

**INQUIRY IN TERMS OF SECTION 29**

**HELD AT**

**DURBAN**

**ON**

**THURSDAY, 23 OCTOBER 1997**

**[PAGES 1 - 21]**

1/0 ON 1997/10/23IN CAMERARECORDING TECHNICIAN SWORN IN

CHAIRMAN: Thank you. I just wish to start by apologising for the delay and thank you for bearing with us. This is an inquiry in terms of section 29 of the Promotion of National Unity and Reconciliation Act of 1995. This is not a hearing, but is an investigative inquiry and, as such, it is held in camera, and it is not within our discretion to permit persons other the person subpoenaed and his legal representatives and full-time members of the staff into the hearing.

I will briefly outline the duties and obligations set out in the Act. Before I do that, I want to stress that no findings will be made at this hearing. It is merely an investigative inquiry and, as such, part of the information-gathering mechanisms which the Commission has at its disposal.

Firstly, the person subpoenaed has a right to legal representation and he is represented here today by Mr Ploos van Amstel of the Durban Bar, and by Mr Patrick Falconer of the firm Falconer - Mr Falconer, I forget the new name of the firm.

MR FALCONER: Larson, Bruorton and Falconer Incorporated.

CHAIRMAN: And that deals with the right to legal representation.

Secondly, in terms of section 31 of the Act, any person subpoenaed to appear to give evidence shall be compelled to answer any question put to him, notwithstanding the fact that the answer to that question may incriminate him. There are conditions

which are

/applicable to

1/2 applicable to this section and they are as follows.

There must have been consultation with the Attorney-General, and we have consulted with both Mr McNally and with Mr John Welsh, who is the Deputy Attorney-General in Gauteng. Secondly, the Chairperson of the inquiry must be satisfied that the request for information is reasonable and necessary and justifiable in an open and democratic society.

Thirdly, the witness, obviously, must have refused to answer the question.

The Act also provides that any incriminating evidence which is obtained at an inquiry of this nature is not admissible against the person concerned in a criminal court or any other institution established by law. There is one proviso to this, and that is that any evidence obtained at such a hearing or inquiry, may be used against that person where the person is charged with perjury, arising out of the making of conflicting or untrue statements to the Commission.

Finally, I want to draw attention to section 39 of the Act and the relevant sub-section reads as follows - this is section 39(d):

"Any person who hinders the Commission, any Commissioner or member of the staff of the Commission in the exercise, performance or carrying out of his or her powers, functions or duties under the Act; any person who wilfully furnishes the Commission or any such Commissioner or member with

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any information which is false or  
/misleading; any  
misleading; any person having been  
subpoenaed in terms of this Act  
without sufficient cause fails to  
attend at the time and place specified  
in the subpoena or fails to remain in  
attendance until the conclusion of the  
meeting in question or until excused  
from further attendance by the person  
presiding at that meeting or fails to  
produce any article in his or her  
possession or custody or under his  
control; in person, having been  
subpoenaed in terms of this Act  
without sufficient cause refuses to be  
sworn or to make affirmation as a  
witness or fails or refuses to answer  
fully and satisfactorily to the best  
of his or her knowledge and belief any  
question lawfully put to him or to her  
shall be guilty of an offence and  
liable on conviction to a fine or to  
imprisonment for a period not  
exceeding two years or to both such  
fine and such imprisonment."

That concludes the introductory remarks which I am obliged to make. I will just, for the record, give the name of the people sitting on the panel today. My name is Richard Lyster, Commissioner and Convenor for the KwaZulu/Natal, Free State Region. On my left, Mr Lax, a member of the Human Rights Violations Committee, and on

my right Mr Ndu Dlamini, also a member of the Human Rights

/Violations Committee.

1/5 Violations Committee. I apologise that I didn't introduce Mr Dlamini personally to - did you do so, okay, thank you. The other two people here are full-time staff members of the Commission - Gail Wannenburg, who is an investigator and, on her right, Linda McLean, who is a researcher.

Before we begin, I understand that you would like to make some opening remark, Mr Ploos van Amstel.

MR PLOOS VAN AMSTEL: It's not really an opening remark, Mr Chairman. We have prepared a written statement, which I propose to read into the record, and which sets out Mr Powell's approach to this inquiry and the reasons for the stance which he has taken. I think it will be convenient if I hand to each of you a copy of the statement. I think I should, in any event, read it into the record.

CHAIRMAN: Sure. Are you going to read it in?

