

Islanders irked by RCMP raid on tropical tax haven

PARADISE THREATENED

BY PETER KUITENBROUWER

PROVIDENCIALES, TURKS AND CAICOS ISLANDS • Wealthy Canadians who bring their assets to this necklace of arid islets, east of the Bahamas in the Atlantic, have one thing in common with the 18th-century pirates, or turks, from whom the islands derive their name.

Both like to bury their treasure on a desert island, where no one can find it.

In the past few years, a considerable number of Canadians have quietly moved here to avoid Revenue Canada. These snowbirds don't bring snorkels. They still wear ties and set up law firms, accounting offices, and brokerages up and down the beaches.

The draw is a jurisdiction without income taxes and some of the most secretive banking laws on Earth.

But now a raid by Canadian and local police on a trust company — as part of a money-laundering

case — has turned into an international battle over police jurisdiction in this tiny remnant of the British Empire.

And the case raises questions about law enforcement on these few strips of sand where police are trained to catch speeders and burglars while the main industry, other than sunning oneself on the beach, is high finance.

So far just one man, Richard Hape of Fergus, Ont., the chief executive of a trust company

based here, has been charged with conspiracy to launder money. Still, police, who have spent three years and considerable resources on this problem, say they are on the trail of a much wider money-laundering operation.

But "the invasion," as some call it, has sparked outrage in the growing professional community.

"If I was the RCMP, I wouldn't want to be up there in Canada freezing my ass off on a horse," says Hugh O'Neill, an Irish-trained lawyer whose 18 years here make him one of the senior statesmen.

"I'd rather be down here sunning myself at the expense of the poor bastards who pay 56% taxes for it."

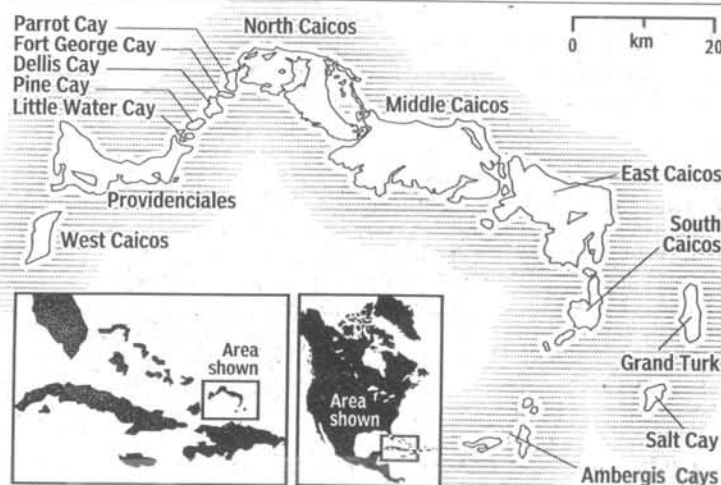
See HAVEN on Page D4



PENRHYN BROOKS / NATIONAL POST

Arawak House is home to British West Indies Trust, raided by RCMP.

Turks and Caicos Islands



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The backlash against the police has produced casualties. Last week, Lieutenant-Detective Thomas Bryan Davies, the most senior English police officer here, surprised both police and defence lawyers when he abruptly quit.

Of four British officers in the Royal Turks and Caicos Police, two have returned to the United Kingdom since the February raid.

"They're leaving like rats," says a police source.

Still, before he quit, Lt.-Det. Davies insisted the police action, the biggest in the island's history, is necessary.

"We must build confidence within the international community that we will root out such transgressions as may be uncovered," he says. "This is the ill that could ruin much larger establishments."

Eager to finish their work, for the past two weeks at least 13 Toronto officers, most from the Royal Canadian Mounted Police, have been holed up at Allegro Resort, an all-inclusive luxury hotel on Providenciales, the most densely populated of the Turks' 30 islands. They are scanning thousands of pages of documents seized from Mr. Hape's trust company.

According to Inspector Gary Nichols, they are working 24 hours a day in two 12-hour shifts to copy every document. He is the RCMP co-ordinator of the Turks and Caicos action.

Insp. Nichols is the officer in charge of the Newmarket, Ont.-based Proceeds of Crime Section, a task force set up to fight money-laundering that groups the Mounties with five local police forces, plus Canada Customs and the Crown Prosecutor's office.

"We are sorting, scanning, and photocopying to complete this as quickly as possible," says Insp. Nichols.

"We're flying in another printing machine from Miami."

Hotel security at the Allegro prevents entry to everyone other than guests. A reporter last week, posing as an interested guest, took a tour of the resort, an imposing spread of Spanish colonial splendour where rooms cost \$250 (US) per person, per night.

Included are meals at either a Caribbean or an Italian restaurant, all drinks, plus use of the Catamarans, windsurfers, snorkeling equipment, a disco, and a nightly dance performance.

