

1 shouldn't say "obviously". He was also a
2 solicitor...

3 A. Yes.

4 185. Q. ...at the time, and he was also a
5 Parliamentarian, he was also...

6 A. At some point, yes, he was in
7 Parliament.

8 186. Q. All right, so we marked those. We
9 are just looking now at the other bundle of
10 documents that was handed to me this morning, which
11 you have said have been retrieved from the file, and
12 I will just go over them. The Notice...

13 A. Do you want me to read the heading
14 for you?

15 187. Q. Well, I think I can skip through a
16 few of them, if it might make both of our lives
17 easier, because this top one appears to be a copy of
18 what we have already seen. So I am going to the
19 second page. There is a Certificate of
20 Incorporation. The company was incorporated, would
21 that be March?

22 A. The 2nd of March, 1991...I am sorry,
23 the 7th, the 7th of March.

24 188. Q. Okay, and then prior to that,
25 someone had requested a...

1 A. Name.

2 189. Q. ...name to be searched and reserved
3 for this corporation?

4 A. Reserved.

5 MR. SCHABAS: Sorry, what is the date on
6 that?

7 THE DEPONENT: I think I...

8 190. MR. McKENZIE: Nineteen-ninety-five...

9 THE DEPONENT: May 28th, 1990, I
10 requested...

11 191. MR. McKENZIE: Yes.

12 THE DEPONENT: ...the reservation of the
13 name.

14

15 BY MR. McKENZIE:

16 192. Q. My point is, as early as...was that
17 May, May 28th, 1990, you had thought about
18 incorporating this company, because you were looking
19 for a name for it?

20 A. Yes.

21 193. Q. All right. And then the...

22 A. Address of the registered office...

23 194. Q. Right.

24 A. ...was in care of my chambers.

25 195. Q. Right.

1 MR. SCHABAS: Again, there is a date on
2 that, is there, at the bottom left?

3 THE DEPONENT: That was sent to the
4 Registry on the 31st of May, 1990 and
5 stamped "Registered" in the official stamp
6 on the 31st of May, 1990.

7

8 BY MR. MCKENZIE:

9 196. Q. I am a bit confused here, because it
10 says the company was incorporated in 1991.

11 A. Correct.

12 197. Q. And yet you already had...

13 A. The company was registered, Mr.
14 McKenzie, on the 31st of May, 1990.

15 198. Q. So there is a difference between
16 registering it and incorporating?

17 A. Registering an incorporation.

18 199. Q. Would it be fair to say, then, on
19 May 31st of 1990 the company was carrying on
20 business?

21 A. No, sir. The company was
22 registered. That is to say, the necessary documents
23 to cause the company to be registered were sent to
24 the Registrar, and they were stamped on that date.
25 And I swore the statutory declaration on that date

1 before a Justice of the Peace. And that bundle,
2 that is all you need to have a company registered.
3 A Certificate of Incorporation is issued then by the
4 Registrar, and you will see there was a long time
5 before she issued that. And you can find out the
6 reasons why that took so long in due course.

7 200. Q. Was that just bureaucratic, in other
8 words...

9 A. There was more than bureaucracy, Mr.
10 McKenzie. The Corporate Affairs Registry, in those
11 days, went through a very unhappy set of experiences
12 with two successive Registrars. And, in fact, your
13 people who have been researching all of this for
14 other purposes should check the editorials in the
15 Barbados Advocate, where the lead writer criticized
16 the Registrars for delaying a lot of these things.
17 It was costing Barbados a lot of business in the
18 offshore sector.

19 You used the correct word, bureaucratic
20 problems, but real heavy bureaucratic problems,
21 intransigent bureaucratic problems. In fact...

22 201. Q. I am sure that is something that
23 might be of interest, but I am just saying did those
24 bureaucratic problems lead to documents being lost
25 for this company?

1 A. Not for this company. No, no
2 documents were ever lost for this company, so far as
3 I am aware.

4 202. Q. And in the same token, you
5 had...well, let's finish this document and we will
6 mark it as an exhibit.

7 A. That is a statutory declaration that
8 I had to sign.

9 203. Q. Okay, and then the Form 1, Articles
10 of Incorporation, the company is authorized to issue
11 an unlimited number of shares. The directors may
12 refuse to register, transfer, minimum number,
13 maximum number of directors. So this is just a form
14 telling the Registrar some of the rules...

15 A. I don't know if the Articles are
16 also attached, a schedule.

17 204. Q. Right, and the...

