

WALTER RODNEY COMMISSION OF INQUIRY



CO-OPERATIVE REPUBLIC OF GUYANA

THE WALTER RODNEY COMMISSION OF INQUIRY

**VERBATIM REPORT
OF THE PROCEEDINGS**

Friday 30th May, 2014

WALTER RODNEY COMMISSION OF INQUIRY

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8th Hearing

09:50hrs

30th May, 2014

Commissioners:

Sir. Richard L. Cheltenham, K.A., Q.C., Ph.D – Chairman

Mrs. Jacqueline Samuels-Brown, Q.C.

Mr. Seenath Jairam, S.C.

Secretary to the Commission:

Ms. Nicola Pierre

Counsel to the Commission:

Mr. Glenn Hanoman

Ms. Latchmie Rahamat

Administrator of the Commission Secretariat

Mr. Hugh A. Denbow

Attorneys for the People's National Congress (PNC):

Mr. Basil Williams

Lt. Col. (Ret'd) Harmon

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Mr. James Bond

Attorney for Working People's Alliance (WPA):

Mr. Christopher Ram

Attorneys for the Guyana Trades Union Congress (GTUC):

Mr. Brian Clarke

Mr. Selwyn Pieters

Attorney for Dr. Patricia Rodney, Asha Rodney, Shaka Rodney and Kanini Rodney:

Mr. Andrew Pilgrim

Attorney for Donald Rodney:

Mr. Keith Scotland

Witness:

Mr. Eusi Kwayana

Officers:

Ms. Pamela Binda	-	Editor
Mr. Kristoffer Sundar	-	Assistant Editor

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CALL TO ORDER

Chairman [Sir. Richard L. Cheltenham K.A., Q.C., Ph.D]: We are now in session and will Brigadier Norman McLean please step forward. You need not go to the stand, Sir. Just come there at the side.

[Major General (Ret'd) Norman McLean stood at the side of the witness box]

Mr. Chairman: Thanks very much for coming, Brigadier.

Major General (Ret'd) Norman McLean: That is Major General.

Mr. Chairman: Major General. I am so sorry. I was misadvised as to your appropriate rank. You will forgive us. We are not going to be able to accommodate you today and I do not want to keep you waiting. I want to thank you for coming and to indicate that we will be setting aside Tuesday for you so that next Tuesday – and I will check on the precise date – the 3rd June, and as of next week, we are proposing to commence our hearings at 09:00hrs. So that next Tuesday for 09:00hrs, we look forward to your presence. In the meanwhile, Commission Counsel will be in touch with you, and we look forward to seeing you then.

Major General (Ret'd): Thank you very much.

Mr. Chairman: You have a good weekend.

Major General (Ret'd): Thank you.

Mr. Chairman: We look forward to see you on Tuesday.

Major General (Ret'd): I had a good session early half an hour with...

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Mr. Chairman: All of your session, I have no doubt, will be good ones.

Major General (Ret'd): Thank you very much.

Mr. Chairman: Have a good weekend. Thanks.

[Mr. Eusi Kwayana entered the witness box]

Attorney for the People's National Congress (PNC) [Mr. Basil Williams]: Mr. Chairman, if we could look at some housekeeping issues. A major one is the fact that we are not getting statements in a timely manner. In fact, for this current witness, we only got his statement as he was going into the witness box. I believe that statements are in the possession of the Commission representatives, but they have not found their way into our custody and the proper thing is for us to have the statements beforehand which would assist in cutting down time so that we would be able to decide what we are going to deal with *early a clock* and narrow the time, in terms of what we take to do any examination of the witnesses. Certainly for me, speaking for myself, I would like to have all those statements ready and that we could have them now in a timely manner so that we could have them for the weekend and we could look at them.

Attorney for Dr. Patricia Rodney, Asha Rodney, Shaka Rodney and Kanini Rodney [Mr. Andrew Pilgrim]: Mr. Chairman, I support the application. Obviously, it would be useful for us to go through the material before the witnesses are here, so I think we can support that application.

