you mentioned
7 golf. In golf, you have a rule which comes out and
8 then, over time, there are some interpretations --

9 **MR. SWAN:** Yes.

10 **MS. ATHERDEN:** -- which come out after
11 that and many times the interpretations are designed to
12 respond to things that have occurred, and therefore --

13 **MR. SWAN:** Decisions.

14 **MS. ATHERDEN:** -- the decisions evolve
15 with time, and, you know, sometimes, even though it
16 might say "shall", but in these circumstances this may
17 not apply, and it sort of let's people know there was
18 some grey area, and therefore...

19 **MR. SWAN:** Well, and using the golf
20 analogy, in more modern terms, if a --

21 **THE CHAIRMAN:** You guys are going to
22 lose me soon, but go ahead.

23 **MR. SWAN:** No. If a person knows that
24 they have the grounds to challenge something based on a
25 decision, then they seek a lawyer to -- both in my

1 discipline and I believe in legal terms. That's why
2 you have Supreme Courts and Appeals Courts and Privy
3 Councils and the like, and that's what they would do to
4 get a ruling rendered.

5 But in the first instance, it has to be
6 recognized that there is a rule to be followed and
7 there has been a breach of such, and then if someone
8 wants a further opinion they need to seek further
9 opinion.

10 It's not for the adjudicator at that
11 particular time to render the decision, it's up to the
12 adjudicator at that time to make the decision based on
13 the rules at their disposal and seek counsel above, if
14 necessary -- in this case maybe the Parliamentary
15 Registrar speaking with maybe Government House Deputy
16 Governor's Office, who could provide an interpretation,
17 and then if someone wants to challenge beyond that,
18 they go to the court.

19 **THE CHAIRMAN:** Right. Mmm.

20 **MR. SWAN:** In these terms, that's, to
21 me, that would be the recourse.

22 **THE CHAIRMAN:** Okay. Any other
23 questions, anyone?

24 Well, Mr. Swan, I want to thank you for
25 appearing before our Committee.

1 **MR. SWAN:** Okay. Thank you.

2 **THE CHAIRMAN:** As your predecessor, who
3 sat in that chair an hour ago, you've answered fully
4 and frankly, and you've raised an additional set of
5 issues for us to reflect on. I appreciate that. And
6 it's going to be very helpful, what you have presented
7 to us for our deliberations, and that's going to help
8 shape the report that we write. So thank you very much
9 for your time, --

10 **MR. SWAN:** All right.

11 **THE CHAIRMAN:** -- for your effort and
12 for your consideration.

13 **MR. SWAN:** I congratulate you all,
14 because I've never sat in the Legislature with any of
15 you. Ain't that something? So, there you go.

16 **THE CHAIRMAN:** Thank you. Appreciate
17 it.

18 **MS. WILSON:** Thank you.

19 **MS. ATHERDEN:** Thank you.

20 **THE CHAIRMAN:** We'll take a recess
21 while we wait for the Parliamentary Registrar.

22 **--- at 1:50 p.m.**

23 - - - - -

24

25

House Select Committee on Elections
Kenneth Randolph Scott & Tenia Woolridge

23rd September 2013

1 --- at 2:00 p.m.

2 **INVITED GUESTS:** MR. KENNETH RANDOLPH SCOTT and
3 MISS TENIA WOOLRIDGE

4 **THE CHAIRMAN:** Good afternoon, everyone.
5 This is our third and final session for this afternoon,
6 and we have two individuals here representing the
7 Parliamentary Registrar's Office, Mr. Randy Scott and
8 Ms. Woolridge.

9 What I would like to do, before I start,
10 is to have each of you introduce yourselves, state your
11 full name and your position and the duration of time in
12 the position that you currently hold.

13 **MR. SCOTT:** Okay. My name is Kenneth
14 Randolph Scott. I'm known by "Randy", commonly known
15 by that. I am the Parliamentary Registrar, and I have
16 been in that position since 2006, January 2006, as
17 Registrar.

18 **THE CHAIRMAN:** Okay.

19 **MISS WOOLRIDGE:** My name is Tenia
20 Woolridge, I'm the Assistant Parliamentary Registrar,
21 and I have been in that position for just about five
22 years.

23 **THE CHAIRMAN:** Five years. And how do
24 you spell your first name?

25 **MISS WOOLRIDGE:** T-E-N-I-A.

1 **THE CHAIRMAN:** Okay. All right, thank
2 you, and thank you for accepting our invitation to
3 appear before the Elections Committee.

4 The Elections Committee, as you will
5 know, was set up by Parliament to look into a number of
6 issues relating to elections in Bermuda.

7 Each of us have a particular set of
8 concerns that we would like to have raised and I'm
9 going to begin with the issues that I think are most
10 germane to the work of this Committee, but others will
11 have other questions they will raise as well.

12 **MR. SCOTT:** Mm-hmm.

13 **THE CHAIRMAN:** And I will take the
14 privilege, as Chair, and commence with some questions.

15 **MR. SCOTT:** Okay.

16 **THE CHAIRMAN:** As the Registrar,
17 Mr. Scott, a large part of your function is to ensure
18 that elections are conducted with a high level of
19 integrity and that they are smooth, and that there's
20 nothing contrary to the law that takes place with
21 respect to elections. Would you not agree?

22 **MR. SCOTT:** Absolutely agree.

23 **THE CHAIRMAN:** And you have been
24 responsible for two elections now?

25 **MR. SCOTT:** Yeah, 2007 and the recent

1 one, 2012. Prior to that, my predecessor,
2 Ms. Phillips, Sabrina Phillips was Registrar and I was
3 her assistant, so I was involved with the 2003, and
4 subsequent bi-elections as well.

5 **THE CHAIRMAN:** Okay. Now, one of the
6 issues that arose during the last election had to do
7 with the issue of electoral candidates making a
8 declaration of interest in any Government contracts
9 they might have, as a, some would say, a requirement to
10 validate their candidacy.

11 The position of the Registrar's Office
12 on this issue is what?

13 **MR. SCOTT:** There's really no
14 position -- there's nothing in our Act that guides me
15 in regards to those types of matters.

16 **THE CHAIRMAN:** Mm-hmm.

17 **MR. SCOTT:** What we do do in the runup
18 to the election, once the writs have been issued, we
19 send an information package out to the political
20 parties and the candidates, just informing them of
21 what's going to be required, the number of persons who
22 are going to be, say, for instance, returning officers.

23 We will quote certain aspects from our
24 Act, and from the Constitution in regards to political
25 broadcasting regulations, just to remind the Chairmans

1 of the Parties of the things that their candidates
2 should be aware of.

3 **THE CHAIRMAN:** Right.

4 **MR. SCOTT:** And that's the extent of
5 our role. It's an information package we give to them.

6 But in regards to the matters such as
7 that which arose during 2012, my hands are pretty-much
8 tied. As a public officer I am duty-bound to just
9 inform the political parties about those things that
10 they should be aware of, in terms of the various
11 requirements.

12 **THE CHAIRMAN:** Okay. So, in terms of
13 those requirements, we had some earlier testimony today
14 indicating that perhaps there was some official
15 notification published indicating that candidates
16 needed to make a declaration where there's any
17 Government contracts.

18 Did your office issue any such
19 publication?

20 **MR. SCOTT:** No. No.

21 **THE CHAIRMAN:** Okay.

22 **MR. SCOTT:** We were aware that
23 declarations have to be published, we know that,
24 because it forms part of the whole election process.
25 We know that --

1 **THE CHAIRMAN:** How does it form part of
2 the election process?

3 **MR. SCOTT:** Well, it's not in the Act,
4 but it's certainly there in the Constitution and of
5 course when we read through it we see these things, and
6 since we put the information in our information package
7 about reminding candidates about being complaint with
8 this, that or the other, be mindful about the
9 regulations in regards to broadcasting,
10 disqualification processes, we quote these things, but
11 we don't give directions, just a "for your
12 information".

13 **THE CHAIRMAN:** Right. So to be clear,
14 in the information package that you send to, I would
15 say, the Progressive Labour Party and to the One
16 Bermuda Alliance, and to the, I would assume also, the
17 independent candidates, --

18 **MR. SCOTT:** Mm-hmm.

19 **THE CHAIRMAN:** -- you indicated what
20 steps were required in order to --

21 **MR. SCOTT:** Not the steps, just quoting
22 the actual Act, the title of the Act, that's all, and
23 reminding folks to --

24 **THE CHAIRMAN:** So you quoted the
25 Constitution.

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1 **MR. SCOTT:** -- to refer to those
2 particular provisions within those various Acts. It's
3 just a reminder for your information. Nothing more,
4 nothing less.

5 **THE CHAIRMAN:** Okay. All right. And
6 on your website, you have a FAQs.

7 **MR. SCOTT:** Yeah.

8 **THE CHAIRMAN:** And one of the FAQs asks
9 if people are required to make a declaration of
10 interests in any Government contracts and the answer is
11 very clear.

12 **MR. SCOTT:** On our website?

13 **THE CHAIRMAN:** On your website.

14 **MR. SCOTT:** Okay. I have to look into
15 that. I don't remember that being --

16 **THE CHAIRMAN:** I can show it to you.

17 **MR. SCOTT:** Okay, I'll take your word,
18 Mr. Chairman.

19 **THE CHAIRMAN:** You'll take my word for
20 it?

21 **MR. SCOTT:** Sure. Of course.

22 **THE CHAIRMAN:** Okay. So -- you can
23 look at it right now. I'll call it up for people.

24 So, because the -- and in fact let me
25 pull it up so you can actually see it.

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1 **MR. SCOTT:** Mm-hmm.

2 **THE CHAIRMAN:** But that seems to be a
3 very clear statement.

4 Yeah, it says, Nomination Day FAQs.

5 **MR. SCOTT:** Yeah.

6 **THE CHAIRMAN:** And of course we don't
7 have the Internet connection here.

8 But I did check this morning and it was
9 still there.

10 **MR. SCOTT:** Was still there. Okay.

11 **THE CHAIRMAN:** So you can check the
12 FAQs on the website on the --

13 **MR. SCOTT:** And again, Mr. Chairman,
14 that part of our website there, again, is for the
15 information for, you know, the general public --

16 **THE CHAIRMAN:** For the public.

17 **MR. SCOTT:** -- for the public and for
18 the political parties, so it's just a question and
19 answer, bits of information that's there.