18 A. I thought you had these in Canada.
19 Our company law is based on yours.

20 205. Q. We will discuss that at another
21 time.

22 A. There was your famous...the name
23 begins with a "D", who developed your Canada
24 business corporations legislation, did all the
25 research. I can't remember his name.

1 206. Q. It is okay. I am just saying I have
2 my views, I have operated in a lot of jurisdictions.
3 But just back to these documents for a moment...

4 MR. SCHABAS: Just while we are there,
5 what is the date on that, the document you
6 are holding, the Articles of Incorporation?
7 There is a date at the bottom, I think.

8 207. MR. MCKENZIE: May 31st, 1990.

9 THE DEPONENT: Yes, the same date.

10

11 BY MR. MCKENZIE:

12 208. Q. Which says "Registered" at the
13 bottom, and I am looking at the schedule with the
14 bunch of provisions. It says you are not allowed to
15 offer the shares to the public.

16 A. Yes, a private company.

17 209. Q. Basically, that is a private
18 company. I can read the rest of them, but the
19 Registrar is not told who the shareholders are in
20 any of these forms.

21 A. Only when these documents are filed,
22 you will see that two persons signed as what are
23 called incorporators.

24 210. Q. Yes.

25 MR. SCHABAS: Do you want to mark that

1 package as Exhibit 3, Mr. McKenzie?

2 211. MR. MCKENZIE: Okay.

3 MR. SCHABAS: Can you pass it to me?

4

5 BY MR. MCKENZIE:

6 212. Q. Sorry, but I am not sure he answered
7 my question. The Registrar is not told who the
8 shareholders are?

9 A. No. At that point, no. You only
10 need to notify the Registrar of...all right, some
11 people say only one is necessary. I always prefer
12 to have two persons notified as incorporators.

13 MR. SCHABAS: Exhibit 3, I think we can
14 call it Notice of Change of Directors dated
15 August 23, 2007, together with other
16 corporate documents attached to it,
17 concluding with the final two pages, a
18 schedule attached to the Articles of
19 Incorporation dated the 31st of May, 1990.

20
21 --- EXHIBIT NO. 3 : Notice of Change of Directors dated
22 August 23, 2007, with other
23 corporate documents

24

25 BY MR. MCKENZIE:

1 213. Q. Sorry, just to finish that, that is
2 the entire file. The minute book has been given to
3 Mr. Greaves?

4 A. No, no, sir. I never said that. I
5 never kept the minutes of the company, I never had
6 the minute book.

7 214. Q. Who had them?

8 A. You asked me about my legal work.
9 And I never gave Mr. Greaves my files, my law files.

10 215. Q. Then I misunderstood you, and I
11 apologize, because I thought you had said that...

12 A. No, I said I gave a number of people
13 files to finish litigation for me.

14 216. Q. Yes?

15 A. A number of different lawyers, but
16 as to such documents as I had related to this S.B.G.
17 Corporation, I kept...I believe I may have given
18 Philip Greaves one letter that was sent to Mr. Joey
19 Armstrong and Cottle Catford. That would have been
20 about 1994, a letter, but my files remain my files.

21 217. Q. Again, I think I am confused, which
22 is...let me try it this way, which is when a lawyer
23 incorporates a company, he puts together a pile of
24 papers which happen to be the minute book, which I
25 call it, maybe a reporting letter, and give it to

1 the client. Is that what happened?

2 A. No.

3 218. Q. I am not trying to tell you your
4 business, because I don't know your business, but I
5 am saying what happened in there? I am trying to
6 find out where the records are now.

7 A. Oh, I couldn't tell you where the
8 company records are, because I never had any custody
9 of them. I would have got for them, and I don't
10 even like using that word "would have got". My
11 memory isn't 100 percent on it.

12 I am saying what was usual when I formed
13 companies, and I formed many companies. I would get
14 a seal, give the parties a copy of these documents,
15 which were the minimum documents required for a
16 registration. And I would then ask them whether
17 they wished to hold a first meeting in my presence,
18 and invariably decide no, give them the documents
19 and they went off and did their thing.

20 If I signed as incorporator, I always
21 instructed them, "At your first meeting, take me off
22 as incorporator". That is all I did, Mr. McKenzie.

23 219. Q. Okay. So in this case, when you
24 incorporated the company, you created a solicitor's
25 file with all the documents in it?