Mr. Chairman: Mr. Williams and Pilgrim, thank very much for raising that issue because anything that could help us to speed up the pace at which we go and to make more effective use of our time, we welcome. The Secretariat is hearing us and if they have statements already in

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their possession, get them out with dispatch. Even if the witness is not a witness until the next session, get the statements in all Counsel's hands, all Counsels. I do not think I need to say anymore about that. As soon as you have the statement, get it out to all the parties – the Commission Counsel, the Commissioners and to all those at the table.

Secretary to the Commission [Ms. Nicola Pierre]: Yes, Sir.

Mr. Chairman: I do not think I need to repeat that. Thanks very much indeed.

Mr. Williams: Secondly, Sir, I have copies of the book to lay over to you and the Counsel for the Commission, Walter Rodney's book that I read from and I have given this to the other lawyers.

Mr. Chairman: You have been assisting us with our work and thanks very much.

Mr. Williams: I do not know if I can seek reimbursement for the cost of the photocopying.

Mr. Chairman: Alright, we ran a little late this morning because of some housekeeping matters which we had to address, so we are keen to get on. The witness is in place. I think we can proceed.

Mr. Williams: Thank you, Sir. Good morning, Mr. Eusi Kwayana.

Mr. Eusi Kwayana: Good Morning.

Mr. Williams: I suspect that we will get on much better today too. I suspect Mr. Eusi Kwayana is still under oath, Mr. Chairman?

Mr. Chairman: Mr. Eusi Kwayana, do you appreciate that you are still under oath?

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Mr. Kwayana: Oh, yes.

Mr. Chairman: Yes.

Mr. Williams: I wish to refer the witness to *The Struggle Goes On*, which is Exhibit EK 6, at the bottom of page 13 and top of page 14. It is on page 13, the last paragraph and at page 14 at the top.

Mr. Chairman: For the benefit of the public, do you just want to mention what you are referring to?

Mr. Williams: As it pleases you, Sir. I read the last paragraph of page 13, and this is from *The Struggle Goes* a speech by Dr. Rodney. I think it was on 20th July, 1979: "And we say further that we do not want those who have been responsible for crimes against the Guyanese people assassinated, so if any of you brothers and sisters have been thinking along these lines, we ask you to hold your hands because we want them alive."

Mr. Chairman: Who penned those words?

Mr. Williams: The speech of Dr. Rodney.

Mr. Chairman: The speech of Dr. Rodney.

Mr. Williams: Yes.

Mr. Chairman: I did not have it before me.

Mr. Williams: Oh, I am sorry, Sir.

Mr. Chairman: Did Mr. Eusi Kwayana have that before him?

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Mr. Kwayana: I have it. Thank you Sir.

Mr. Chairman: Good, thanks.

Mr. Williams: Do you agree with me, Mr. Eusi Kwayana, that by these words, Dr. Rodney also recognised that rank and file members or supporters of a Party could take matters into their own hands without knowledge of the leadership.

Mr. Kwayana: Oh, yes.

Mr. Williams: I wish to tidy up on an issue that was raised yesterday by referring you to page 28 of the book that we spoke of yesterday *Walter Rodney* by Eusi Kwayana, which I read excerpts from already; on this issue of the threat to the mass-based parties by the Working People's Alliance (WPA) activities. I respectfully refer to page 28 of that and it is in the penultimate paragraph.

Mr. Chairman: Just read it for the public.

Mr. Williams: Yes, please. Under the caption *The Civil Rebellion*, it goes like this: "The rural meetings were equally earth shaking. They took place in areas of Indo-Guyanese or Afro-Guyanese and wherever possible, at the dam between their separate villages. Throughout the Demerara-Berbice Coast, the reception was uniformed. Thousands of people surged into the streets and took part in acts of rebellion." My question to you, Mr. Eusi Kwayana, do you accept this as your writing?

Mr. Kwayana: Yes.

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Mr. Williams: Do you agree that these words would convey that the People's Progressive Party (PPP), as you indicated earlier whose base was supposed to be Indo-Guyanese, would have felt threatened by the activities of the WPA?

Mr. Kwayana: I do not think those particular words do that.

Mr. Williams: Thousands of people came out in areas of Indo-Guyanese; do you not think that that would have troubled the PPP?

Mr. Kwayana: I heard your question and I gave my answer, Sir. Do you want me to repeat it?

Mr. Williams: Okay, but I would suggest to you that these words would convey that the PPP would have felt threatened by the successful activities of the WPA in their traditional areas. I am suggesting that to you?