20 **THE CHAIRMAN:** Okay. All right.

21 **MR. SCOTT:** Question and answer page.

22 **THE CHAIRMAN:** Sorry?

23 **MR. SCOTT:** Question and answer page,
24 that's all it is, on our website. So if it is there,
25 it is there. Yeah.

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1 **THE CHAIRMAN:** Yeah. Okay. And during
2 the course of the campaign, there was some information
3 that came into your possession regarding a contract
4 that was held by a company that a candidate, Bob
5 Richards, was linked to -- linked with.

6 **MR. SCOTT:** Mm-hmm.

7 **THE CHAIRMAN:** Do you recall that?

8 **MR. SCOTT:** I do. Yeah.

9 **THE CHAIRMAN:** Would that be the
10 Bermuda Information Technology Services?

11 **MR. SCOTT:** If I remember correctly, I
12 believe so.

13 **THE CHAIRMAN:** Okay. And did that
14 contract show that this company had a contract with the
15 Ministry of Finance?

16 **MR. SCOTT:** I can't really recall that,
17 no.

18 **MS. ATHERDEN:** Mr. Chairman, I just
19 want to just clarify something here.

20 **THE CHAIRMAN:** Sure.

21 **MS. ATHERDEN:** As we go forward, are we
22 raising these questions with respect to try and deal
23 with the issues in generic terms or are you feeling
24 that this was a specific thing and therefore it was
25 necessary for us to be naming the individuals that are

1 involved in these?

2 **THE CHAIRMAN:** Right, because one of
3 the issues that came up during the -- the whole
4 controversy related to whether or not two candidates
5 held contracts with Government in the lead-up to the
6 election.

7 **MS. ATHERDEN:** Right.

8 **THE CHAIRMAN:** So that's what I'm
9 getting clarity on.

10 **MS. ATHERDEN:** Right. And I understand
11 that, and I would have thought that --

12 **THE CHAIRMAN:** Well, let me just finish
13 my question --

14 **MS. ATHERDEN:** -- it was equally able
15 to say that to the Registrar without us going into who
16 the individuals were.

17 **THE CHAIRMAN:** Okay. Well, because
18 it's relevant who the individual was, because...

19 **MR. SCOTT:** Can I just say something
20 for clarity?

21 **THE CHAIRMAN:** Sure.

22 **MR. SCOTT:** In regards to my presence
23 being here.

24 **THE CHAIRMAN:** Yeah.

25 **MR. SCOTT:** The office, as you know,

1 must remain as neutral as it possibly can.

2 **THE CHAIRMAN:** Yes. Yes.

3 **MR. SCOTT:** Now, I understand this is a
4 public arena.

5 **THE CHAIRMAN:** Right.

6 **MR. SCOTT:** And so I ask your
7 indulgence --

8 **THE CHAIRMAN:** Sure.

9 **MR. SCOTT:** -- that you perhaps should
10 not involve or make any assumptions that my office was
11 involved in that aspect of that particular issue that
12 arose, --

13 **THE CHAIRMAN:** Sure.

14 **MR. SCOTT:** -- in that it brings the
15 office into question, the integrity of the office into
16 question, because it sounds like, the questioning that
17 is going on, it sound as if my office is being targeted
18 in regards to that particular matter, which is not very
19 good.

20 **THE CHAIRMAN:** No. No. Let me be
21 very clear. Your office is not being targeted and all
22 that -- what I would like to try to do here is get
23 clarity on whether or not -- the issue that we're
24 looking at is the issue of declaration of interest in
25 Government contracts, --

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1 **MR. SCOTT:** Mm-hmm.

2 **THE CHAIRMAN:** -- and you would know
3 that the issue arose over two particular candidates,
4 and your office is -- your office has no ability to
5 made a decision on any of this.

6 **MR. SCOTT:** None whatsoever.

7 **THE CHAIRMAN:** And we recognize that.

8 **MR. SCOTT:** Okay. Yeah.

9 **THE CHAIRMAN:** So all I'm trying to do
10 is clarify facts. I'm not asking for your
11 interpretation, I'm just asking for whether or not
12 certain facts exist, and and -- because we did see some
13 legal opinions presented, and I'm not asking you for
14 your legal opinion. All I'm trying to find out is
15 whether or not the office was in receipt of certain
16 documents. That's all I'm asking.

17 **MR. SCOTT:** Okay. Fair enough.

18 **THE CHAIRMAN:** Okay? And you say that
19 they were. Your Office was in receipt.

20 **MR. SCOTT:** I had sight.

21 **THE CHAIRMAN:** You had sight of the
22 contract.

23 **MR. SCOTT:** Mmm.

24 **THE CHAIRMAN:** Okay. That's the extent
25 of my question, on that issue.

1 So, as we look at the issue of one's
2 obligation going forward, what is the process as your
3 office understands it to seek redress, because your
4 role is to monitor elections, in a sense.

5 **MR. SCOTT:** Yes, to conduct and
6 monitor, mm-hmm, --

7 **THE CHAIRMAN:** And to ensure that
8 everything is --

9 **MR. SCOTT:** Everything is running
10 smoothly as possibly can be, yeah.

11 **THE CHAIRMAN:** Right. So, what is the
12 procedure that your office engages in to address any
13 issue --

14 **MR. SCOTT:** Such as that?

15 **THE CHAIRMAN:** Yeah.

16 **MR. SCOTT:** None.

17 **THE CHAIRMAN:** Just say in generic
18 terms --

19 **MR. SCOTT:** None. After, like, as I
20 said in the beginning, once we have sent out our
21 information, that's in the hands of the candidates and
22 the political parties.

23 **THE CHAIRMAN:** Right.

24 **MR. SCOTT:** It's now up to the
25 political parties to adhere to all those various -- the

1 information, they would read the information, make sure
2 that all their candidates are --

3 **THE CHAIRMAN:** Right.

4 **MR. SCOTT:** -- are familiar with what
5 needs to be done.

6 **THE CHAIRMAN:** Right.

7 **MR. SCOTT:** And if they need to have
8 any questions answered, they can call the office. But
9 as far as us giving direction, no.

10 **THE CHAIRMAN:** You don't give any
11 direction.

12 **MR. SCOTT:** None whatsoever.

13 **THE CHAIRMAN:** Okay.

14 **MR. SCOTT:** None whatsoever.

15 **THE CHAIRMAN:** Okay.

16 **MR. SCOTT:** Now, we can, you know,
17 according to the, when it comes to the election
18 process, if it's a challenge of things like that there,
19 of course we have Attorney General on hand, all through
20 the election process, and if there's a question at a
21 particular polling station that comes up, that the
22 returning officer cannot deal with, they will call the
23 office, we will call, in turn call the Attorney
24 General. They would give a legal opinion, and we will
25 give that information back, directly.

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1 **THE CHAIRMAN:** Okay. Okay, yes.

2 Jeanne then, can,...

3 **MS. ATHERDEN:** Okay. I guess,
4 Registrar, I want to clarify something, because I don't
5 have the Act in front of me, but there is some part of
6 the Constitution, some part of 30(6)(7) and also I
7 think 31(1), makes reference to the fact that it can be
8 varied according to the Legislature, I think that, if I
9 read --

10 **THE CHAIRMAN:** What can be varied?

11 **MS. WOOLRIDGE:** Thirty, six you said?

12 **MS. ATHERDEN:** Yeah. Thirty --

13 **MR. SCOTT:** Thirty-one (1) and 30(6).

14 **MS. ATHERDEN:** Yeah, 30, 30(6) and
15 31(1). It's talking about that part, what's there
16 actually can be modified. The Legislature can modify
17 it, if I... Let me just read it.

18 **THE CHAIRMAN:** Oh, the Constitution?

19 **MS. ATHERDEN:** Yes.

20 It says...

21 **MR. SCOTT:** In fact, while you're
22 looking at it, my Assistant did just show me the
23 website and that particular piece of information that
24 is there, so, yeah, it is still on our site.

25 **THE CHAIRMAN:** Right.

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1 **MISS WOOLRIDGE:** It's the last question
2 on the Nomination FAQs on the Parliamentary Election
3 website.

4 **THE CHAIRMAN:** Right. You got into
5 that?

6 **MS. WILSON:** Would you mind reading it,
7 so that we can -- how did you get on it? Yeah.

8 **MISS WOOLRIDGE:** Because I have a cell
9 phone.

10 **MR. SCOTT:** My Assistant is very high
11 tech.

12 **MISS WOOLRIDGE:** "Do I have to disclose
13 my interest in Government contract?"

14 "Yes, all nomination candidates are
15 required to disclose any interest in any
16 Government contract within seven days of
17 their nomination as a candidate for
18 election. This disclosure much include
19 the nature of the contract and the
20 interest by means of a notice published
21 in the Gazette or in a newspaper
22 published and circulated in Bermuda.

23 You should also review the
24 qualifications and disqualification for
25 election as set out in the Parliamentary

1 Election Act 1978, the Bermuda
2 Constitution Order 1968 and the
3 Legislature (Qualifications and
4 Disqualifications) Act 1968.”

5 **MS. WILSON:** Okay.

6 **MS. ATHERDEN:** That’s the part that I’m
7 looking for because -- and I was trying to put my hands
8 on it.

9 Somewhere there is a notation talking
10 about interest in Government contract, and that’s where
11 they start to talk about the 10 per cent and start to
12 talk about in the normal course of business in terms of
13 beneficial owner, et cetera.

14 And the reason I’m making that point is
15 because it seems to me that that was a recognition of
16 what was happening elsewhere, that it’s important to
17 recognize, over time, it isn’t just about having an
18 interest, it’s about the size of your interest and also
19 in terms of whether you’re able to, you know, exercise
20 control, et cetera. So that’s the only point that I
21 wanted to make, --

22 **MR. SCOTT:** Right.

23 **MS. ATHERDEN:** -- that it wasn’t just
24 the fact that you had an interest, but for the purposes
25 of this Act, these parts of it, the person shall not be

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1 deemed to have any interest in a Government contract if
2 the only interest he has is in the interest of a joint
3 stock, as a director or 10 per cent -- I'm not going to
4 read it all, but it just seemed to me that it was
5 recognizing that there are some levels of significance.
6 That's the only point that I wanted to make.

7 **THE CHAIRMAN:** Right.

8 **MR. SCOTT:** Yeah. And the references
9 on that website is what send out in our information
10 package.