1 MR. SCHABAS: Let me just interrupt for
2 a minute, Mr. McKenzie. I haven't made any
3 objections to this point, and I am not
4 necessarily objecting now. This is not a
5 discovery. If you would like to ask him if
6 he knows where any of the documents are,
7 that is certainly a relevant factor on the
8 Motion, but to be delving into the details
9 of what documents he may or may not have
10 created and so on is really more...you are
11 wading into discovery issues, rather than
12 issues of location of the documents, if he
13 knows something about that. So I am going
14 to ask you to please consider that, and
15 direct your questions to the matters that
16 are relevant on the Motion.

17

18 BY MR. MCKENZIE:

19 220. Q. Sir, having heard what your lawyer
20 said, and here is what I am having difficulty
21 understanding, I have to tell you, it is probably
22 because I don't understand procedure, okay, which
23 is, yes, we are trying to locate everything. So
24 what I am suggesting to you, you know, straighten me
25 out, is a lawyer usually has a file where everything

1 the lawyer does, there is a copy of it in the file.

2 A. That is right.

3 221. Q. That is part one. Part two is, when
4 you have created a corporation, we tend to call it a
5 minute book, because in the old days it was a fancy
6 book. Now I don't know the...

7 A. When some of the other lawyers come,
8 you can ask them what they did, but I never had
9 bought a minute book for the companies and so on.
10 No.

11 222. Q. Okay, so forget the book.

12 A. I don't know if they do that now.

13 223. Q. As I said, the book is really a big
14 file with everything in it.

15 A. No, no, I had a file on S.B.G.,
16 including letters that I would have written, or
17 letters that I received from Cottle Catford, for
18 example, and I dealt with Cottle Catford, Mr. Joey
19 Armstrong, before he died, who was the senior
20 partner. And I would have had those as...you know,
21 in a kind of correspondence file. There was no
22 litigation. I would have had the company documents
23 in a separate folder, a separate file, but certainly
24 never a minute book.

25 224. Q. What I was trying to do was create

1 two categories, which is, one, the lawyer's work,
2 which I will call the lawyer's file, and then the
3 corporate file, which is the client's...

4 A. I give them and let them appoint
5 their secretary and whatever. I won't keep it. I
6 wouldn't keep it.

7 225. Q. Just to try to work with the way Mr.
8 Schabas said it, where are those two separate files
9 now? Work backwards, tell me the best you know.

10 A. Well, I can't tell you what would
11 have happened with the company file. I would have
12 given them, at some point after I became Attorney
13 General...I would have passed them on to either
14 Philip Greaves or my brother, Peter. I think I
15 would have passed them on to Peter, now I think. I
16 would have passed them to Peter.

17 My files concerning the business I did for
18 S.B.G. and all of my files, Mr. McKenzie, hear me
19 carefully, all of the files which I had as a lawyer
20 during my 24 years practice, I kept for ten years.
21 You are required to keep them for seven, I kept them
22 for ten years, in my former chambers at the bottom
23 of Pinfold Street.

24 The people who took over the chambers after
25 I left begged me to give them some space. I had

1 masses of view, and I will tell you what happened to
2 them. In 2004, on a weekend, I spent most of the
3 Saturday and part of the Sunday just taking out
4 files, checking them, giving them to a man who took
5 them in his vehicle to the Bridgetown Port to the
6 incinerator.

7 It was agreed by Mr. Stuart and Mr. Leonard
8 Morris of the court that I could send this mass of
9 documentation to be burned in the incinerator. I
10 have no files speaking to the 24 years that I was in
11 practice. You know what paper you build up over
12 time. I got rid of them.

13 226. Q. Yes, I am sympathetic to that, but I
14 just want to understand what I think you just told
15 me, which is in 1994 you destroyed all your
16 solicitor's files?

17 A. No, no, I said 2004. Didn't I say
18 that?

19 227. Q. Okay.

20 A. Ten years after I ceased private
21 practice.

22 228. Q. Okay, so in 2004 you destroyed them.
23 So that would include...

24 A. All S.B.G. files, political files,
25 whatever, because I was in opposition. I had a lot

1 of things that I kept.

2 229. Q. And what we will call the business
3 side, in other words, the actual corporation file,
4 not the solicitor's file, you had already given to
5 Peter...

6 A. I believe I gave Peter a copy of
7 what we would call the company, these documents.

8 230. Q. And that would include...I mean, as
9 a solicitor you would have received instructions as
10 to who to issue shares to or a reporting letter?

11 A. No shares were ever issued. I never
12 received any instructions to issue any shares.

13 231. Q. Let me take one step back, then,
14 okay, which is...