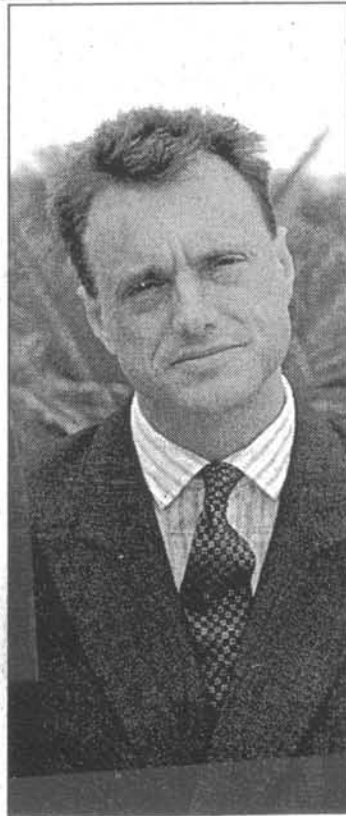
Hotel reception said the police were not in their rooms, and they were not visible elsewhere.

While locals questioned the Mounties' choice of hotel, they are livid about the police copying all of BWIT's files.

"There's an awful lot of very legitimate business people in Canada who have been doing very legitimate business with BWIT for many years," says Mr. O'Neill.

"Their lives are being opened. If this turns out to be a fishing expedition it is an appalling abuse of process."

Meanwhile, defence lawyers say they have restricted police action, and released details of the investigation.



lawyer Andrew Rogerson

"It's all been cloak and dagger, dead of night, supposition and innuendo," says Andrew Rogerson, Mr. Hape's lawyer in Providenciales.

"It's a sting operation that the RCMP have got out of their depth in."

Through interviews with Canadian and local police and lawyers involved, the *Financial Post* has pieced together an account of the raid and its aftermath.

On Feb. 16, a group of Mounties and Turks and Caicos police armed with a search warrant arrive at Arawak House, a colonial two-storey building on the tiny, sleepy island of Grand Turk (population 3,146) that houses the offices of the British West In-

dies Trust Co. Ltd. (BWIT).

The police scoop everything into boxes — including an air conditioner repair file, pilots' books on how to fly an airplane, instructions for deck furniture, and copies of the local statutes.

In the building, police also search and take documents from both the office of lawyer Raimo Heikkila, and an apartment on the building's second floor.

All told, they carry 101 boxes of documents out of Arawak House and, according to defence lawyers, load them on a Canadian police plane, preparing to fly to Canada.

The same day as the Grand Turk raid, Mounties in Toronto arrest Lawrence Richard Hape, 47, chief executive of BWIT, charging him with conspiracy to launder \$311,000, "knowing that all or part of that property or those proceeds was obtained . . . as the result of a commission in Canada of an offence under Part I of the Controlled Drugs and Substances Act."

Police also say they searched "an accountant's office," in Toronto. Mr. Hape spends the night in jail. The next day, he appears at a bail hearing at Toronto's Old City Hall.

According to a transcript of the bail hearing, Mr. Hape protests when a Crown attorney suggests he be released on \$10,000 bail and a \$100,000 surety, surrender his passport to the RCMP, and remain in Canada.

"I work for a living," Mr. Hape tells the court. "I have a job."

Hushing him, his own lawyer says: "Mr. Hape, I indicated to you that there is another venue for that type of application."

The court grants bail.

At the same time, police obtain restraint orders in Canada and in the Turks and Caicos freezing the assets of Mr. Hape, other BWIT employees, and BWIT itself, including Arawak House.

Originally, police said they had also seized a company airplane, but now admit that so far they have been unable to put their hands on it.

Right after his release, Mr. Hape puts in a call to Providenciales, an island at the other end of the Turks and Caicos chain where most of the professionals work.

His call is to McLean McNally — the most prominent law firm in the colony — housed in a colonial building where the Maple Leaf flutters out front. Hugh McLean, the senior partner, is Canada's honorary consul.

The firm puts Mr. Rogerson on

'IT'S ALL BEEN CLOAK AND DAGGER, DEAD OF NIGHT, SUPPOSITION AND INNUENDO'

the case. Mr. Hape then retains Conrad Griffiths of Misick & Stanbrook, the second-largest local firm, to act for BWIT.

In so doing, Mr. Hape sews up the two top litigators in the colony.

"Clients often hire both Conrad and myself," says Mr. Rogerson, "so the other side won't have an experienced litigator."

But he notes there is nothing odd about the Canadian consul's law firm representing Mr. Hape against the RCMP.

"The RCMP asked us to act on their behalf but telephoned us two hours too late, as we were already giving assistance to Mr. Hape, a Canadian national," says Mr. Rogerson.

"It's called the cab ride principal, you have to take on the first person who is in need."

Events since then suggest police didn't count on the hurricane that would bear down on them

from these two gold-cufflink-sporting English barristers.