MR PLOOS VAN AMSTEL: Yes.

CHAIRMAN: Okay, perhaps it will become clear from the statement, but I think it's necessary for us to know whether Mr Powell intends to take the oath.

MR PLOOS VAN AMSTEL: He does not.

CHAIRMAN: He does not intend to take the oath.

MR PLOOS VAN AMSTEL: May I read this into the record, Mr Chairman, and I think it will explain the basis for the stance which he has taken.

Mr Powell is here today in response to a notice in terms of section 29(1)(c) of Act No 34 of 1995. The notice covers a variety of topics in respect of which

Mr Powell is required to answer questions. In order to enable him to prepare himself properly to give evidence he has requested the following information from the Truth and

/Reconciliation

1/6 Reconciliation Commission by a letter dated 22 September 1997.

- (a) Whether he has been implicated during any investigation by or any hearing before the Commission in a manner which may be to his detriment.
- (b) If so, full particulars of such implication, to enable him to exercise his rights in terms of section 30.2 of the Act.
- (c) Full particulars of the alleged gross human rights violations which are being investigated and his alleged role in such violations.
- (d) His attorney also delivered to the Commission a written request for information.

The Commission responded by letter dated 29 September 1997. The Commission's response,

- (a) Avoids and does not answer the question whether Mr Powell has been implicated during any investigation by or any hearing before the Commission in a manner which may be to his detriment;
- (b) Avers that the request for information amounts to a fishing expedition and an

attempt to gain access to information to which Mr Powell is not legally entitled.

- (c) Records that some of the allegations which have been made against Mr Powell arise in amnesty applications which have

/not been heard

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not been heard yet.

The statement is then made that the Commission is restricted by the Act, in that it may not make such applications available to Mr Powell until such time as they have been considered by the Amnesty Committee.

It is Mr Powell's contention that the information supplied to him by the Commission is wholly inadequate, including the written response to the request for information. If it is correct to say that the Commission is precluded by the provisions of section 19(8)(a) of the Act from making available to him material contained in amnesty applications then it is submitted that those applications should be dealt with before Mr Powell is required to give evidence, so that he can be made fully aware of the allegations against him and the extent to which he has been implicated.

A further difficulty is that the Commission has not complied with the provisions of section 31(2), which requires prior consultation with the Attorney-General. I may just pause there, Mr Chairman, to say that we do not consider that such consultations, as took place this morning, constitutes proper compliance with the section.

Mr Powell contends that the manner in which the Commission is endeavouring to compel him to give

evidence, without making available to him all the information to which he is entitled, infringes his rights in terms of the Promotion of National Unity and Reconciliation Act, as well as his constitutional rights.

In the circumstances, he contends that he is not obliged to answer any questions from the Commission until all such information has been made available to him. He

/accordingly asks accordingly asks to be excused from further attendance.

That sets out the attitude which Mr Powell takes, Mr Chairman. He did take notice of the indication in your letter that there may be consequences attached to that stance and we understand that the Commission may not agree with his interpretation of what he is entitled to, but be that as it may that will have to be debated, if necessary, in the proper forum. That is all, Sir.

CHAIRMAN: Thank you, Mr Ploos van Amstel. We will obviously take a short adjournment just to consider our position.

MR LAX: Before you do, perhaps I could just ask Mr Ploos van Amstel to elaborate on some aspects.

CHAIRMAN: Okay, sure.

MR LAX: Mr Ploos van Amstel, in what respects is your client alleging that we have not properly consulted with the Attorney-General?

MR PLOOS VAN AMSTEL: Mr Chairman, we don't know precisely what took place between the Commissioners and the Attorney-General. Our information as at yesterday was that no consultation has taken place at all. Whether that is correct or not we don't know, but that



was the information. We were informed this morning that you had spoken to Mr McNally this morning and I understand, from what the Chairman said, that you also spoke to Mr Welsh this morning. Without knowing precisely what happened, we cannot be satisfied that that constitutes proper consultation. If, in fact, whatever happened only took place this morning, it's difficult to accept that that constitutes proper consultation. It can't just be a phone call to ask if he has an objection.