15 A. Yes.

16 232. Q. ...I was trying to establish that
17 you gave Mr. Simmons the...what did you call it, the
18 corporate...

19 A. I would have given him a copy of
20 these documents, except, of course, my resignation,
21 because that came ten years...two or three years
22 after the company was registered. It was
23 incorporated in 1994.

24 233. Q. Peter Simmons, your brother, got the
25 corporation and took it away from your law office;

1 is that fair?

2 A. Yes, I am pretty sure, because he
3 was chairman of the company. So I would have given
4 him the file.

5 234. Q. When would that have been?

6 A. When would it have been?

7 235. Q. Yes, sir.

8 A. It would have been...well, I don't
9 want to be specific, because I can't remember
10 exactly when, but I will tell you that it would have
11 been after the 31st of May, 1990. Once I had seen
12 the Registrar's stamp on those documents showing
13 that the company was registered on the 31st of May,
14 then I would have given him a copy sometime after,
15 but I can't pin it down to a date.

16 236. Q. Do you know what motivated
17 him...see, I don't understand the records again to
18 tell the Registrar in 2007. And I am trying to find
19 out...

20 MR. SCHABAS: What are you trying to
21 find out? Because I am going to object.
22 You are engaging in a...

23 237. MR. MCKENZIE: You are okay.

24 MR. SCHABAS: No, just let me finish,
25 Mr. McKenzie.

1 238. MR. McKENZIE: I agree with you.

2 MR. SCHABAS: Okay, so let's...

3 239. MR. McKENZIE: I am taking back the
4 question.

5 MR. SCHABAS: Let's move on.

6 240. MR. McKENZIE: I am taking back the
7 question.

8 MR. SCHABAS: You have spent an awful
9 lot of time delving into issues that aren't
10 directly relevant.

11 241. MR. McKENZIE: Well, that is...

12 MR. SCHABAS: It is 11:15, and I think
13 you have got to move forward.

14 242. MR. McKENZIE: I am withdrawing the
15 question, because...

16 MR. SCHABAS: Good, carry on.

17 243. MR. McKENZIE: Okay.

18

19 BY MR. McKENZIE:

20 244. Q. I didn't ask the question for the
21 reason that Mr. Schabas thought I was...as he jumped
22 in there. What I was trying to do is to say from
23 the time, whenever it was that you handed the
24 corporation over to your brother to today, have you
25 ever seen that file again, that corporation file?

1 A. No, no.

2 245. Q. Okay. Somewhere along the line we
3 were trying to finish up your history, the dates. I
4 just wanted to be clear, because I think you had
5 said, "When I was appointed Attorney General I
6 resigned", and that is how we got off on this
7 tangent, and I would like to go back...

8 A. To answer your question.

9 246. Q. Oh, yes. No, no, I am happy. I am
10 just reminding myself out loud where we were, to get
11 me back there, which is, okay, you resigned, as you
12 have indicated, and then you went through until
13 August...

14 A. Two thousand and one.

15 247. Q. ...27, 2001...

16 A. Yes.

17 248. Q. ...and then you retired, I think
18 that was the word you used?

19 A. Yes, I retired.

20 249. Q. And then in 2002 became Chief
21 Justice; is that fair?

22 A. Yes, that is fair.

23 250. Q. And when you were appointed as Chief
24 Justice, then you had not...correct me again on the
25 date, you had not practised law since 1994?

1 A. Except for a few times I appeared,
2 of course, as Attorney General in court where the
3 Crown was sued.

4 251. Q. So I just want to understand this,
5 you went to court as the lawyer to represent...

6 A. The Attorney General, I suppose you
7 have it in your jurisdiction...the Attorney General
8 was sued, and I appeared to represent the Attorney
9 General. But I never, of course, conducted private
10 practice in those years.

11 252. Q. That is fair. Okay, and then when
12 you are appointed on January 1st, 2002, you had...I
13 think you said you had been Attorney General and had
14 retired...

15 A. And Minister of Foreign Affairs, I
16 had both titles.

17 253. Q. Yes, and then you had not sat as a
18 judge before the time that you were appointed Chief
19 Justice?

20 A. No, never, never, never.

21 254. Q. And somewhere in your affidavit, I
22 am not quite sure what this meant, so I will just
23 try to get this now...

24 A. Sure.

25 255. Q. ...which is...

1 A. I will be happy to explain it.

2 256. Q. ...paragraph 2 of your May 17th,
3 2007 affidavit, and, again, it is just terminology
4 that I want to get clear.