Mr. Rogerson and Mr. Griffiths are just a half-hour hop by airplane from the Grand Turk courthouse and well-schooled in the intricacies of the colony's byzantine legal system.

While based on British Common Law, the system is still unique — marriage dissolution, for example, is governed by the Jamaican divorce act of 1840.

In a flurry of motions — all restricted from public viewing — the defence says it has already severely clipped the police's wings, leaving authorities scrambling to fight back.

"The British government at one stage had five [lawyers from the Crown Prosecutors Service] in from London to help out," says Mr. Rogerson.

In seven court appearances since Feb. 18, the two lawyers say they have:

- Stopped the RCMP plane from taking off for Canada with BWIT's documents;

- Won a court order forcing the RCMP to return items seized from Mr. Heikkila's office and erase a copy of his database, in the Turks and Caicos in the presence of his representative, and pay all his costs;

- Won another order forcing the return of material taken from Mr. Hape's apartment above the BWIT offices;

- Obtained about 125 pages of transcripts of wiretaps and secret recordings of meetings;

- Filed civil suits here against the RCMP and officers Scott Boyle and Donald Clark, seeking return of documents and damages. Officer Boyle has since been pulled off the case and returned to Metro Toronto;

- Uncovered details of a secret RCMP night search of BWIT one year ago.

Sources confirm that in March, 1998, Mounties and local police broke in to Arawak House at night, downloaded all the computer files and took them back to

Canada, leaving no trace of their presence.

"BWIT says searching in that way is unlawful," says Mr. Griffiths.

"At the very least they should have left a warrant and no warrant was left."

A source close to the investigation, though, says such a secret search is legal under certain conditions.

"[The police must] satisfy a judge that it's not in the public's interest to divulge that [they] were there," the source says. "This is all as a result of court authorization."

The *Financial Post* has con-

'THEY'RE DROPPING MOTIONS AND LAWSUITS ON US AT AN ALARMING RATE'

firmed that the investigation of Mr. Hape began in April, 1996. Sources on both sides confirm the police case is based on a tape-recorded interview with Mr. Hape and a police informant posing as a dealer who earned money selling drugs in Canada.

"The alleged crimes would have never taken place were it not for the incitement of the RCMP," Mr. Rogerson says.

But a source counters that "it's a police technique acceptable in Canada, acceptable abroad."

Mr. Griffiths further counters that the RCMP were never sworn in as Turks and Caicos police as is common practice.

"Nobody's saying they couldn't apply for a lawful warrant and carry out a lawful search," Mr. Griffiths says.

But he added: "There are a significant number of private clients who have nothing to do with the investigation whose

businesses are being disrupted and potentially damaged."

David Jeremiah, attorney-general, did not return calls.

The police admit the legal backlash has slowed their work.

"They're dropping motions and lawsuits on us at an alarming rate," Insp. Nichols says.

After a court ordered that BWIT's original documents must not leave the colony, Insp. Nichols says police then flew the boxes from Grand Turk to Providenciales, "because there are no facilities on Grand Turk."

Police then flew down a plane-load of electronic equipment from Canada, including a super gravity optical scanning system, in a bid to catalogue the material.

"We're opening the boxes and scanning them in one by one," says Lt.-Det. Davies.

"This is the first time anything of this magnitude has ever been done. It's like when you're fishing, it's easy to catch the little fish."

But the source close to the probe says that when the full story comes out, critics will understand why police have acted in the way they have.