11 **THE CHAIRMAN:** So you would send it out
12 in your information package.

13 **MR. SCOTT:** Not in that detail, but
14 just the titles of the various Acts that apply, that's
15 what we send out.

16 **THE CHAIRMAN:** Okay.

17 **MS. WILSON:** Okay. So just so I'm
18 clear, Mr. Scott and Miss Woolridge, the information
19 packages are sent to the respective Party Chairmans;
20 correct?

21 **MR. SCOTT:** Mm-hmm.

22 **MS. WILSON:** And are they sent to the
23 individual candidates, or --

24 **MR. SCOTT:** Yes -- oh, not the
25 individual candidates.

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1 **MISS WOOLRIDGE:** Not through us.

2 **MS. WILSON:** Okay. All right. Fine.

3 **MR. SCOTT:** We advise them.

4 **MISS WOOLRIDGE:** The Party

5 disseminates.

6 **THE CHAIRMAN:** You do what? Sorry.

7 **MR. SCOTT:** We advise, yeah, we let the
8 party disseminate that to the individual candidates.

9 **MS. WILSON:** Okay. All right.

10 **MR. SCOTT:** But we send them out to the
11 independent candidates.

12 **MS. WILSON:** Correct. Correct. And
13 part of that information packet is drawing the party
14 and/or individual's attention to the references as
15 under the Legislature and Appointment and
16 Disqualifications Act '68 as well as the Bermuda
17 Constitution Order; correct?

18 **MR. SCOTT:** Absolutely.

19 **MS. WILSON:** And then in furtherance of
20 that, on your web page you have what you just read to
21 us, Miss Woolridge, that speaks about the nomination
22 and the criteria and the requirements for persons
23 seeking nomination into public office, to ensure that
24 they refer to those two pieces of Legislation; correct?

25 **MR. SCOTT:** Correct.

1 **MISS WOOLRIDGE:** Yes.

2 **MS. WILSON:** So, Mr. Scott, and I know
3 you're well-travelled, particularly in matters
4 concerning this, what Bermuda does now, does that fit
5 best practice, the way that the Parliamentary Registrar
6 is providing that information and informing members of
7 the public?

8 **MR. SCOTT:** I think so. I think it
9 fits best practices.

10 **MS. WILSON:** Okay.

11 **MR. SCOTT:** International best
12 practices. Mm-hmm.

13 **MS. WILSON:** Okay. And that
14 information packet, in addition to, you said, speaks
15 about the disqualification of candidates, the
16 broadcasting rules, et cetera, but in particular the
17 issues concerning the requirement to declare your
18 interest, as outlined in the Bermuda Constitution
19 Order.

20 **MR. SCOTT:** Yeah.

21 **MS. WILSON:** Yeah?

22 **MR. SCOTT:** Mm-hmm.

23 **MS. WILSON:** Okay.

24 Okay, that's it for now, for me.

25 **THE CHAIRMAN:** Yes.

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1 Glenn?

2 **MR. SMITH:** Thank you.

3 Hi, Mr. Scott.

4 **MR. SCOTT:** Yes, sir.

5 **MR. SMITH:** Obviously this Committee is
6 also to look at best practice going forward, not what's
7 being used today but looking out there, and if you can
8 just refresh me, because I have to say I don't really
9 quite remember, there was a lot going on, is when I
10 filled in my own -- a candidate fills in their
11 nomination papers, --

12 **MR. SCOTT:** Yes.

13 **MR. SMITH:** -- is there anywhere on
14 that form where it says that X-candidate should declare
15 his or her interest in...?

16 **MR. SCOTT:** No.

17 **MISS WOOLRIDGE:** No.

18 **MR. SMITH:** So best going forward, it
19 would make sense that it would have more teeth to the
20 Legislation if that was on there.

21 **MR. SCOTT:** Mm-hmm. Sure. I would
22 think so.

23 **MR. SMITH:** Thank you.

24 **MS. WILSON:** I'm sorry, I think I
25 missed that. So the form itself, Mr. Smith was

1 asking --

2 **MR. SCOTT:** Right. Doesn't speak to
3 that.

4 **MR. SMITH:** Doesn't speak to that.

5 **THE CHAIRMAN:** Right. Right.

6 **MR. SCOTT:** It speaks to the nomination
7 process and how one should go about getting themselves
8 nominated.

9 **MS. WILSON:** Oh, the actual
10 application.

11 **MR. SCOTT:** Mm-hmm, the Nomination
12 Form.

13 **MS. WILSON:** Right, but the information
14 that is attached thereto speaks about the Constitution
15 and the Bermuda, I mean the Legislature.

16 **MISS WOOLRIDGE:** But at the end of the
17 day do we have the authority to -- well, we didn't have
18 the authority in the last election to really police it
19 and we don't have the authority to make any decisions
20 related to it, so maybe the people who have that
21 authority, during election time, should be the people
22 to publicly advertise that, or something, by Gazette.
23 You understand what I'm saying?

24 **MS. WILSON:** I'm sorry, I'm not a
25 hundred per cent sure what you're referring to.

1 **MISS WOOLRIDGE:** What I'm saying is,
2 when the situation arose that Mr. Brown is talking
3 about, we weren't in any position to make any decisions
4 regarding that particular disqualification; right?

5 **MS. WILSON:** Mm-hmm. Mm-hmm.

6 **MISS WOOLRIDGE:** So, whoever is in the
7 position to do that, perhaps should publish, or that
8 needs to be put into our Act that a public notice needs
9 to go out saying dah-dah, dah-dah, and if it is found
10 then you will be dealt with by whoever.

11 **THE CHAIRMAN:** Right.

12 **MS. WILSON:** Mm-hmm. Mm-hmm.

13 **MISS WOOLRIDGE:** Because Mr. Scott
14 really doesn't have -- the Registrar doesn't have
15 authority to --

16 **MS. WILSON:** So you mean to give him
17 power --

18 **MISS WOOLRIDGE:** -- police -- yes, to
19 either give him the power to do it, or whoever has the
20 power to do it, needs to be responsible to make sure
21 that everybody knows that that's the way it's supposed
22 to go.

23 **MS. WILSON:** Okay. But can I just,
24 in furtherance of that, would you agree that the
25 Bermuda -- the Legislature -- Membership --

1 (Qualification and Disqualification) Act is an inferior
2 piece of Legislation to the Bermuda Constitution Order?

3 **MR. SCOTT:** I couldn't tell you. I'm
4 not read on that particular piece of Legislation. I
5 couldn't really tell you.

6 **MS. WILSON:** The Legislature one, the
7 one Qualification and Disqualification one; that one?

8 **MISS WOOLRIDGE:** Mm-hmm.

9 **MS. WILSON:** The '68?

10 **MISS WOOLRIDGE:** Right.

11 **MR. SCOTT:** Yeah, I couldn't tell you.
12 It's been part of our -- of the -- I think it's even
13 referred to in the Parliamentary Election Act. It's
14 been there for quite some time.

15 **MS. WILSON:** Yeah, it is. Yeah.

16 **MR. SCOTT:** But I am not read on it and
17 I couldn't make a determination if it is a useful piece
18 of legislation or if it needs amending.

19 **MS. ATHERDEN:** I guess going back to
20 what Mr. Smith said, because I think it seems to me
21 we're trying to look forward from the point of view of
22 talking about what would be good from the point of view
23 of elections, the whole gamut of how we want to make
24 this process robust as it relates to candidates, as it
25 relates to the voters and all sorts of other things.

1 So I think what Mr. Smith was trying to suggest, that
2 if, in addition to having to fill in the nomination,
3 there's also the requirement to do your disclosure,
4 then you effectively are right up front --

5 **MR. SMITH:** Correct.

6 **MS. ATHERDEN:** -- making people
7 understand the importance and the significance, --

8 **MR. SCOTT:** Yeah.

9 **MS. ATHERDEN:** -- and the only reason
10 I say that is because we had a previous politician who
11 spoke very eloquently about the fact that the voter
12 would want to know, you know, the person that they're
13 potentially voting for and what sort of background or
14 interest, and that, to me, is a way of demonstrating
15 that, you know, here you are, here's your details, and
16 so --

17 **MR. SCOTT:** Absolutely. Absolutely.

18 **MS. ATHERDEN:** -- I was just, just
19 thought I just want to --

20 **MR. SCOTT:** I take Mr. Smith's point
21 that maybe going forward the Legislation should be
22 amended to allow that bit of information to be on the
23 Nomination Form.

24 I think another way, going forward, too,
25 in terms of best practices or implementing best

1 practices, is that those types of matters that may
2 arise, as the Committee here is trying to deal with,
3 would be best dealt with through an Electoral
4 Commission, to set all those things in place, and then
5 the whole, entire country and all of the political
6 parties and candidates and potential candidates would
7 know what the process is all about, in terms of how
8 they should --

9 **MS. ATHERDEN:** And I guess -- I was
10 going to say, and I guess as an extension of that, if
11 one does that in the beginning and recognized that
12 there is this sort of, the caveat of how big an
13 interest and what is an interest and all that, once
14 that's all, you know, everybody understood so whatever
15 else, if you do that before you're elected, et cetera,
16 then once you are elected, wouldn't it then be very --
17 a good springboard, if you will, once a candidate now
18 becomes a Member of Parliament, everybody would
19 actually then understand what interest they have and as
20 Government contracts, or pieces of Legislation, come
21 up, that impacts on their interests, companies, et
22 cetera, in addition to hoping, expecting that they will
23 declare their interests, so one would know if there's a
24 conflict of interest, everybody would know that there
25 is an interest.

1 **MR. SCOTT:** No. Yeah. Yeah. And if
2 it's set out clearly in the Legislation, then that
3 should take care of that problem, I think.

4 **MS. ATHERDEN:** Yeah. Yeah.

5 **MR. SCOTT:** But always keeping in mind
6 that you've, you know, you've got to amend the
7 Legislation going forward, as your democracy evolves,
8 to put the necessary Legislation in place.

9 I'd like to read something from my
10 report in regards to what we're just discussing, if you
11 don't mind, Mr. Chairman.

12 **THE CHAIRMAN:** Sure.

13 **MR. SCOTT:** And it's been lifted out of
14 the Democracy Watch International Website.