5 A. Well, if you read it to me, I can
6 probably...

7 257. Q. Yes, well, I am just saying in
8 paragraph 2 you say:

9 "...I am the Chief Justice..."

10 I think I understand what that is:

11 "...and the President of the Court of
12 Appeal of Barbados..."

13 "President" means the boss. I don't mean to be...

14 MR. SCHABAS: Well, it says what it
15 says. Let's...

16

17 BY MR. MCKENZIE:

18 258. Q. Well, what does it mean? What
19 powers does the president of the Court of Appeal
20 have?

21 A. Head of the Court of Appeal.

22 259. Q. Sorry, okay, so...

23 A. If you look in our...the Supreme
24 Court of Judicature Act , Chapter 117A, you will see
25 it all set out. You are familiar with the practice

1 in the Bahamas or Jamaica?

2 260. Q. And the Cayman Islands, but I am
3 just saying...

4 A. Or Trinidad. Cayman Islands is a
5 little different. They are a colony. They are
6 still...

7 261. Q. I learned to be respectful of the
8 fact that sometimes words mean different things.

9 A. It means I preside in the Court of
10 Appeal.

11 262. Q. Let me ask you, when I said "boss",
12 I didn't mean to be disrespectful. You know that,
13 but I am just saying you are in charge of the Court
14 of Appeal?

15 A. Yes, of the judges.

16 263. Q. You appoint a judge to hear, or a
17 panel of judges to hear a case or not?

18 A. Every Thursday, I set the work for
19 the following week.

20 264. Q. So sometimes you sit on the Court of
21 Appeal yourself?

22 A. I sit probably three times a week
23 out of the five days. I rarely sit as Chief Justice
24 in the High Court. Let me just explain, so you have
25 got it perfect. The Chief Justice is, by virtue of

1 that office, a judge of the High Court, but he is
2 also the person who presides in the Court of Appeal,
3 and he is referred to as the president of the Court
4 of Appeal.

5 Now, it is not often that the Chief Justice
6 sits in the High Court. In the High Court, cases
7 are dealt with at first instance. From there, they
8 come to the Court of Appeal. But sometimes, because
9 of the nature of the case, its importance, maybe it
10 is a heavy case, the Chief Justice may himself sit
11 at first instance as Chief Justice. Sometimes
12 lawyers will invite the Chief to sit on this case
13 because it is very important.

14 265. Q. Well, because of your experience.

15 A. And the weight of your office.

16 266. Q. Yes.

17 A. And I have done that a few times,
18 and the cases are in the West Indian Reports. The
19 last one was such a court case.

20 267. Q. So, in effect, just to make sure I
21 understand, you could sit as a trial judge...

22 A. Right.

23 268. Q. ...in the High Court?

24 A. Yes.

25 269. Q. Okay. You would appoint yourself to

1 do that...

2 A. Yes.

3 270. Q. ...because you are the Chief Judge
4 of the High Court; right?

5 A. Yes, and the law says that I have
6 responsibility for organization of the lists.

7 271. Q. And then also you are the Chief
8 Judge of the Court of Appeal, and you can sit as a
9 judge of the Court of Appeal...

10 A. That is right.

11 272. Q. ...at your own direction?

12 A. Yes. I sit there obviously more
13 often than the High Court.

14 273. Q. I am aware, as I said, I was going
15 to say your reputation is there, because it is in
16 your judgments; right? In other words, we can see
17 what you have done by your decisions, but I am more
18 interested in the functions you have, and I think we
19 have discussed them, which is you are, as I said,
20 the boss, but...

21 A. For the sake of completeness, please
22 let me help. I assign the cases to various judges
23 in the Court of Appeal on the Thursday in the week
24 before. So Thursday this week the clerk will bring
25 the list of cases for next week and the records of

1 appeal, and I will say, "Well, I will do this one
2 with Mr. Justice Waterman and Mr. Justice Moore".
3 Next day, some other...

4 But in the High Court, I do not assign
5 cases to judges. That work is done by the senior
6 legal assistant in the Registry, Mr. Mark Murray,
7 acting in the name of the Registrar, because, you
8 know, there are about 2,356 cases filed in the High
9 Court last year. If the Chief Justice had to assign
10 that, it would kill me. So that is done by the
11 officials in the Registry of the Supreme Court.

12 274. Q. Sure, makes sense.

13 A. It is only the Court of Appeal that
14 I get involved.

15 275. Q. I think what you have just said, and
16 here is what I am trying to establish, you also
17 interact with the Registrar? In other words, the
18 Registrar has powers and you have powers, and you
19 try to make the whole thing work efficiently; right?