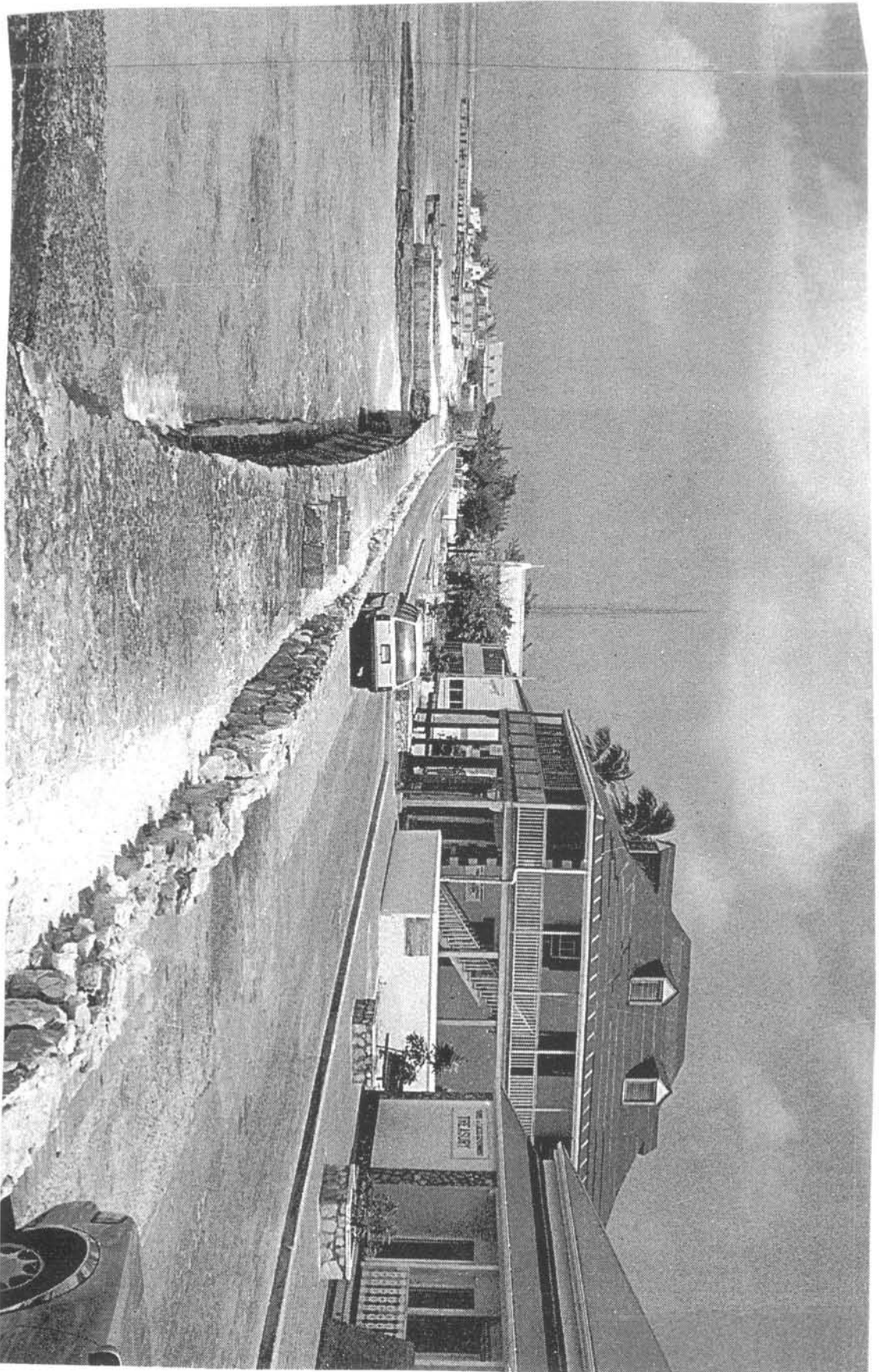
The source says Mr. Hape's assets in Canada are minimal, but he is suspected of owning properties abroad.

The source says the police search warrant restricts officers to copying documents relating directly to those named in the investigation. Others, whose assets are now frozen, are not under scrutiny, the source says.

"Crimes are committed every day and there are innocent victims," says the source. "This is not a witch hunt or a fishing expedition."

"The only information we're interested in is with respect to people named in the investigation," the source says. "Our people will see documents but will return those documents from people not linked to the investigation, and no disclosure will be made."

Financial Post



A typical scene (above) on Grand Turk Island.

Centre of influence is Canadian: lawyer

Alex Mumm, vice-president of RBC Dominion Securities (Global) Ltd., leans back in his chair in the brokerage's cool, spacious Turks and Caicos headquarters and says the 11 words that should, in April, send a hoarde of Canadians screaming to the airport.

"It's going to be nice," he says, "not to have to file an income tax return."

Mr. Mumm is from Kingston, Ont., where he worked as a long-time broker at Richardson Greenshields. He moved here two years ago when the Royal Bank of Canada bought his firm.

He is one of at least 1,000 Canadians who have moved here in the past 10 years, according to one estimate, and spend some or all of the year in this tiny cluster of islands. U.S. citizens are a rare breed here, and even the British — who still own this place, after all — say they feel badly outnumbered.

"The centre of influence," says lawyer Andrew Rogerson, whose firm counts just two British lawyers v. 12 from Canada, "is Canadian. The British have never wanted the place and they're stuck with it."

In 1974, a private member's bill in Ottawa proposed the islands join Nova Scotia. The idea went nowhere. In 1987, a delegation from the Turks and Caicos travelled to Toronto, saying over 80% of islanders support some association with Canada.

But in a study, the External Affairs Department said Canada would end up stuck with the bill for paving the roads and building schools, and would perhaps be seen as "neo-colonial." The department added that the local population was too small to support a tourist industry.

Some of those conclusions have

proven wrong though: Tourism is thriving, and so is the economy, which grew by 13% last year. And Canadians are flooding in.

"They're wintering down here five-six months if not longer," says Mr. Mumm. "They're sick and tired of the outrageous taxation in Canada. Not only are they at the max of 52%, there's consumption tax of 15%. They decide that it's more beneficial to become a non-resident."

Ian McLeod, a Montrealer who runs the Erebus Inn here, has managed hotels from Dubai to Auckland. He likes the Turks and Caicos a lot.