/MR LAX:

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MR LAX: Just for the record, Mr Ploos van Amstel, in all these matters of this nature we have established a procedure with the various Attorney-Generals in terms of which we do all of these consultations telephonically and we confirm them in writing. Mr McNally has confirmed with me telephonically that he is satisfied I have consulted him on the matter. Similarly, Mr Welsh has confirmed that he is satisfied I have consulted him on the matters relevant to his jurisdiction and you will understand that it is in relation to the jurisdictional matter that we have spoken to Mr Welsh, but I hear your position on the matter. I'm just informing you before you take the point in a rather uninformed way, that is the procedure we have established with the Attorney-Generals and in countless other such matters that is the way in which we between us have agreed we will consult. So it's just so that you know that.

MR PLOOS VAN AMSTEL: Mr Chairman, I hear what Mr Lax says and I don't dispute any of that. Whether or not that constitutes proper consultation may be a matter for debate and it's not my intention this morning to try and

persuade you that what happened does not, but we'll have  
to debate it in due course.

CHAIRMAN: I think it's just important to place on record that there's no requirement in the Act that entitles the person subpoenaed or his legal representatives to be party at any stage to the consultation between the Commission and the Attorney-General and I am satisfied that the personal conversations which were held this morning between my colleague, Mr Lax, and the Attorney-General of this region and the Deputy AG of Gauteng does constitute

/proper compliance

1/12 proper compliance with the Act. Be that as it may.

MR LAX: Mr Chairperson, can I just ask another aspect?

CHAIRMAN: Yes.

MR LAX: In essence that deals with the issue of section 31(2). I was just wanting to elaborate on what basis - do I understand you correctly that the only basis you are doing is that you are not sure whether what took place between us amounts to a proper consultation and that's really the only basis upon which you are saying you don't think we consulted properly?

MR PLOOS VAN AMSTEL: No, Mr Chairman, it's not simply on the basis that we don't know what happened. We have difficulty with the notion that you can comply with your duty under the Act to consult the Attorney-General properly by phoning him on the morning of the hearing and discussing the matter with him. It will be contended on Mr Powell's behalf in due course that, in law, that does not constitute proper consultation, and we obviously say that with the disadvantage of not knowing precisely what you discussed. So our stance is

really that, as we stand here, we do not accept that there was proper consultation.

MR LAX: In terms of the allegation that you make that Mr Powell's rights are being infringed, which precise rights are you referring to? So that we can have proper cognisance of when we consider our ruling as to precisely what rights Mr Powell believes we are tampering with.

MR PLOOS VAN AMSTEL: Mr Chairman, we are referring to his right to be given a fair hearing and to be placed in possession of the necessary information to enable him to prepare his evidence. He has the right under the Act, under the common law and under the Constitution to be

/treated fairly

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treated fairly and to be given adequate information and we contend that he's not been given adequate information. We understand that there's a difference of opinion about that, but that is the complaint.

MR LAX: Just so that we are clear of the basis upon which you are making that averment, are you in agreement with our view that at this point in time Mr Powell is not implicated or under any threat or not facing any charges? This is not the purpose of this hearing. It's not a court of law. It's not a process in terms of which he himself is charged or detrimentally implicated or affected in any way. Do you agree with that at this stage? This is merely a questioning process. It's not leading to any charges or anything of that nature at this stage. It's purely investigatory - of an investigatory nature.

MR PLOOS VAN AMSTEL: Mr Chairman, whether or not the evidence which will be produced by this inquiry will

lead to a prosecution or not is something that we don't know, because we don't know whether or not Mr Powell has been implicated or precisely what the allegations are against him. We obviously understand that he's not here as an accused and that whatever he says may not be used in evidence against him, but that's not the point. You cannot expect of a person to subject himself to questioning in respect of very serious matters listed in the subpoena without telling him what information there is against him, what evidence there is against him and what the case is that's been made against him, to what extent he's been implicated. That has been dealt with fully in correspondence between the Chairman and Mr Falconer, as well as in the written request for particulars and the



/response to it.

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response to it.

MR LAX: You see, what I'm trying to understand is no evidence obtained here in any way may be used against Mr Powell. So I can't see what prejudice there is to Mr Powell, and that's really the issue I want to understand. There is no prejudice, from anything he says today. None of it can be used against him in any way whatsoever. So it's not as if this is a pre-trial process in a criminal court, where a person is being asked to explain his plea or anything of that nature. Nothing here can be used against in any way, and so in that context I'm trying to understand what possible prejudice there is to him.