15 And Democracy Watch International
16 Website defines fair, democratic elections as:

17 Elections in which great care is taken
18 to prevent any explicit or hidden
19 structural bias towards any one
20 candidate, aside from those beneficial
21 biasses that naturally result from an
22 electorate that is equally well informed
23 about the various assets and liabilities
24 of each candidate. [as read]

25 And that's to your point in regards to

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1 the public being well informed about the candidate that
2 comes before them, that that information that is there,
3 the people are well informed about the person who they
4 want to vote for, then they can make a decision and a
5 well-informed decision.

6 But our job is always to make sure to
7 prevent any explicit or hidden or structural biases
8 within the whole electoral process, and that's been our
9 job, it has been my job and my predecessor's job from
10 the beginning. That is our function and role.

11 **THE CHAIRMAN:** Okay.

12 **MS. WILSON:** Okay. Just a quick
13 question. Under the '68 Act, the Legislature
14 (Qualification and Disqualification) Act, there's a
15 schedule that's attached to it, which speaks -- it's
16 addressed to "The Returning Officer from" and then you
17 put in the Electoral district. I (blank) being the
18 holder of or acting in the prescribed office, if I am
19 elected I do declare that, 1) I will relinquish and
20 cease to act in any prescribed office or, 2) I will
21 not, at any time, before my seat becomes vacant for any
22 reason following the forthcoming election, hold any
23 prescribed office -- excuse me. Are you familiar with
24 that form?

25 **MR. SCOTT:** Yeah, it's the form of

1 undertaking. It's a person who may be in a prescribed
2 office, teacher, --

3 **MS. WILSON:** Right.

4 **MR. SCOTT:** Senator, --

5 **MS. WILSON:** Right.

6 **MS. ATHERDEN:** -- who, before they're
7 nominated --

8 **MS. WILSON:** And does that come to you?

9 **MR. SCOTT:** Um,...

10 **MS. WILSON:** Does that come to the
11 Parliamentary Registrar's Office?

12 **MR. SCOTT:** Yes, it does, yeah.

13 **MISS WOOLRIDGE:** You also get a letter
14 with the nomination package.

15 **MS. WILSON:** I beg your pardon?

16 **MISS WOOLRIDGE:** It comes with your
17 nomination package.

18 **MR. SCOTT:** Yeah.

19 **MS. WILSON:** I comes -- right. And
20 then if a person fails to -- I probably know the answer
21 but I'm sorry I don't see it right here. If they fail
22 to do this, what is the penalty?

23 There is a penalty; right?

24 **MISS WOOLRIDGE:** They're disqualified.

25 **MS. WILSON:** They're disqualified.

1 **MR. SCOTT:** They could be disqualified.
2 For instance, a person who is a senator and fails to
3 make that disclosure, you know, and they should -- they
4 inform us, but they also need to inform the Senate
5 President.

6 **THE CHAIRMAN:** Right.

7 **MS. WILSON:** Right.

8 **MR. SCOTT:** At the end of the day,
9 raises a lot of questions to their eligibility to
10 actually run, because you should have taken that
11 undertaking --

12 **THE CHAIRMAN:** But that wouldn't be
13 your determination to make.

14 **MR. SCOTT:** Hmm?

15 **THE CHAIRMAN:** That would not be your
16 determination to make.

17 **MR. SCOTT:** That's not my
18 determination.

19 **MS. WILSON:** Correct. Okay. So you --

20 **MR. SCOTT:** As long as the document has
21 been filed with us, --

22 **MS. WILSON:** Right.

23 **MR. SCOTT:** -- and of course if it's a
24 Senator, filed with the President of the Senate.

25 **THE CHAIRMAN:** Right.

1 **MS. WILSON:** Okay. But recognizing
2 it's not the determination of the Parliamentary
3 Registrar, but this is a document that also has to be
4 completed and there doesn't seem to be any caveat on
5 that that says: If you fail to do this, then that.

6 **THE CHAIRMAN:** To do that, there's no
7 penalty.

8 **MS. WILSON:** Right. And is that
9 because one would assume that if you're running for
10 legislative office you would familiarize yourself with
11 the Legislation.

12 **MR. SCOTT:** You should know. The onus
13 should always be in the candidate, --

14 **MS. WILSON:** Correct.

15 **MR. SCOTT:** Or the party, to make sure
16 that persons are compliant.

17 **THE CHAIRMAN:** So ignorance is no
18 excuse.

19 **MR. SCOTT:** Yeah.

20 **THE CHAIRMAN:** Ignorance is no excuse.

21 **MR. SCOTT:** That's right. Ignorance of
22 the law is no excuse.

23 **THE CHAIRMAN:** So, in 2007, do you
24 recall the -- any publication of a declaration of
25 interest by any or all parties?

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1 **MR. SCOTT:** I do, in fact, and I don't
2 know why, that came right to me, in fact it was a
3 couple of gentlemen who came, who were candidates, who
4 came into my officer, just seeking information.

5 **THE CHAIRMAN:** In 2007.

6 **MR. SCOTT:** Yeah. And, you know, I was
7 trying to be as helpful as I possibly could, but they
8 did what they had to do, in any case, and their
9 declarations were published.

10 **THE CHAIRMAN:** Mm-hmm.

11 **MR. SCOTT:** In the Gazette. I remember
12 that.

13 **THE CHAIRMAN:** And do you recall the
14 two main political parties publishing a notice of
15 declaration of interests?

16 **MR. SCOTT:** In which election?

17 **MS. WILSON:** Two-thousand-seven.

18 **THE CHAIRMAN:** Both parties did.

19 **THE CHAIRMAN:** You know that.

20 **MR. SCOTT:** PLP and the UBP.

21 Yeah. I remember that. Mm-hmm.

22 **THE CHAIRMAN:** Okay.

23 **MISS WOOLRIDGE:** We had copies of that,
24 didn't we?

25 **MR. SCOTT:** Yeah, we have copies in the

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1 office somewhere. Because we generally cut them out.

2 **THE CHAIRMAN:** So why do you keep
3 copies of that?

4 **MR. SCOTT:** Oh, it's just for
5 information; I mean, anything that's related to our
6 office or to the election process, it's just part of
7 our information binder.

8 **THE CHAIRMAN:** Right.

9 **MR. SCOTT:** From the historical
10 perspective.

11 **THE CHAIRMAN:** And did you take note of
12 the fact that in the 2012 election, only one political
13 party published a notice of declaration of interest?

14 **MR. SCOTT:** Yes, we took note of that.

15 **THE CHAIRMAN:** You took note of that?

16 **MR. SCOTT:** Mm-hmm.

17 **THE CHAIRMAN:** Okay.

18 **MS. ATHERDEN:** But I guess the question
19 that I'm just trying to wrap my mind around, in taking
20 note of it, then, presumably, it comes down to the
21 requirement in terms of if individuals had sufficient
22 interest, if you will, to warrant their need to make a
23 publication and then this gets back down this whole
24 question of the 10 per cent, the 50 per cent and
25 everything else, presumably.

1 **MR. SCOTT:** Mm-hmm. Yeah, the onus
2 would have been on the candidates themselves to make
3 sure, or the party infrastructure.

4 **MS. ATHERDEN:** Right. So, I mean, --

5 **MR. SCOTT:** Not from my office at all.

6 **MS. ATHERDEN:** No, no, but what I'm
7 trying to say is that by not having a declaration
8 doesn't necessarily mean that -- doesn't mean that --
9 could mean that individuals did not have sufficient
10 interest to qualify and therefore the need to make a
11 declaration.

12 **MR. SCOTT:** Mm-hmm. Yeah.

13 **MS. ATHERDEN:** Okay. Right.

14 **THE CHAIRMAN:** And the reverse would be
15 true, if they had an interest --

16 **MR. SCOTT:** That's right. The reverse
17 will be true, if they had interests --

18 **THE CHAIRMAN:** -- and they didn't
19 declare it, they would be disqualified.

20 **MR. SCOTT:** Mm-hmm.

21 **THE CHAIRMAN:** Okay. Any further
22 questions?

23 So, let's talk -- so, going forward, you
24 raised an interesting scenario about an electoral
25 commission.

1 **MR. SCOTT:** Yeah.

2 **THE CHAIRMAN:** And I know that you're
3 someone who's studied comparative models, so --

4 **MR. SCOTT:** To a degree.

5 **THE CHAIRMAN:** Sorry?

6 **MR. SCOTT:** I'm not an expert of it,
7 Mr. Chairman. To a degree.

8 **THE CHAIRMAN:** You studied it and
9 you've spoken knowledgeably on it.

10 So, what would an electoral commission
11 model look like for Bermuda? Just outline, given that
12 you've --

13 **MS. WILSON:** If you had your wish list.

14 **THE CHAIRMAN:** Yeah.

15 **MS. WILSON:** And money was no object.

16 **MR. SCOTT:** It would be a -- of course
17 the group would have to be -- have to be autonomous and
18 independent.

19 **THE CHAIRMAN:** From the political
20 parties.

21 **MR. SCOTT:** You probably shouldn't
22 have -- maybe observers on it, but preferably persons
23 who, similar to the makeup of the Boundaries
24 Commission, a chair person, a person with high judicial
25 official.

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1 **THE CHAIRMAN:** Independent. Right.

2 **MR. SCOTT:** As the Boundaries
3 Commission was made up of. Of course on the Boundaries
4 Commission you have members from both political
5 parties.

6 **THE CHAIRMAN:** Right.

7 **MR. SCOTT:** But for the Electoral
8 Commission you probably could have one from each party,
9 but the membership, the larger number of persons should
10 probably be persons from the community, of high office,
11 that are known, and people with high integrity, and
12 have knowledge in regards to electoral processes, to
13 sit on the Boundaries Commission [sic] and to make
14 decisions thereof.

15 **THE CHAIRMAN:** Mm-hmm.

16 **MR. SCOTT:** We had done a cabinet paper
17 and we tried to model it after a Canadian Electoral
18 Boundaries Commission, and I think I've mentioned it in
19 my report here, --

20 **THE CHAIRMAN:** Yeah, we have been
21 reading.

22 **MR. SCOTT:** -- that would suit Bermuda.

23 **THE CHAIRMAN:** Yeah.

24 **MR. SCOTT:** And we had suggested that
25 with this Boundaries Commission -- Boundaries

1 Commission, sorry -- with this Electoral Commission the
2 Registrar should still retain authority over decision-
3 making, and he or she should be on that Commission, --

4 **THE CHAIRMAN:** What do you mean by
5 "authority" --

6 **MR. SCOTT:** -- on that Electoral
7 Commission.