"It's very very safe. Cooler here than Florida in the summer and warmer in the winter. Land is affordable." His children go to a private school with a British curriculum and many teachers are from Canada.

For Dale Peters, a lawyer who moved here 10 years ago from Alberta, the attraction is the weather.

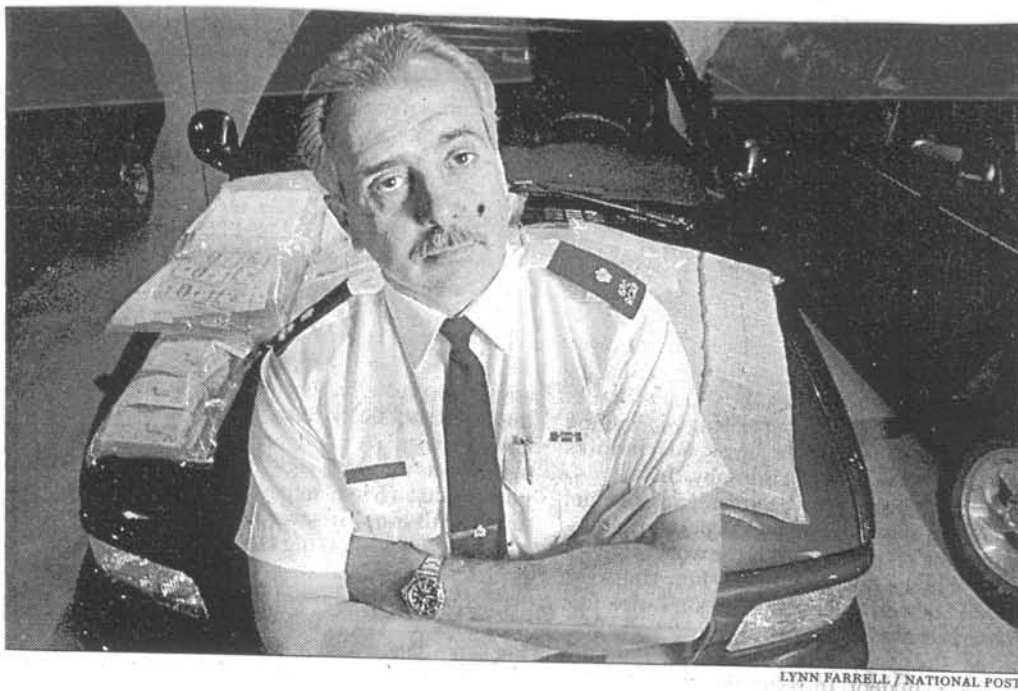
"I did my stint," he says. "I put in my time. I decided it was time to live instead of just existing. There's very little snow to shovel and very little grass to cut."

Still, he warns the islands are not for everyone. "Everyone has to be a little off-centre to live here. If you have a wife who likes shopping this is not the place for her."

And while there is no income tax, there is an import duty of 33% on any goods brought in, and there is a 9.75% stamp duty on real estate.

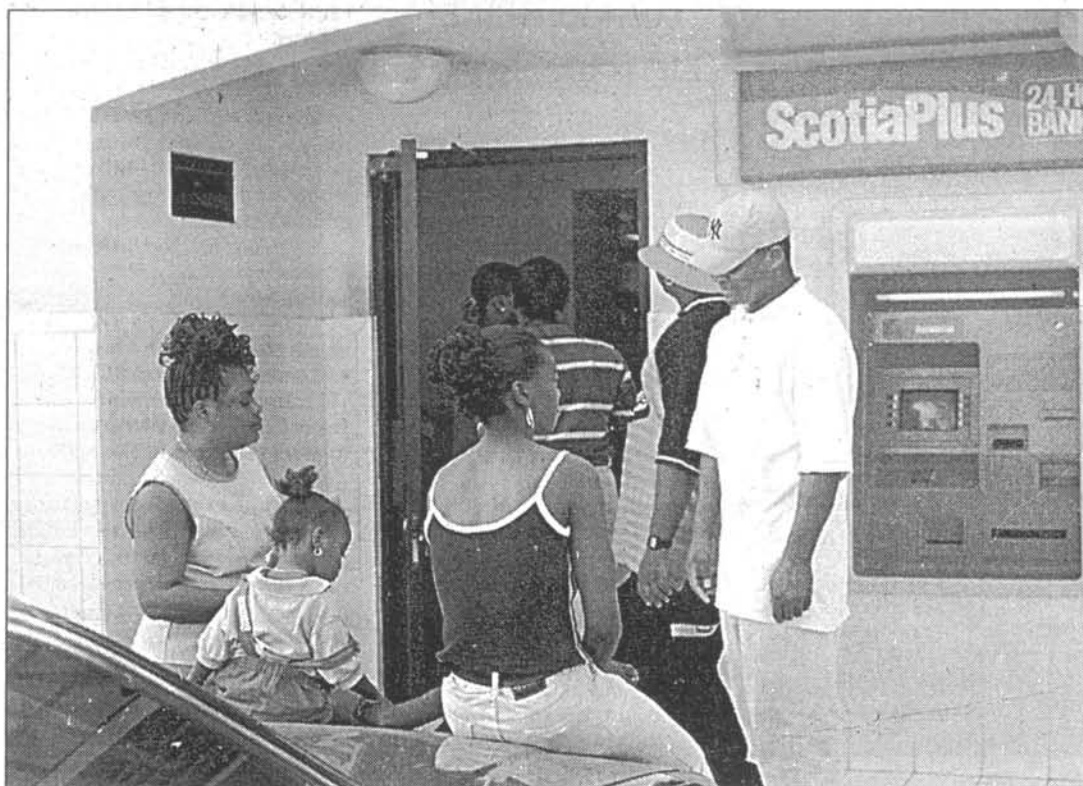
All in all, "down the road I'll probably go back to Canada at some point," says Mr. Mumm. "Too many ties, friends. Paradise can wear a little thin after awhile. In the mean time, this is a nice posting."