20 A. She is, if you like, the
21 administrative head.

22 276. Q. Yes.

23 A. And she is what is called the
24 accounting officer of that department. She has to
25 account for the expenditure of funds and administer

1 various pieces of legislation that impose specific
2 responsibilities on her. But I don't interact too
3 much with the Registrar.

4 I mean, legal business in Barbados has
5 grown to such an extent that she actually does some
6 quasi judicial work. For example, a judgment...she
7 can give judgments in default of pleadings, judgment
8 in default of acknowledgement of service and so on.
9 So she does...and taxation, of course, we still have
10 this system where, at the end of a case, costs have
11 to be...a bill of costs is prepared if the parties
12 don't agree, and then you go before the Registrar
13 and try to justify why you are asking for these
14 millions of dollars or whatever. So she has to do
15 adjudication.

16 277. Q. Okay. Thank you. What I was really
17 getting at, and maybe the best way to shortcircuit
18 is, between you and the Registrar, you try to
19 accommodate and get as many cases tried and finished
20 and properly dealt with as you can each year;
21 correct?

22 A. Well, we try to get them set down.
23 But, Mr. McKenzie, you may have had some experience
24 yourself, the system which we operate in Barbados,
25 for the time being, it will change next year, but

1 the system which we operate in Barbados is the same
2 as operated in England from 1982 to 1999, and in all
3 of the other countries of this region, until about
4 the early part of this decade. And what I am trying
5 to indicate is that the rules of court which govern
6 the practise of civil litigation in Barbados were
7 the same as the English rules or the rules of the
8 Supreme Court in England, 1982.

9 And all of us in the region used to use
10 those rules, but we have all started to move away to
11 a new procedure based on the English rules of 1999
12 introduced by the then Chief Justice of England,
13 Lord Woolf. And those rules, I think they would
14 bear some similarity to the practice in Canada, but
15 essentially they provide for judge-driven approach
16 to litigation, a Case Management, so that under the
17 present system cases progress at the pace that the
18 lawyers wish the case to progress, also most of the
19 judges, but in future the judges...and we appointed
20 a Master of the High Court last year.

21 Between the judges, the Master, the
22 Registrar and the technology which we have purchased
23 for introduction in the new Supreme Court, we will
24 draw a curtain over those days that have gone, and
25 the court will take control of the pace of

1 litigation. I expect from about April next year,
2 the Supreme Court...they are saying that the
3 construction will be completed by the end of this
4 year. I have my doubts, I have to be honest with
5 you, but I think by the end of March everything will
6 be ready.

7 We have the technology, which is called
8 Judicial and Enforcement Management software, which
9 is used throughout the region in Trinidad and
10 Tobago, in the eastern Caribbean, and in Jamaica
11 that will support Case Management. It will depend
12 on the judges and how strong they are in the future
13 to insist that timetable is respected and honoured.

14 278. Q. Sir, I am thinking this might be a
15 good time for a comfort stop for everyone. We have
16 been at this for two hours, and it will break up the
17 morning, 15 minutes. Would that be okay with you?

18 A. Fine.

19 MR. SCHABAS: It is up to you, Mr.
20 McKenzie. We are at your disposal. We are
21 happy to take a break. Do you want 15
22 minutes? It is up to you.

23 279. MR. McKENZIE: But it doesn't have to be
24 long, just...

25 MR. SCHABAS: No, that is fine.

1 280. MR. McKENZIE: ...everything is here
2 that we need.

3 MR. SCHABAS: We will be back in ten to
4 fifteen minutes at the most.

5

6 --- A BRIEF RECESS

7

8 DAVID ANTHONY CATHCART SIMMONS, resumed

9 CONTINUED CROSS-EXAMINATION BY MR. McKENZIE :

10 281. Q. It is pretty good timing, it is
11 11:47. I had forgotten to ask you, and I just want
12 to clear this up, there seems to be different
13 versions of the Constitution, which say how long a
14 Chief Justice can sit. I gather it is not fixed in
15 real terms?

16 MR. SCHABAS: Is there some relevance to
17 jurisdiction in this question?

18 282. MR. McKENZIE: Well, no, but it is
19 like...

20 MR. SCHABAS: All right. Then let's
21 move on.

22 283. MR. McKENZIE: No, what I am saying
23 is...

24 THE DEPONENT: You mean age?

25 284. MR. McKENZIE: It has become an issue