8 **THE CHAIRMAN:** What do you mean by
9 "authority over decision-making"?

10 **MR. SCOTT:** To still have authority to
11 make final decision during the electoral process.

12 **THE CHAIRMAN:** Give me an example of
13 that.

14 **MR. SCOTT:** Well, in terms of, say, for
15 instance, a challenge that is made or objection that is
16 made during the electoral process, that it is usually
17 the Registrar that has the final decision, once he's
18 seen, or she's seen all the information in front to
19 make a decision in regards to a particular voter or
20 groups of voters.

21 **THE CHAIRMAN:** So do you find it
22 unusual that you're able and empowered to make a
23 decision regarding whether or not a voter should be
24 allowed to vote, based on the law, but not on whether
25 or not a candidate is allowed to participate in the

1 proceedings based on the law?

2 **MR. SCOTT:** It might be an anomaly in
3 the law but apparently it's been like that for quite
4 some time.

5 **THE CHAIRMAN:** And what's the
6 practice --

7 **MR. SCOTT:** And I think the Registrar
8 should be -- his authority shouldn't go much further
9 than that. He should not be having the authority to
10 disqualify candidates, from the electoral process.

11 **THE CHAIRMAN:** But an Electoral
12 Commission could --

13 **MR. SCOTT:** He is responsible, or she
14 is responsible for the conduct of the election, not
15 whether that candidate or candidates are, in fact,
16 eligible or not eligible.

17 **THE CHAIRMAN:** Eligible. Right.

18 **MR. SCOTT:** That's another matter, and
19 that should be set aside for, as I say, an Electoral
20 Commission, or the courts to handle, not the Registrar.

21 **THE CHAIRMAN:** Right.

22 **MR. SCOTT:** Because you don't want to
23 bring the integrity of the office into question in that
24 regard.

25 **THE CHAIRMAN:** Correct. Right. But

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1 you would support and Electoral Commission having that
2 authority.

3 **MR. SCOTT:** Absolutely.

4 **THE CHAIRMAN:** Because it's not one
5 person, it's a group of people who have no --

6 **MR. SCOTT:** That's right. It's a group
7 of persons, that's right, yeah.

8 **THE CHAIRMAN:** -- who are outside of
9 the political process in any event.

10 **MR. SCOTT:** That's right.

11 **THE CHAIRMAN:** Okay. All right.
12 What else is on your wish list for
13 reform? To make our elections more credible.

14 **MR. SCOTT:** Changes to the -- we had
15 suggested, myself and Miss Woolridge had lots of
16 discussion in regards to suggested changes to the
17 Parliamentary Election Act, and this came out of the
18 experiences from the 2003, 2007, 2012 election. For
19 instance, we know, for instance, that there are a great
20 number of persons, elderly persons, who are confined to
21 their homes and there are -- and have mobility issues,
22 they just can not get to the polls.

23 **THE CHAIRMAN:** Right.

24 **MS. WILSON:** Mm-hmm.

25 **MR. SCOTT:** Even though there is, in

1 the Legislation, advance poll for those persons.

2 **THE CHAIRMAN:** Right.

3 **MR. SCOTT:** But despite that, that
4 person couldn't take advantage of that provision where
5 they can vote in advance because they can't leave the
6 house.

7 **THE CHAIRMAN:** Right.

8 **MR. SCOTT:** So we had suggested, for
9 instance, that we have what we call a mobile returning
10 officer, where those returning officers would go to
11 those persons' homes, because it's a good number of
12 them that are there and of sound mind and would want to
13 participate in the electoral process. So something
14 like --

15 **MS. WILSON:** Right.

16 **THE CHAIRMAN:** You don't go to nursing
17 homes now?

18 **MR. SCOTT:** Oh, yeah, we do. We do
19 that. We do that.

20 **MISS WOOLRIDGE:** Yes, you have to have
21 five beds or more.

22 **THE CHAIRMAN:** That's what I thought,
23 right.

24 **MS. ATHERDEN:** But not private homes.

25 **THE CHAIRMAN:** Sorry?

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1 **MISS WOOLRIDGE:** They have to have five
2 beds or more.

3 **MS. WILSON:** It's five beds or more.

4 **THE CHAIRMAN:** Ah. Okay. Okay.

5 **MR. SCOTT:** Yeah, five beds or more.

6 **MISS WOOLRIDGE:** Just don't go to any.

7 **THE CHAIRMAN:** Okay.

8 **MR. SCOTT:** Any. Any. That's right.

9 So that was one of our suggestions, too.
10 And, again, we was just trying to --

11 **MISS WOOLRIDGE:** Administrative stuff --

12 **MR. SCOTT:** Administrative stuff, and
13 we could have handled that.

14 **MS. WILSON:** Yeah. Yeah.

15 **MR. SCOTT:** We could have handled that,
16 you know.

17 **THE CHAIRMAN:** Okay. There was an
18 earlier presenter who raised the issue of voter
19 intimidation and suggested that in order -- one way to
20 eliminate voter intimidation is to ensure that no
21 political party is represented at the polling stations
22 on election day. That was his position; right?

23 **MISS WOOLRIDGE:** I'm sorry?

24 **MS. ATHERDEN:** Yeah, that it should be
25 a no-go zone.

1 **THE CHAIRMAN:** A no-go zone. What's
2 your view on that, and what --

3 **MR. SCOTT:** You mean candidates not to
4 be present?

5 **THE CHAIRMAN:** Yeah.

6 **MS. WILSON:** Or parties, just --

7 **THE CHAIRMAN:** Or political parties, or
8 colours.

9 **MS. WILSON:** So, excluding that 30
10 feet, or whatever, boundary --

11 **MR. SCOTT:** Seven metre line, yeah.

12 **MISS WOOLRIDGE:** Right. Regardless of
13 that, they don't want them to be there at all.

14 **MS. WILSON:** Right. Disregard that,
15 period. Exactly.

16 **THE CHAIRMAN:** So to what extent do you
17 think voter intimidation is a significant issue in
18 Bermuda?

19 **MR. SCOTT:** I don't know. Our history
20 is different; I mean, we've always had the provisions
21 and in the Rules of the Parliamentary Election Act
22 where the candidates are allowed to be there to greet
23 voters.

24 **MISS WOOLRIDGE:** As long as they're
25 outside of that line.

1 **MR. SCOTT:** But to comply with the
2 legislation that you must stay at that seven metre
3 area, seven metre line we call it, that's seven metres
4 from the entrance to the polling station.

5 **THE CHAIRMAN:** Right.

6 **MR. SCOTT:** It's worked well.

7 **MS. ATHERDEN:** Mmm.

8 **MR. SCOTT:** I, you know, during
9 election times we have had issues where I've had to
10 almost scream at the political party candidates or the
11 chairman, to say, Listen --

12 **THE CHAIRMAN:** Not in Pembroke Central,
13 though.

14 **MS. WILSON:** North.

15 **MR. SCOTT:** All across the country. As
16 election eve rolled around and the tents and everything
17 went up around the polling station, you know, that they
18 had these tents up so close to the polling and we had
19 to force them to push these tents back because voters
20 needed unfettered access in and out of the polling
21 station, and we didn't want the parties to be
22 intimidating voters like that.

23 **THE CHAIRMAN:** Right. Right.

24 **MR. SCOTT:** And we would constantly
25 remind, Please tell your members and your party

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1 supporters to stay back and comply with the rules of
2 the Returning Office or at the direction of the
3 Returning Officer. But it's never gotten out of hand.

4 **THE CHAIRMAN:** So, in your view, in
5 your experience, there has never been any serious
6 breach of that?

7 **MR. SCOTT:** No, not to my knowledge,
8 no.

9 **MS. ATHERDEN:** But I think you need to
10 expand it, because that wasn't -- that wasn't what the
11 actual gentleman was trying to suggest.

12 **THE CHAIRMAN:** Okay. Go ahead.

13 **MS. ATHERDEN:** Because it wasn't for
14 the fact that the candidate that was standing up there,
15 but the candidate had someone else standing up there
16 supporting him, and therefore that individual then
17 became intimidated and other people then were then
18 intimidated, once the intimidation started.

19 And so basically what they were saying
20 was that when you come to that point in time when
21 you're just getting ready to do your vote, then no
22 one -- let people be concentrating on your vote and
23 what people stood for, and once you get in there just
24 go forward, and so...

25 **MISS WOOLRIDGE:** So you're saying that

1 people are saying that they're being harassed outside
2 the polling station, prior to going inside.

3 **MS. ATHERDEN:** Going inside, and then
4 people that are standing up there supporting the
5 various candidates are also being intimidated.

6 **MR. SCOTT:** Yeah. But there's nothing
7 in our Act that prevents that. In fact, our Act even
8 allows a person who's going in to vote, that person can
9 wear any colours that supports any candidate or
10 political party.

11 **THE CHAIRMAN:** That wasn't always the
12 case, was it?

13 **MS. ATHERDEN:** No, I thought it wasn't.

14 **MR. SCOTT:** Yeah, it's been there for
15 quite some time.

16 **MISS WOOLRIDGE:** The people who are
17 working in the polling station and the agents are not
18 allowed to wear party colours, pins, any paraphernalia.

19 **MR. SCOTT:** Right. But if a voter came
20 in and had on colours of the OBA or the colours of the
21 Progressive Labour Party, voted and walked out --

22 **MR. SMITH:** Mr. Scott, I'm wearing
23 Somerset today.

24 **MR. SCOTT:** -- walked out of the
25 polling booth, and had announced to the persons there

1 that I voted for Mr. Brown, there's nothing that the
2 Returning Officer can do, other than just caution him
3 to say, Listen, I think it's time for you to leave now,
4 but, you know, there's not penalty against things like
5 that.

6 **MS. ATHERDEN:** So what you're saying is
7 that in that, what's it, 30-foot zone, or whatever --

8 **MR. SCOTT:** Seven-metre line, yeah.

9 **MISS WOOLRIDGE:** Seven-metre line.

10 **MS. ATHERDEN:** -- seven metre line or
11 whatever it is, that as long as they're not an agent or
12 they're not in the polling booth, then people can wear
13 their green shirts, their red shirts and --

14 **MR. SCOTT:** Voters can.