*Peter Kuitenbrouwer,
Financial Post*



LYNN FARRELL / NATIONAL POST

Inspector Gary Nichols, right, who is in charge of the Newmarket, Ont.-based Proceeds of Crime Section, says "we are sorting, scanning, and photocopying to complete this [investigation] as quickly as possible."



PETER KUITENBROUWER / FINANCIAL POST

ScotiaBank has a presence on Providenciales. Canadian tourists are flocking to the islands.

'The corporate veil has been pierced'

A co-ordinated action by Canadian and local police to seize a trust company here, and over 100 boxes of records, has sent shock waves through these islands where secrecy is the currency.

Like the Cayman Islands and the Bahamas, this is a tax shelter, but one that hopes to avoid the Caymans' reputation for Ferraris, flash, and undercover officers.

"This doesn't happen very often that we get a bunch of bloody Mounties coming down here at the weekend like thieves in the night," bellows Hugh O'Neill, Irish of origin.

He is referring to last year's secret police search, since confirmed by other sources, of the British West Indies Trust Ltd. on Grand Turk.

The building has since been seized by police.

O'Neill & Co. is housed in one of these islands' classic white houses with a sloped roof that stands alone on the Leeward Highway, surrounded by sagebrush. Mr. O'Neill sits behind an L-shaped desk piled high with papers, chain-smoking Marlboros.

"In this jurisdiction we're not in the business of money-laundering, washing the proceeds of crime," he says.

"There's more than enough legitimate work to keep everyone on the island busy full time without people needing to take this kind of business.

"Look at the cars. Jeep Cherokees, Oldsmobiles, Toyota Four Runners. Do you see any Porsches?"

But a Canadian police source puts it differently.

"The Turks' financial institutions are not happy because this is basically a haven country," the police source says.

"The corporate veil has been pierced. We have made substantial seizures. One bad guy is not isolated.

"The whole infrastructure put in place is custom-made for money laundering."

Another police source says that in this and other drug cases, police find that traffickers prefer to move their profits to an area where they can't be found.

Here, they can set up shell companies, never have to declare income, and then move the funds around the world and prevent police from finding out who's behind the corporation.

But others on the islands say they are upset with Canadian police moving in in such numbers and seizing such a huge volume of material.

One English professional even tried to put it in terms a Canadian might understand — with comic results.

"If we're using the ice hockey analogy," he says, "this guy could have been put in the sin bin and the ice hockey game could have continued.

"What we've got is a whole bunch of RCMP guys have swarmed the ice hockey pitch and the game can't continue."