Mr. Kwayana: In answer, Sir, I would say where I intended that I said it. This was not intended to say that.

Mr. Williams: If I could refer you to Exhibit EK 6, *The Struggle Goes On*, on the said page 13, the second paragraph. I want to put this entire paragraph to you because we have always been dealing with only a sentence in it. I read. I do not know if the Commissioners have it, *The Struggle Goes On*?

Mr. Chairman: Yes, we do. Thank you very much.

Mr. Williams: "There is no way out under the present system so we have got to make up our minds what we are deciding now within the Working People's Alliance. It is not simply that the Government [and I quote] 'do bad' and they must do better. It is not simply that they do part

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good and part bad, and they must remedy it. It is not that they must reform. It is not that they must hold another election and rig it all up. We finished with all that. They must go. [*loud applause*] The PNC must go [*loud applause and cheering*] and they must go by any means necessary.”

10.05hrs

Mr. Williams: Do you agree with me in that paragraph which I just read and, in particular, the words “we finish with all that” followed by “They must go. The PNC must go and they must go by any means necessary” suggest clearly that Dr. Rodney considered that all the other alternatives were not working, and he is speaking about recourse to violence?

Mr. Kwayana: No, I do not think that is the only inference.

Mr. Williams: Again, I suggest to you that that was what Dr. Rodney was telling the large crowd was the last option. “All else had failed. We finished with that. We shall resort to violence in order to ensure they must go. The PNC must go by any means necessary”.

Mr. Pilgrim: Mr. Chairman, I think it is somewhat unfair to the witness to put this against a background that the next sentence specifically addresses the issue of violence by saying “they have been accusing us of committing violence...”

Mr. Williams: I am objecting to this. He will have his chance to cross-examine.

Mr. Pilgrim: I am...

Mr. Chairman: At least before you object, we must hear what it is that he is saying.

Mr. Williams: No. Sir, it is a matter of procedure. It is something that he can deal with when he is examining Mr. Kwayana. I do not think it is proper for him to interrupt me.

Mr. Chairman: Let us hear what is it he is saying and we may then be able to agree or disagree.

Mr. Williams: He is talking about another paragraph. That is something he is dealing with when he is examining.

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Mr. Chairman: Okay, let us hear what Mr. Pilgrim is saying.

Mr. Pilgrim: My objection, Mr. Chairman, is that the Counsel is specifically putting to this witness that there is a desire to ferment violence and the very next sentence, which he stopped short of, specifically states that he is being accused of that and how he proposes to address violence that he is not engaged in assassination, specifically addresses that, so without putting it into context, is unfair. That is our submission, Sir.

Mr. Williams: No, I do not agree with that and I reject that out of hand.

Mr. Chairman: Thanks...

Mr. Williams: I have already read about what he said about assassination. That next paragraph speaks to assassination. I am not dealing with that.

Mr. Chairman: Let us do not waste too much time on that.

Mr. Williams: Yes, but that is what I am saying.

Mr. Chairman: Mr. Pilgrim, I think the point is being rightly made. Thanks for drawing it to our attention. When your turn comes you have the opportunity to highlight precisely that.

Mr. Pilgrim: Grateful, Mr. Chairman.

Mr. Chairman: Okay, let us get ahead.

Mr. Williams: Thank you, Mr. Chairman. You also said yesterday that Dr. Rodney was a student not only of Marx, but of C. L. R. James. Do you agree with that?

Mr. Kwayana: Of course.

Mr. Williams: Are you aware that C. L. R. James was very critical of Dr. Rodney's action and activities in Guyana?

Mr. Chairman: You want to be as wide as that or do you want to...?

Mr. Kwayana: That is a non-question for me. I do not know what it is.

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Mr. Williams: So you....

Mr. Kwayana: I think I know what you want to ask, but you have not asked is.

Mr. Williams: I am asking you generally now and then I will come to the specifics.

Mr. Kwayana: Then my answer is 'no'.

Mr. Williams: You are not aware that he has criticised Dr. Rodney...?

Mr. Kwayana: Yes.

Mr. Williams: ...in relation to the way he conducted his activity in Guyana? Does that 'yes' cover that?