15 **THE CHAIRMAN:** Voters can. Only voters
16 can.

17 **MR. SCOTT:** But the persons that work
18 can not, and we're very strict with that.

19 **MISS WOOLRIDGE:** No, she means people
20 outside, though. You mean the people outside that are
21 with the candidates.

22 **MS. ATHERDEN:** Yeah.

23 **MISS WOOLRIDGE:** Yeah. They could wear
24 whatever they want.

25 **MR. SCOTT:** They can wear whatever they

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1 want, yeah. Mm-hmm.

2 **MS. ATHERDEN:** Okay.

3 **MR. SCOTT:** I'll give you an experience
4 I had when I was allowed, through CARICOM, to go to the
5 Jamaican elections in 2007. It was quite unnerving to
6 me because they allow all of their supporters to come
7 up to the gates of the polling station with placards
8 and all, and drums are beating and things like that,
9 but it's almost like a festive, and it kind of -- it
10 threw me off, because I'd never seen anything like
11 that, but it's allowed in Jamaica.

12 **MISS WOOLRIDGE:** And I hear there were
13 people with guns, as well.

14 **MR. SCOTT:** Yeah, as well. That's
15 right.

16 **THE CHAIRMAN:** Sorry? Guns in the
17 polling station?

18 **MISS WOOLRIDGE:** Well, he was with
19 people who had a motorcade and guns and all that,
20 because that's serious stuff.

21 **MR. SCOTT:** Yeah.

22 **MS. WILSON:** Yeah. Yeah.

23 **MS. ATHERDEN:** Oh, I know what I was
24 going to ask.

25 I know you were talking about changes to

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1 the Parliamentary Act and I know you were talking about
2 the elderly being confined, but I guess there's a
3 concern that I have and we've been talking and
4 discussing it with other people. This is the whole
5 question of trying to deal with the electoral roll, if
6 you will, and trying to get it as accurate as possible.

7 **MR. SCOTT:** Mm-hmm.

8 **MS. ATHERDEN:** And I guess my question
9 to you is that, I know that one of the tools that is at
10 your disposal or that's out there is the fact that we
11 have what we call the Transport Control Department Act,
12 not "Act", but the website or their system, which lets
13 us know where people at least -- at least where people
14 have their cars registered.

15 **MISS WOOLRIDGE:** Right.

16 **MR. SCOTT:** When they make a change to
17 their registrations.

18 **MS. ATHERDEN:** Right. Yes. So what
19 I'm trying to determine is --

20 **MISS WOOLRIDGE:** But only people with
21 vehicles.

22 **MR. SCOTT:** With vehicles, and that's
23 the part you've got to be aware of.

24 **MISS WOOLRIDGE:** That's the problem.

25 **THE CHAIRMAN:** And some people register

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1 their cars at someone's house to be sure they get the
2 second car.

3 **MISS WOOLRIDGE:** Exactly.

4 **MR. SCOTT:** That's the other problem we
5 found out too.

6 **MISS WOOLRIDGE:** The other thing is
7 that they do not ask for identification when they issue
8 you a licence at TCD. So if I went there and I used my
9 middle name, if I said, I came to get a licence, my
10 name's Kali Tenia Woolridge, I could get a licence that
11 says Kali Tenia Woolridge. So as far as that matching
12 and being --

13 **MR. SCOTT:** Match to your birth name,
14 the way it is.

15 **MISS WOOLRIDGE:** -- you know, we can't
16 depend of it, we can't rely on that information,
17 because it is not always correct.

18 **MR. SCOTT:** Right.

19 **MS. ATHERDEN:** Okay. The question I'm
20 just trying to determine is that when one is out
21 canvassing, trying to go through and, you know, meet
22 the voter so that you can tell them about what you
23 stand for, what your party stands for, et cetera, if
24 that voter is not there because they physically do not
25 live there, but they're living --

1 **MR. SCOTT:** Elsewhere.

2 **MS. ATHERDEN:** -- elsewhere, then
3 you're not able to do that either. So I guess what I'm
4 trying to determine, how -- if, in the spirit of
5 wanting to make sure that the electorate get to meet
6 their candidate and they know who they're going to vote
7 for, what can be done to try and -- if people stay
8 registered somewhere other than they live, what can be
9 done to try and ensure that --

10 **MR. SCOTT:** Yeah. Ms. Atherden, during
11 2012 Amendment Act, the necessary changes were made
12 there to give the Registrar that exact authority, to
13 move persons to the correct constituency, --

14 **MS. ATHERDEN:** Okay. Right.

15 **MR. SCOTT:** -- just not willy-nilly.

16 **MS. ATHERDEN:** Okay.

17 **MR. SCOTT:** But we would inform the
18 voter -- if I had credible enough information that we
19 know that Mr. Brown is actually at #12 Downing
20 Street -- I'm just using that --

21 **THE CHAIRMAN:** I prefer 10.

22 **MR. SCOTT:** Ten Downing Street, for
23 instance, we would notify Mr. Brown to say, Listen, we
24 do understand... Or we would publish a notice in the
25 paper of listed persons, and give them ample time to

1 respond to that.

2 Now, that was put in there because we
3 were getting a lot of questions in regards to the very
4 subject you're raising now.

5 **MS. ATHERDEN:** Right.

6 **MR. SCOTT:** So, those amendment were
7 made.

8 **MISS WOOLRIDGE:** Can I just say that --
9 I don't think you finished asking your question. You
10 were saying you want to see where people were actually
11 staying, as a candidate, so that you could canvass?

12 **MS. ATHERDEN:** Mm-hmm.

13 **MISS WOOLRIDGE:** I think the main issue
14 is not for you all canvassing, but so that the Register
15 is to be accurate.

16 **THE CHAIRMAN:** Right.

17 **MISS WOOLRIDGE:** And the Parliamentary
18 Act does provide that each party should have
19 scrutineers, who are appointed every year by the
20 Governor, right, to do this work, right, and that we
21 would manage them and we also pay those people to do
22 the work. And personally, since I have been the
23 Assistant Registrar, I have reached out to the parties
24 over the last three years consistently asking for those
25 lists, and we never get --

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1 **THE CHAIRMAN:** For scrutineers?

2 **MR. SCOTT:** Yes.

3 **MISS WOOLRIDGE:** For scrutineers. And
4 we never, in the three years that I have done that,
5 ever have received a full complement of 36, from any
6 party, and it kind of strikes me as odd when parties
7 start attacking us and saying that our Register isn't
8 properly maintained when you are contributors to the
9 Register. If you do not contribute -- the Registrar's
10 hands are tied on who he can take advice from.

11 **THE CHAIRMAN:** Right.

12 **MS. WILSON:** Mm-hmm.

13 **MISS WOOLRIDGE:** The Act provides that
14 he can take advice from these people, but if you do not
15 provide these people for the Registrar, there are five
16 of us in our office.

17 **MR. SCOTT:** Yeah, we can't --

18 **MISS WOOLRIDGE:** So because we haven't
19 been able to get the full complement we have to use
20 other avenues to try and reach voters.

21 But in the last amendments we actually
22 were able to get our own field workers that we could
23 send into the field, and that's a project that we're
24 currently working on, so that we can have our own
25 people out in the field, going door-to-door, because we

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1 can not rely on the scrutineer programme, it doesn't -
2 -

3 **MR. SCOTT:** Doesn't work.

4 **THE CHAIRMAN:** So you do this on a
5 rolling basis?

6 **MISS WOOLRIDGE:** Yes. People think
7 that they're life-time scrutineers. That's not the way
8 it works. A scrutineer is supposed to be appointed
9 every year, by the Governor.

10 **THE CHAIRMAN:** Right.

11 **MISS WOOLRIDGE:** So at the beginning of
12 the year I send a letter to the political parties, I
13 say, As per section dah, dah, dah, dah, please send
14 your list. I get nothing.

15 **MR. SCOTT:** And it's been that way
16 since 2003. And so, you know, it's been a real
17 challenge for us to try and keep that Register as
18 accurate as possible, hence this is why we've --

19 **MISS WOOLRIDGE:** That's why we created
20 Voter Awareness Month --

21 **THE CHAIRMAN:** So the parties, the
22 parties have dropped the ball.

23 **MISS WOOLRIDGE:** That's why we created
24 Voters Awareness Month before the June Register in
25 April, that's why we do our ad commercials, because

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1 it's only, like I said, it's five of us, and we can't
2 get around the whole Island.

3 **THE CHAIRMAN:** Right, right, right.

4 **MS. ATHERDEN:** But I just want to
5 clarify, though, so that if parties were to send in
6 some names of scrutineers, even if they don't send the
7 36, then do you then work with those scrutineers?

8 **MISS WOOLRIDGE:** Yes, I have had
9 training sessions with those scrutineers who do provide
10 names to show them how to fill the forms in, ask them
11 to contact me on a monthly basis and let me know what
12 type of work they're doing. They start off doing it,
13 and then after that it just becomes a, you know, it's
14 no election year so, who cares.

15 **MR. SCOTT:** Yeah, it falls away.

16 **MS. ATHERDEN:** No, no. It's
17 unfortunate, because I know that there was a lady that
18 was here earlier that would have -- was doing that
19 process down in the east end, and I'm sure she would
20 have been intrigued to ask some questions about the
21 process.

22 **MISS WOOLRIDGE:** That must be our life-
23 time --

24 **MR. SCOTT:** Our life-time scrutineer.

25 **MISS WOOLRIDGE:** That must be our life-

1 time scrutineer, Miss Atwood?

2 **MR. SCOTT:** We do know who you're
3 talking about, yeah.

4 **MS. ATHERDEN:** Yes. Yes.

5 **MR. SCOTT:** Now, I can tell you this,
6 too, I did have the experience with the previous
7 Governor, Governor Gozney, who, when we tried to
8 present a partial list to him, --

9 **MISS WOOLRIDGE:** He said, No.

10 **MR. SCOTT:** -- he said, No. He says,
11 Randy, I am not going to publish this. Because he
12 looked at the Act clearly, and the Act clearly says
13 that you needed 36 persons from each political party.
14 And so he didn't want to sign off on that.

15 **MS. ATHERDEN:** Okay. Okay.

16 **MISS WOOLRIDGE:** The parties know that.