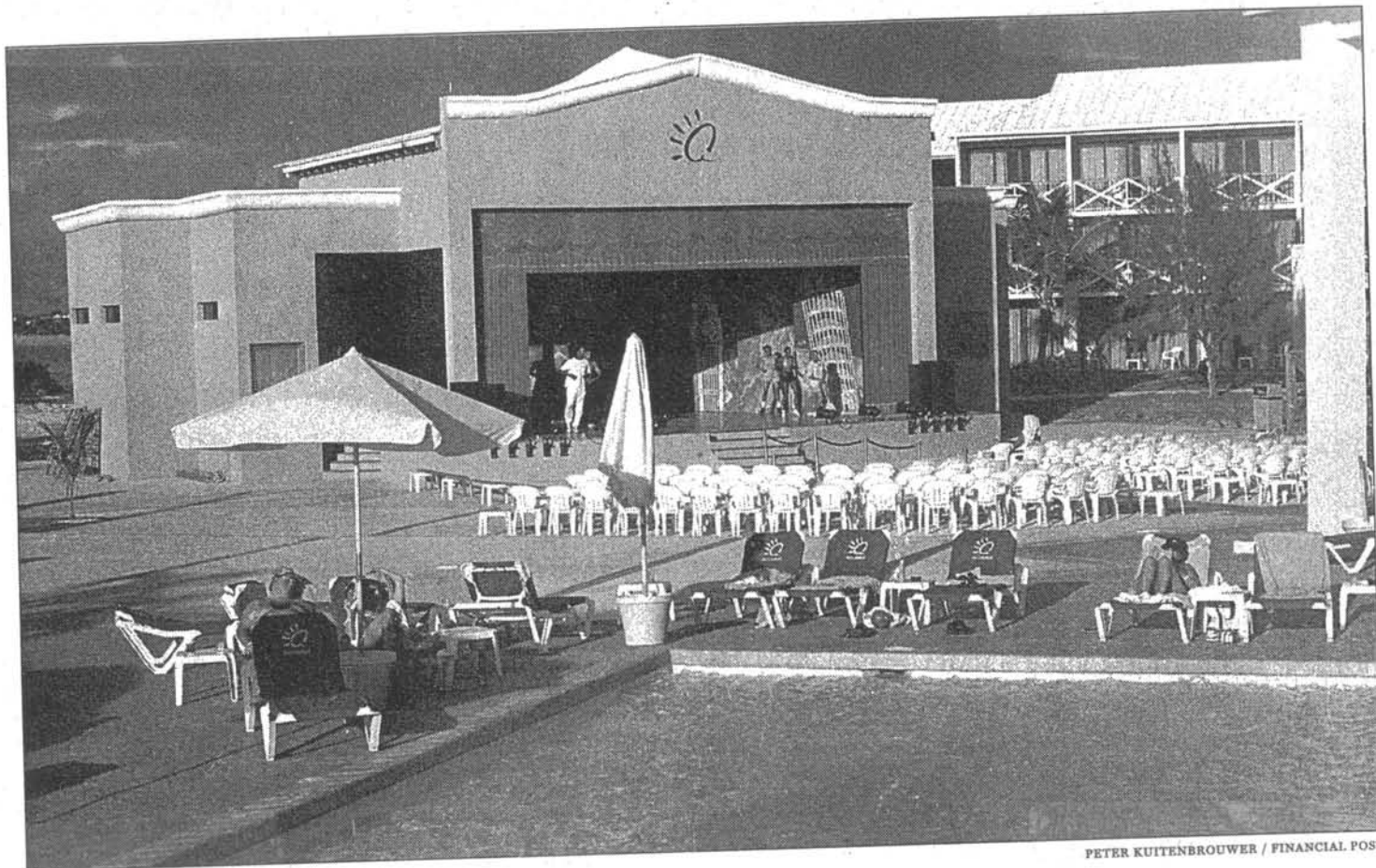
Now that the RCMP are pawing through all the companies' files, he says, "Canadian lawyers' phones are ringing off the hook, with clients saying, 'My confidentiality has been breached. I want you to move my accounts to another jurisdiction where I'm going to get confidentiality.'"

The rage is starting to spill out. Last Saturday night, Mr. O'Neill says he cornered one of the Mounties, Alastair Bland, after a silent auction at the golf course, which is across the highway from the resort where the Mounties are working.

"I'd had about seven beers," says Mr. O'Neill.

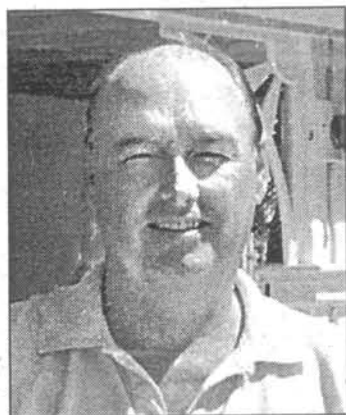
"I asked him where his horse was. I asked him why he wasn't over on Grand Turk eating salt."

*Peter Kuitenbrouwer,
Financial Post*

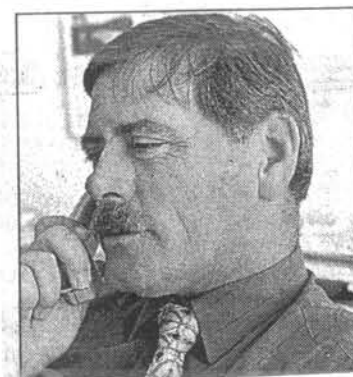


PETER KUITENBROUWER / FINANCIAL POST

The Allegro Hotel, top, where the RCMP are staying.
above left,



Ian McLeod, managing director
of the Erebus Inn



Hugh O'Neill, long-time Providenciales lawyer.

Offshore banking is the only business after tourism

BY PETER KUITENBROUWER

Marlene Gilchrist, a software consultant from Guelph, Ont., on this packed Air Transat charter to the Turks and Caicos Islands (with a stop at the Cayman Islands) is raving about the lobster.

"Sun, shop, sleep or read nine to noon, then lunch, snorkel, return at four for pina colodas on the deck, prepare dinner — lobster, rice, salad, wine, and then settle in for the evening."