MR PLOOS VAN AMSTEL: Mr Chairman, it is quite incorrect to say, with respect, that the mere fact that what you say can't be used against you in subsequent

proceedings is an adequate guarantee that you will suffer no prejudice. It is an invasion of someone's right to privacy to question him per se. There is obviously, in several circumstances, justification for expecting of a person that he should answer questions, and an interrogation under the Companies Act is an example, but it doesn't follow that that is permissible simply because it can't be used against you. But, Mr Chairman, I'm really not here today to try to persuade you that the stance that Mr Powell is taking is the correct one. I have explained what his stance is. Whether or not you agree with that is up to you. That is the stance that he's taking and if there are consequences we will deal with those consequences.

MR LAX: You see, for me this is not a matter of trying to be persuaded. It's a matter of trying to understand /where Mr Powell where Mr Powell is coming from in relation - so that when we make a ruling we understand what he envisages the prejudice he may suffer is and what you assert that to be, so to speak, so that in relation to this Act, which places certain statutory duties on us and on Mr Powell, we can then look at an appropriate ruling. So just to clarify that.

MR PLOOS VAN AMSTEL: Mr Chairman, my complaint is not that Mr Powell is being prejudiced. My complaint is that if you wish to question him under the Act then you've got to comply with your obligations under the Act as well. The Act places an obligation on you to give Mr Powell certain information. His complaint is that you haven't done so. His stance is that, in the light of that, he's not obliged to answer questions and he

elects not to do so.

MR LAX: Just so we can be clear, which precise aspects of the Act are you referring to that place an obligation on us in that regard?

MR PLOOS VAN AMSTEL: I am referring in particular, Mr Chairman, to section 30.2 of the Act, obviously read in the light of the common law and the judgment of Mr Justice Corbett, to which the Chairman has referred in his letter to Mr Falconer.

MR LAX: Which specific parts of section 30.2 are you referring to?

MR PLOOS VAN AMSTEL: We are looking at sub-section (2) of Section 30.2. That part ... (intervention)

CHAIRMAN: Sorry, it consists of three sub-sections, (a), (b) and (c). I'm just want to know which specific part you are relying on in relation to section 29, which is

/this hearing.

1/17 this hearing.

MR PLOOS VAN AMSTEL: The last part of sub-section (2) says,

"The person shall be afforded an opportunity to submit representations to the Commission or to give evidence at a hearing of the Commission."

Now, that section has been interpreted by the Appellate Division as meaning that you are entitled, in order to have a fair hearing, to be given certain information.

As I understand it, the dispute between Mr Powell and the Commission has been whether or not the information which was supplied is adequate. You say it is and he says it isn't.

MR LAX: Just so we don't misunderstand each other here, section 30.2 is of application in relation to detrimental implications. It's not of application directly in relation to being questioned before the Commission. He's not being questioned in relation to implications against him. Let's be clear about that. He's not being questioned in relation to detrimental implications against him. I think you may be misunderstanding two different processes, which the Commission utilises. I just want to be clear on this, so that when we make a ruling we are all on the same page, as someone likes to say. Our understanding, for what it's worth, is that section 30.2 is the section in terms of which, to put it broadly, a person implicated is entitled to audi alteram partem type proceedings or provisions. So that, before the Commission makes any finding or acts in any other way against that person, it hears from that person in relation to the

1/20 /allegation or allegation or detrimental implication, to use the precise words of that section. And you'll see that (a) deals with, "Implicated in any manner which may be to his detriment in relation to an investigation or hearing", and (b) deals with where the Commission is going to make a finding or contemplates making a decision, to be precise, and this process that we're involved in here today is not entirely what is contemplated in that basis, and if I could give you the extent to which the Corbett decision in Van Rensburg and Others dealt with a public hearing, notice before a public hearing in terms of section 30.2(a), that was the specific notice given, and basically the issue there, as

you well know, was that the notice wasn't reasonable - it wasn't timeous, so to speak, it was unreasonable notice, and then Corbett proceeded to elaborate on rules of natural justice and what might be fair in the circumstances and so on. I'm just trying to understand how that applies to today specifically, so that when we look at making a ruling in this matter we can be clear.

MR PLOOS VAN AMSTEL: Mr Chairman, section 30.2(a) refers to a person who is implicated in a manner which may be to his detriment during any investigation or by any hearing. I think any reader of the subpoena and what followed by way of information will be forgiven for thinking that Mr Powell has been implicated. The specific question in Mr Falconer's letter, whether or not that is so, was not answered, but we are approaching this on the assumption that he has been implicated somehow. As we understand the judgment of the Honourable Corbett, that means that you are entitled to adequate information to enable you to know

/what the case

what the case is that's being made against you.