17
18 **MS. ATHERDEN:** I think we're all here
19 trying to say, What can we do to make this electoral
20 process better, and in some cases there's
21 misunderstanding, in some cases there are things,
22 improvements that we can take advantage of in terms of
23 technology, as long as, as I believe all of us have, we
24 all have the interest in sort of making sure that, you
25 know, there's the opportunity for the one man, one

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1 vote, and trying to deal with things that perhaps
2 either fell by the wayside or are not understood or
3 could be better, so that's where we're coming from.

4 **MR. SCOTT:** You know, if I may, you
5 know, the process is an arduous process, in conducting
6 elections and being involved in, you know, you're in
7 the midst of a highly political and politicalized
8 atmosphere, you know, so it takes a lot of effort when
9 these things do happen and, you know, not from sheer
10 luck but just by the volume of work that we do to keep
11 the process moving along when an election is called,
12 because we all know what that's all about, the
13 elections, I mean, it's about persons who want to
14 maintain, keep power, and those that are trying to have
15 power, and so we get sucked into the middle of it,
16 even though we're not supposed to be, we get sucked
17 into the middle of it, and thank heavens that --

18 **THE CHAIRMAN:** So part of your battle,
19 part of your battle is to maintain your neutrality.

20 **MR. SCOTT:** -- we have demonstrated
21 time and time again, over the past so many elections,
22 from 2003, that we've done a pretty-good job at it.
23 And at the same time staying in the front of best
24 practices by suggesting changes to our Act to assist in
25 the administration of elections, and that's what we've

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1 been doing since 2003.

2 You know, it was Governor Fergusson who
3 said in the Throne Speech that this work is important,
4 sometimes difficult, and should not be taken for
5 granted, and it would always need effort to stay in the
6 forefront of best practices. And that was quite a
7 statement. And I think going forward this is what we
8 need to do. It is hard work and can be difficult at
9 times, but it will always need the effort.

10 **THE CHAIRMAN:** Right.

11 **MS. WILSON:** Mmm.

12 **MR. SCOTT:** To stay ahead of best
13 practices, international best practices, the election
14 processes.

15 **MR. SMITH:** Thank you. As you well
16 know, I spent a lot of time in your offices, in your
17 office, --

18 **MR. SCOTT:** Absolutely, yes.

19 **MR. SMITH:** -- leading up to the
20 election. One of the things that doesn't appear to be
21 working, and I think we started off and I think the
22 Chair started off, if there was an endless limit of
23 money, what would you do? Because, in regards to the
24 scrutineers, because it's not working.

25 **MISS WOOLRIDGE:** Mm-hmm.

1 **MR. SCOTT:** Mm-hmm.

2 **MR. SMITH:** And unfortunately, the way
3 we are today, or the world is today, we all have busy
4 lives.

5 **MR. SCOTT:** Mm-hmm.

6 **MR. SMITH:** And, at the end of the day,
7 as a candidate, you're the one that wants to make sure
8 your voters list is up to date. And I believe the way
9 the scrutineer works today is you have to have both
10 parties participate to say, Yes, that Glenn Smith
11 doesn't live in that house, and so forth, and then I
12 believe he or she brings it back to you, then you have
13 the powers to remove them --

14 **MISS WOOLRIDGE:** Well, we investigate
15 it.

16 **MR. SCOTT:** We investigate, yeah.

17 **MR. SMITH:** Investigate and then move
18 me to where I have to go; right?

19 **MISS WOOLRIDGE:** Or try to find you, if
20 you're missing.

21 **MR. SMITH:** So, having said this, what
22 other mechanisms are used in the world, versus what
23 we're doing today, because it's clearly not working.

24 **MR. SCOTT:** No. As Miss Woolridge, who
25 just talked about the new legislation in regards to

1 having control over a group of persons who we would
2 call field scrutineers, for instance, we will have
3 control over them, we will pay them a fee to go out and
4 canvass, and that's all they're going to do. We would
5 look for areas and we have identified areas where we
6 think there are misregistrations. That's what I prefer
7 to call it, misregistrations, and send those persons
8 out to do the canvassing, to knock on those doors, have
9 the forms with them and to see who is actually there,
10 and bring that information back.

11 And so Miss Woolridge will be the point
12 person in this regard as we roll this out, starting
13 this year.

14 **THE CHAIRMAN:** Okay.

15 **MR. SCOTT:** The Legislation just passed
16 last summer, and so that's going to be one of her
17 projects in regards to doing exactly that, what the
18 scrutineer process is supposed to do.

19 **THE CHAIRMAN:** What additional tools do
20 you need to make your work more effective? Other than
21 money.

22 **MR. SCOTT:** Well, it always requires
23 money.

24 **MISS WOOLRIDGE:** Human resources.

25 **MR. SCOTT:** Human resources.

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1 **THE CHAIRMAN:** No. What particular
2 tools. Sorry?

3 **MR. SCOTT:** Human resources

4 **MISS WOOLRIDGE:** Human resources.

5 **THE CHAIRMAN:** What do you mean by
6 human resources? More staff?

7 **MISS WOOLRIDGE:** So, like, yeah, field
8 work, the field working, and, yeah, staff is a issue in
9 our office, because it's five of us and when somebody's
10 on vacation and then somebody else is out sick,
11 Mr. Scott and I are sitting at the front desk all day
12 and I have things I need to do.

13 **MR. SCOTT:** Yeah, it's a small office.

14 **MISS WOOLRIDGE:** He has things he needs
15 to do. You know, so we have a really small office. I
16 think that, one thing I have experienced, I have been
17 to four, I think, ACEO meetings, the Association of
18 Caribbean Electoral Organizations, in Barbados,
19 Trinidad, Guiana, all those places, and one thing I
20 find that they all have, they all have their own legal,
21 in-house legal person, and I think that that's
22 something that we could probably benefit from,
23 especially if we can get some changes made in our Act,
24 because, especially during the election when we have to
25 go to the Attorney General to get advice, some people,

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1 you know, the Opposition would say, You know, well,
2 you're using a person who is already --

3 **MR. SCOTT:** A political appointee.

4 **THE CHAIRMAN:** Right. Right.

5 **MISS WOOLRIDGE:** -- you know,
6 already -- in your instance, you were the Attorney
7 General and you were a candidate.

8 **MS. WILSON:** Mm-hmm.

9 **THE CHAIRMAN:** Right.

10 **MISS WOOLRIDGE:** So for me to come and
11 ask you for advice, I mean that looks --

12 **MS. WILSON:** Mm-hmm.

13 **THE CHAIRMAN:** The other side may not
14 like that.

15 **MISS WOOLRIDGE:** Right. It doesn't
16 look -- it doesn't look --

17 **MR. SCOTT:** It raises questions.

18 **MISS WOOLRIDGE:** We're trying to be in
19 the middle and it looks like we're going that way, and
20 I think that that's something that they benefit from,
21 having their own legal counsel, like in-house, as far
22 as we have to go to CPU to try and get our Acts updated
23 and that type of stuff, whereas if that person's right
24 there, when we find things, we can sit down with them
25 and say, Well, how's the best way to work this in

1 and -- instead of going back and forward a hundred
2 times with the House, and, you know, get it written
3 right the first time.

4 **MR. SCOTT:** And here's another portion
5 of our wish list. We've had the experience, and my
6 predecessor had the same experience in regards to
7 proposed Legislation that we would suggest, that
8 there's got to be another vehicle or route that it
9 takes, it should not, our Legislation that is proposed,
10 to make changes to the Parliamentary Election Act,
11 should not -- the vehicle should not have to go through
12 Cabinet.

13 Because what we've found over the years
14 is that Cabinet, whatever administration is there in
15 place, and now we have the benefit of several
16 administrations, would cherry-pick our proposed
17 legislation. It's not good. Because I can not, or
18 Miss Woolridge can not, as Registrar, be designing
19 Legislation that will benefit one candidate or one
20 party or the other. We just can not do that, it just
21 flies in the face of logic and best practices.

22 What I suggest is that whenever
23 Legislation is proposed to the Parliamentary Election
24 Act, that it goes through another vehicle, maybe a
25 Select Committee of the House, --

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1 **THE CHAIRMAN:** Electoral Commission.

2 **MISS WOOLRIDGE:** That's where the
3 Commission would be --

4 **MR. SCOTT:** That's what the Commission
5 would do. And so we will bring the Legislation, we
6 would have one independent legal advisor to sit down in
7 front of the Committee and say, This is the Legislation
8 that we are proposing and we present our case to the
9 Committee. It then goes to a full vote in the House
10 and it's done, instead of going through the other way,
11 through Cabinet --

12 **THE CHAIRMAN:** All right. But how do
13 you overcome the hurdle of the governing party perhaps
14 not supporting that proposed legislation and just
15 voting against it?

16 I mean, you see, you still get back to
17 the same issue. How do you address that?

18 **MS. WILSON:** I think -- can I just add
19 something? Just having sat on that particular side,
20 and I invite you to correct me if I'm wrong,
21 Miss Woolridge and Mr. Scott. In addition to that I
22 think one of the challenges is that the Cabinet, as the
23 elected Government, has their own agenda and they know
24 what type of Legislation they want to move quickly, and
25 regrettably reform to the electoral process, in some

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1 regards, --

2 **MISS WOOLRIDGE:** My not be a priority.

3 **MR. SCOTT:** It's not a priority.

4 **MS. WILSON:** -- may not necessarily be
5 a priority, when you talk about crime, education and
6 the like.

7 **MR. SCOTT:** Yes.

8 **MS. WILSON:** So when you know that
9 whole process, it does sometimes take a back seat,
10 which is very unfortunate, but I would think that
11 that's probably one of the bigger challenges.

12 **MR. SCOTT:** It is.

13 **MS. WILSON:** You know, you actually got
14 to work with an Attorney General that helped, ahem, to
15 promote your Legislation, but you didn't hear me.

16 **MR. SCOTT:** No, I --

17 **MISS WOOLRIDGE:** Attorney General.

18 **MR. SCOTT:** Yeah. Attorney General.
19 Okay, I see.

20 **MS. WILSON:** You got to work with an
21 Attorney General --

22 **THE CHAIRMAN:** Okay, hold on.

23 So, Mr. Scott and then Ms. Atherden. Do
24 you want to respond to that?

25 **MR. SCOTT:** In regards to...?

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1 **MISS WOOLRIDGE:** That you were
2 responsive.