Her companion, Joe, is a vet — one of a group who together own the clinic here as a sort of time share. Each works two weeks a year, mornings only, caring for pets, and holidays the rest of the time with the villa and the boat that are included.

"It's a very quiet island, very safe, very low-key," says Ms. Gilchrist. "There's no hustle-bustle, no rushing around. It's expensive, but it's great!"

At the tiny airport, writing on the pay telephones promises service in exchange for U.S. quarters. The staff at the airport are friendly too — a ticket agent gives 75¢ (US), to a Canadian whose money is no good here. But to no avail. The phones don't work.

"They're new," laughs another woman with a British accent who works here. She leads the way to her office, and puts through the call to a hotel.

The cabs crowded in the heat outside the terminal are all vans, none with a meter or a "taxi" sign on the roof.

Cranking up the calypso, the driver pulls off — driving on the left side of the road, although his steering wheel is on the left, too — down the two-lane Leeward Highway, the only road to speak of on this 20-kilometre island. The fee is \$10 (US) for a four-minute ride.

This is Providenciales, Provo for short. On the western edge of the island chain, it was nowhere until 20 years ago, when a group of developers kick-started the real estate business.

These days, resorts such as The Sands, Le Deck, and Club Med pack in the tourists, while boats at the Turtle Cove marina load passengers for diving in the legendary reefs.

The islands are well-suited for tourism: The water is azure and warm, the temperature is hovering at 30 degrees, and besides, nothing really grows here except cactus and sagebrush anyway.

The first arrivals here were the Arawak Indians, thought to be from Venezuela. When the Spaniards showed up they enslaved the Arawak to dive for pearls, wiping out the population. Later, the English took over, importing slaves from Africa to export salt.

The main salt trade took place on Grand Turk, which today exists mainly as a government town, with a hospital and a court but only four lawyers (there are 70 lawyers on Provo).

The real history of this island, which continues today, is as a tiny, independent place whose people are loathe to pay taxes or accept outside control, and have for centuries cherished its secretive coves for smuggling and for privacy.

In 1769, the governor of the Bahamas, William Shirley, who also had control of the Turks and Caicos, expressed his concerns about the place in a letter to the secretary of state for the Colonies, in London:

"I find the steps that have been undertaken in order to put a stop to the unbounded illicit trade, which has been carried on in the Turks Islands under the cloak of the salt trade, has caused a great deal of murmuring among the traders who have frequented the place."

In response, the local agent here, Andrew Symmer, shot back that he had "succeeded in making a barren Island of more consequence to commerce than most... islands in America."

Those were prophetic words. Turks were furious that "the only Bahamians [they] ever saw were tax collectors" — according to one account — and by the 1850s shrugged off control from Nassau to become a colony of their own for about 20 years. Then, after a 100-year period under Jamaican authority, the Turks acquired their own governor in 1962. Today, they have no income taxes. After tourism, offshore banking is the only business here.

On Provo, building scaffolding is everywhere. Misick & Stanbrook, one of the oldest law firms here, is building a big new office on the highway. Deloitte & Touche, KPMG, PriceWaterhouseCoopers — they're all here.

The island is a strange place. There's a Wild West feel to it with no sidewalks, no stop signs, not a single traffic light.

There are four different worlds here, which intersect but rarely mix: the white professionals who put in long hours in shirts and ties in air-conditioned offices, the white tourists, the black locals, and the black illegals.

The last group, locals say, are often "enslaved" by the black locals, threatened with deportation if they complain.

The population is estimated at up to 20,000, but in the elections last month just 5,421 people were eligible to vote, according to the local *Turks and Caicos Weekly News*, which is printed in Miami because there is no press here. The other people here are either illegals — Haitian creole is a common language on the jitneys that ply the highway — or Canadians, or British, who have retained their home nationality but have been declared "valid non-residents" of those countries, purely for tax purposes.

As a result, local culture is pretty much restricted to conch, raised at the world's only conch farm, and then transformed into everything from spicy soup to deep-fried finger food.

Everything else is imported. The clutter on the walls at a local bar, Hey José's, illustrates the strange hybrid of cultures here: A stuffed reindeer head is mounted beside a pair of snowshoes. Further along are a British flag, a rowboat oar, a bowling pin, Russian dolls, a leprechaun, sombreros, and bright-painted wooden toucans.

All in all, though, it's hard to find fault in a place with pristine water lapping on endless, deserted beaches and sunny weather all the time.

Drawbacks?

"No hockey," says Hugh O'Neill, a longtime resident. "No movie theatres. The nearest shopping mall is 500 miles away. We don't have OHIP [the Ontario Health Insurance Plan]. You can get island fever — everywhere you go you know everyone after awhile."

"And twice or three times a year a little storm comes out of the Atlantic pushing winds at 140 miles an hour and it might rip your house to shreds."

Financial Post