MR LAX: You see, just to - it was prior to a hearing in that instance. The person was being asked to appear at a public hearing where allegations were going to be made publicly about him. That is not the case here at all. And it was in that context that that judgment was made. But, I hear you. I don't think we need to rehash that aspect at all. I've heard you. My understanding of the Chairperson's reply, and maybe it should have been more explicit, was he didn't reply at that stage, and correct me if I'm wrong, Chairperson, because at this stage in our process there is no adverse



implication yet against Mr Powell. That's partly why we are having an inquiry to look at certain matters. Do I express the matter correctly, Chairperson?

CHAIRMAN: Ja, I think you do. I think even if one, and that is subject to argument, even if one takes the Corbett judgment as being of application to section 30.2(a) ... (intervention)

MR LAX: To section 29.

CHAIRMAN: Ja, and to section 30.2(a), as well as section 29, the Act makes it very, very clear that the sort of information that the person subpoenaed or the person who is detrimentally implicated - the sort of information that they are entitled to is information which enables them to identify the incident and the dates, the place, in order to enable them to respond properly thereto. We are certainly not in a situation here where we are obliged, as in a criminal case, to make available the contents of the docket. That's certainly not part of Corbett's thinking in his judgment. And we believe that we have given

/Mr Powell

1/24 Mr Powell sufficient information to enable him to identify the person concerned, in brief terms the nature of the incident, and the date and the place, and we do not understand on what basis he seeks further information, and I give an example. It is alleged that he was involved in an incident on a particular date in Kanyiseni in which a certain person was attacked and killed. As I mentioned in my response to you, it is within Mr Powell's knowledge as to whether or not he took part in such an incident, and if he didn't it's for him to say that he knows nothing about it and that he

denies any knowledge of it. If he knows something about it then surely it's incumbent upon him to tell us what he knows about it and it does not help him to say that on the day in question he was accompanied by Mr X or he was driving in this sort of vehicle or that sort of vehicle. It's an incident of which he will bear knowledge, and if he bears no knowledge he must say so.

If he does bear knowledge we would expect him to make an answer, which is why I have referred in my covering letter to those particulars. I said it would appear that he is seeking to obtain information to which he is not lawfully or fairly entitled and I would like to know what sort of information he is - or you have advised him that he is to seek from us, which would presumably then enable him to appear before this forum and to answer questions. And I take it that he would be prepared to answer those questions if, on his terms, he got the information that he required. But the question I'm asking is what sort of information are you seeking from us?

MR PLOOS VAN AMSTEL: Mr Chairman, I think, with respect, that the Commission is taking a simplistic approach to

/what he's

1/26 what he's entitled to, and I don't mean to be disrespectful by that. There is obviously disagreement between us as to what he's entitled to. What he wants has been documented in the correspondence and the request for particulars. I don't agree that he's been given enough and I make that submission. If I have to persuade a Magistrate of that in due course, so be it. But that is the stance which he is taking. Until such

time as he's been given what he's entitled to in terms of the law, he's not prepared to give evidence. Perhaps we'll just have to agree to disagree today.

MR LAX: So, just to fully confirm it, you are sticking by the assertion that everything requested in that request for further particulars is what we are obliged to give him before he will answer any questions?

MR PLOOS VAN AMSTEL: Mr Chairman, I am not even prepared to say that what is in the request for particulars is all that he's entitled to. One will have to see what the response is - the full response - and then assess, in the light of the allegations or the topics in the subpoena whether or not he's been given enough. We don't know what you have and we can only really assess whether we think he's been given enough once we've seen it.

CHAIRMAN: You see, I draw your attention to paragraph 2 of the reply to a request for further particulars. I do not understand what further information Mr Powell could possibly require. We have given him extracts from statements and from sworn testimony relating to his involvement or his alleged involvement in the receipt of a large number of unlawful weapons and this appears in paragraph 2 of the reply to the request for further

/particulars. That

1/27 particulars. That is the information in the possession of the Commission. That is what we have. Now I think you would agree that we would be failing in our duty, as a Commission which is obliged to investigate allegations of human rights violations - we would be failing in our duty if, confronted with sworn statements and sworn evidence of this nature - if we did not ask Mr Powell,

"Is this true, is it correct what these people say about you?", and I think that places better in context why we have asked Mr Powell to come along here. There have been very unfortunate allegations made in the press about the fact that he's been called here as evidence of bias, etcetera. I don't want to go into that, but we are given information or we come across information through our investigation unit, some of which you have in front of you, and I don't know how else one should respond to that, as a Commission. We have asked Mr Powell in to say, "This is the information. Tell us about it. Is it correct? If it is correct, where are these weapons, what were they intended for? Where are they?", in order to try and complete the mandate, as set out in the Act, and I'm taking that as an example. On what basis does Mr Powell refuse to answer questions in response to those allegations which have been made available to him?