3 **MR. SCOTT:** Yeah. And one of the down-
4 sides to that scenario is that then when the political
5 or the Government that's in power feels that maybe that
6 Legislation is going to benefit them, they will say,
7 Well, let's pass this.

8 **THE CHAIRMAN:** Right.

9 **MR. SCOTT:** And it's what you don't
10 want to do is to pass Legislation in the run-up to an
11 election, or so close to an election. It's not good.
12 That's against international best practices.

13 **MS. WILSON:** Right. Absolutely.

14 **MR. SCOTT:** I almost had that
15 experience some time ago and it's not -- it's not good.
16 That's why we suggest that that Legislation should take
17 another route, proposed Legislation.

18 **MS. ATHERDEN:** That was why I was going
19 to say, having sat on the Boundaries Commission, that
20 the idea of the Electoral Commission being similar to
21 Boundaries, in terms of bringing people in from abroad
22 who, if you will, bring what I call the neutrality, and
23 the political parties having the opportunity to have at
24 least a nomination on there so that you have what I
25 call the intimate knowledge of Bermuda and being able

1 to Bermudianize it, if you will, then that makes sure
2 that what's presented or what's agreed upon in the end
3 should be in the best interests of all of Bermuda.

4 And also, the other side of it, if the
5 Legislation then sort of says that the report should be
6 tabled within a set time period and the Electoral
7 Commission should meet on a sort of defined basis, that
8 makes sure that it's updated regularly, that it's
9 presented.

10 Now, yes, the Government has to decide
11 it, it has to decide whether it's going to do something
12 with it, but at least everybody knows what's been
13 suggested, so you can't turn around and hop, run away
14 and hide, you know, it's all out there. So that was
15 the only thing I -- I mean, I just think that having
16 somebody from outside get involved, whether we like it
17 or not Bermuda is so small that we need the benefit of,
18 you know, the outside individuals, and especially if
19 they bring with them some --

20 **MR. SCOTT:** You know, I beg to differ a
21 little.

22 **MS. ATHERDEN:** Okay.

23 **MR. SCOTT:** I think we should be able
24 to find amongst us Bermudians, from all walks of life,
25 persons who would be able to satisfy that criteria, a

1 Bermudian, who knows the Bermudian climate, who knows
2 the lay of the land, to sit as an adjudicator, as a
3 chairman of a commission, Electoral Commission, and a
4 judge or person of high office, that can sit there and
5 make decisions along with input from the various
6 members from the local parties or the candidates. I
7 think we can find persons like that. We're not that
8 small that we need to -- for a Boundaries Commission,
9 yes, I would say that it is -- we should leave it as it
10 is and allow somebody who is the judicial member to be
11 coming from outside as the chair person.

12 **MS. WILSON:** Exactly.

13 **MR. SCOTT:** But for Electoral Reform, I
14 think we can. I think we can.

15 **THE CHAIRMAN:** Glenn?

16 **MR. SMITH:** Yes. Thank you.

17 Looking forward, and I haven't had the
18 opportunity to read your document because I only got it
19 this afternoon when I walked in here, is, and I'm not
20 sure if it's in there, is obviously you've had
21 opportunity to look at, perhaps, absentee voting for
22 people that cannot be here on election day, and we
23 talked about the one with the people that are in homes
24 and stuff, but I'm going a step further, I'm looking at
25 overseas students that are 18-plus, either in high

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1 school or they're in university, or people that could
2 be working overseas or in secondment, for argument's
3 sake, for a major firm here, doesn't matter what is,
4 but can't get back to vote. What's best practices that
5 you're aware of that works in other jurisdictions
6 around the world that could be adapted to the way that
7 we run our elections.

8 **MR. SCOTT:** Well, we have now made a
9 proposal in regards to absentee voting and trying to
10 model -- modelling it to our requirements in regards to
11 how advance poll is conducted. And so we are working
12 on that and it is -- I've talked about it in the
13 report.

14 **MS. WILSON:** It is there.

15 **MR. SCOTT:** It is there. I won't go
16 into any detail here, for the sake of the Committee,
17 but we are working on that, the proposal has been done
18 in that regard.

19 **MR. SMITH:** Okay. Okay. Another
20 question that I do have is, we've talked a little bit
21 about scrutineers, and I know from my own experience,
22 I'm sure with all my colleagues here, when it came to
23 looking for voters and they weren't on the
24 registration. When's the last time we had a whole
25 registration across the Island, a re-registration where

1 everybody had to go and register?

2 **MISS WOOLRIDGE:** Nineteen-ninety --

3 **MR. SCOTT:** Nineteen-ninety-eight.

4 **MISS WOOLRIDGE:** Before the '98
5 election, because that's how we made the Registrar when
6 we went forward, with continuous registration.

7 **MR. SCOTT:** We have to be careful how
8 we use that term "re-registration" because the Act,
9 currently, how it is, doesn't allow for re-registration
10 because the assumption is is that you wipe the register
11 clean, --

12 **THE CHAIRMAN:** Right. Right.

13 **MR. SCOTT:** -- and you allow people to
14 go back on. The Act, as it's now amended, doesn't
15 allow for that.

16 **THE CHAIRMAN:** Right. Doesn't allow
17 for that.

18 **MISS WOOLRIDGE:** To wipe it clean.

19 **MR. SCOTT:** That's why, hence the
20 continuous registration.

21 **MS. WILSON:** Right.

22 **THE CHAIRMAN:** You can register any
23 time of the year.

24 **MR. SCOTT:** Anytime.

25 **MS. WILSON:** Mm-hmm.

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1 **MISS WOOLRIDGE:** Or make changes.

2 **MR. SCOTT:** And make changes, yeah.

3 **THE CHAIRMAN:** Or make changes.

4 Okay. Any other questions?

5 **MR. SMITH:** Thank you.

6 **MS. ATHERDEN:** And I guess one of the
7 things that has been proposed is fixed term elections.

8 **MR. SCOTT:** Mm-hmm.

9 **MS. ATHERDEN:** Does that present --
10 would that present challenges, or would that make your
11 life easier?

12 **MR. SCOTT:** It makes my life easier.

13 **MS. ATHERDEN:** I'm a proponent, that's
14 why.

15 **MR. SCOTT:** And I'm going to be selfish
16 of the whole process, because --

17 **MISS WOOLRIDGE:** But it takes away from
18 the whole election, the whole thing. You know how it
19 feels when election time comes, you know, we feel it,
20 you feel it. You might feel a little something
21 different, but for us, you know, it takes away from the
22 whole excitement, I guess you would say, the atmosphere
23 of elections. If it starts being the same time all the
24 time and everybody knows, I mean, it's like, oh, here
25 we go. I don't know.

1 **MS. ATHERDEN:** Two different points of
2 views.

3 **MR. SCOTT:** Yes. Yes.

4 **MISS WOOLRIDGE:** We make it happen,
5 whenever.

6 **MR. SCOTT:** But we will make it happen,
7 nonetheless.

8 No, I have no difficulty with that, with
9 fixed-term elections. I think it will be issues with
10 the Government having to decide whether or not there
11 are Constitutional provisions that will need to be
12 looked at very, very carefully, to introduce fixed-
13 term elections, because we're under the Westminster
14 system --

15 **THE CHAIRMAN:** Well, we had this
16 discussion earlier. Exactly. Under the Westminster
17 system, what do we do about a vote of no confidence?

18 **MR. SCOTT:** Yeah. Yeah. And I've
19 talked about it in here. I haven't gone into --
20 elaborated, but I've pointed out the various clauses in
21 the Constitution that would be possibly impacted by
22 introducing something like that fixed term election,
23 and that's up to the Government of the day.

24 **THE CHAIRMAN:** Right. That's all
25 agreed, that's a political question, --

1 **MR. SCOTT:** It is a political question.

2 **THE CHAIRMAN:** -- as opposed to one
3 that's purely functional from the standpoint of the
4 Parliamentary Registrar.

5 **MR. SCOTT:** It, well, yes, it would
6 make life easier because now we can work towards the --

7 **MISS WOOLRIDGE:** Everything's
8 predictable.

9 **THE CHAIRMAN:** Because it's
10 predictable, everything's predictable.

11 **MR. SCOTT:** Yeah, we could work towards
12 dates and dates certain.

13 **MS. ATHERDEN:** That's why I just
14 asked -- I just ask it generally, --

15 **THE CHAIRMAN:** No, of course, from his
16 standpoint it's eminently sensible.

17 **MS. WILSON:** Of course it would be
18 easier.

19 **THE CHAIRMAN:** To know exactly when
20 it's going to be.

21 **MR. SCOTT:** Much easier, yeah.

22 **THE CHAIRMAN:** But then you have to
23 consider other aspects of our system, if you want to
24 make those changes as well.

25 **MR. SCOTT:** Absolutely. That's right.

1 Yeah.

2 **THE CHAIRMAN:** Okay. Any further
3 questions? Observations?

4 **MS. ATHERDEN:** No.

5 **THE CHAIRMAN:** Miss Woolridge,
6 Mr. Scott, I want to thank you for coming.

7 **MR. SCOTT:** Thank you, Mr. Chairman.

8 **MS. ATHERDEN:** Thank you very much.

9 **MR. SCOTT:** Members of the Committee,
10 than you very much for inviting us.

11 **THE CHAIRMAN:** And for answering our
12 questions frankly and fully, and I appreciate it very
13 much.

14 **MR. SCOTT:** Thank you.

15 **THE CHAIRMAN:** It's going to help us
16 out as we move forward to prepare our report and
17 recommendations.

18 If we have any follow-up questions, we
19 may invite you back.

20 **MR. SCOTT:** All right. Or put it in
21 writing maybe?

22 **THE CHAIRMAN:** Sorry?

23 **MR. SCOTT:** Or put it in writing.

24 **THE CHAIRMAN:** Yes, or put it in
25 writing.

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1 Did you want to offer any concluding
2 remarks at all, or...?

3 **MR. SCOTT:** No, only that I wish the
4 Committee all the best and that out of this will come
5 some substantive suggestions and changes hopefully that
6 can be put into Legislation to really stay in the
7 forefront of best international practice in regards to
8 the elections in Bermuda.

9 **THE CHAIRMAN:** Okay. Good. Thank you.
10 Thank you for your time.

11 **MR. SCOTT:** Thanks again.
12 --- at 3:01 p.m.

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17
18
19 **Certified correct to the best of my skill and ability:**

20
21 _____
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