MR PLOOS VAN AMSTEL: Mr Chairman, it is not helpful to deal with the matter piecemeal. One can't pick one topic in the request and say, "But in respect of that particular topic we've given you what we've got". You used the words, "Some of which you've got". It is the, "Some of which" that we have a problem with. We contend that Mr Powell is entitled to everything that you've got. You

/can't choose what

1/29

can't choose what you're going to show him. One must look at the totality of the matter - the contents of the subpoena, the request for particulars, the response thereto and then consider whether he's been given enough, not on a piecemeal basis.

CHAIRMAN: This could be debated at length. The reason why those documents were given to him is because they are in the public domain. That evidence was given in public in court in Mr de Kock's trial. The other information - we have a certain amount of information in our possession and we've explained to you why we haven't made all of it available. Some of it is contained in the statement of a witness, a person who is in witness protection, who has asked us not to disclose his name, and we are not obliged to disclose his name in terms specifically of Mr Corbett's words in his judgment, where he says that the identity of a person shall not be disclosed if the Commission is of the view that his life may be in jeopardy or that his safety and security may be endangered. So I'm dealing with another example of information. Now, if Mr Powell is going to insist that he receive that statement, then we will have to say to him, "No, we are not obliged to give it to you", and we have authority for that in the Corbett judgment, and we believe that we have dealt with every single request for information on a fair basis and that we have given him enough information to identify the incident, the person concerned - except in that particular case where his name was not disclosed - and the date and the place and the nature of the incident, and I need to know from you what sort of information - further information - do you require from us in order to satisfy

/your client.

1/31 your client. I don't want this matter to degenerate into a sort of a slanging match between us where we say, "Well, we're going to prosecute Mr Powell". I have no desire at all to prosecute Mr Powell. I have a desire

to complete my job in terms of my mandate in this Commission, that information comes our way, allegations of serious criminal behaviour, and you will concede they are - it's very serious allegations of criminal behaviour that have been made. It is our obligation to investigate this and I would like for us to co-operate and to say, "Well, perhaps we can meet you and say ...", well, tell us what further information you believe in terms of the law that we are required to give you, to see whether we can give you that to enable your client to assist us with our investigations and I want to repeat that I do not want this to end in a confrontation. The Commission has no desire to, as it were, make an example of Mr Powell, as the press has suggested. We don't want to go that route at all. We want him to feel that he's being fairly treated and we want him to assist us, because allegations are in front of us, which we believe are extremely serious and we are obliged to investigate those.

MR PLOOS VAN AMSTEL: Mr Chairman, I cannot tell you what I want you to give me without knowing what you've got. What we are saying is that it is obvious, from the totality of the documentation, that you've not given us everything you've got. You may be eventually in the position where you've given me everything you've got and I still complain and say, "But that's not enough", but if that's all you've got, that's all you've got. We are not in that position and I am afraid we remain unpersuaded

/that Mr Powell

that Mr Powell is obliged to give evidence in these circumstances. I really don't think we can take it any

further than that.

CHAIRMAN: Thank you. We are going to take a short adjournment, just to consider the facts in front of us and the allegations made and the argument put forward by yourself and we will make a short response after that.

SHORT ADJOURNMENT

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ON RESUMPTION:

CHAIRMAN: We've had an opportunity during the short break to consider our position. We feel that we should not be precipitate in this matter and make an ex tempore ruling. The panel would like an opportunity to look into the argument put before us much more carefully - to look at the law on the subject matter - the legislation, as well as the common law. We believe that this matter has important consequences for our work and it has also important consequences for Mr Powell himself, and we believe that we should take time to, as I have said, look at the law more carefully before coming to a final decision. So we would like then to adjourn the matter sine die and over the next week or so come to a decision as to whether the information supplied by the Commission is sufficient, in our view, in terms of the prevailing legislation and the common law or whether your client is entitled to more information, as has been suggested by yourself and, through the offices of Mr Falconer we will advise your client, if that's acceptable, as to the date on which we will meet again to finalise the matter.

PROCEEDINGS ADJOURNED SINE DIE

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