Mr. Kwayana: I would have to say 'no' because the proposition is not accurate.

Mr. Williams: Are you aware that he had accepted Gregory Smith's version of the events in the car that night and not the version of which you had asserted of Donald Rodney?

Mr. Kwayana: I do not know that he had heard Gregory Smith's version.

Mr. Williams: You do not know. That is not what I am asking you, whether you know or not. I am saying that he has adopted the position that Gregory Smith has in his book. I do not know whether he read it or not.

Mr. Kwayana: That is another question, Sir.

Mr. Williams: No, it is not.

Mr. Kwayana: Okay.

Mr. Williams: Are you aware that he disagreed with the WPA's position that Gregory Smith was never in the car and he, himself, is saying that Gregory Smith was in the car?

Mr. Kwayana: Can you repeat for me, please, what the question is?

Mr. Williams: That C.L.R James...

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Mr. Kwayana: Yes.

Mr. Williams: ...disagreed with the WPA's position that Gregory Smith never entered the car that night and you yourself gave a critique about that yesterday and the previous day and instead he is ascertaining the version that Gregory Smith was in the car?

Mr. Kwayana: I will be glad to hear if I may respectfully request it

Mr. Williams: My question is that you were not aware of that before now?

Mr. Chairman: Please let him answer the question, Mr. Williams.

Mr. Kwayana: I do not know that C. L. R. James is aware of what I said yesterday when he spoke. I do not know how that could be. The WPA had never addressed the question of Gregory Smith being in the car. This came up only when Gregory Smith's sister published this book in 2007.

Mr. Williams: Okay.

Mr. Kwayana: I had never heard it before myself so....

Mr. Williams: That is all I was asking you whether you were aware. Might I respectfully refer the Commissioners, and I suppose we will have to get the additional copies, to C. L. R. James's, *Walter Rodney and the Question of Power*.

Mr. Chairman: Is it before the witness?

Mr. Williams: No, it is not before the witness. I have a copy, as in the case of yesterday and, on the occasion, I will ask, since it is just a couple of pages I pulled out, the Commission to make copies so that we can get it. It is only two pages I wish to rely on.

Mr. Chairman: In the meanwhile could we go on...

Mr. Williams: Yes, that is...

Mr. Chairman: I would urge the Secretariat to assist you.

Mr. Williams: Much obliged.

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Mr. Chairman: It would not be quite fair that the witness be questioned on it unless he has seen it so we will facilitate you as best as we can but in the meanwhile we will appreciate you get ahead.

Commissioner [Mrs. Samuels-Brown, Q.C.]: Getting ahead with the same questions?

Mr. Chairman: No. Get ahead with other questions.

Mr. Williams: I wish to refer to Page 139 of that, Sir.

Mr. Chairman: Are you following though what I am saying? I am saying that it is quite unfair that the witness be questioned on it unless he has seen a copy or has one before him. If you would get on with other questions the Secretariat will facilitate you by getting a copy in a moment for you.

Mr. Williams: Much grateful, Sir.

Mr. Chairman: Yes.

Mr. Williams: Mr. Kwayana, do you agree with me that the late Dr. Walter Rodney harboured a personal hatred for President Burnham?

Mr. Kwayana: No, I do not think it was personal. I do not think it can be put like that. It was a political disagreement and probably rejection of the whole Burnham regime.

Mr. Williams: If I might respectfully refer your honourable Commissioners to *The Struggle Goes On*, beginning at Page 5, I will begin at the 3rd paragraph.

Mr. Chairman: Will you read it for us?

Mr. Williams: Yes. “[*Sound of a helicopter overhead*] Brothers and sisters, I am aware of the preferred mode of transportation of King Kong”. To whom was Dr. Rodney referring to, Mr. Kwayana?

Mr. Kwayana: It is no mystery.

Mr. Williams: I cannot get a ‘yes’ or ‘no’.

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Mr. Kwayana: It is no mystery. It is not a 'yes' or a 'no'. You asked me "to whom".

Mr. Williams: Yes.

Mr. Kwayana: And I am answering you. It is no mystery; he was referring to the Prime Minister of Guyana, Mr. Burnham.

Mr. Williams: Thank you. I continue down in that same paragraph. "But you see King Kong has decided you wanted to build a palace to his ego, [*laughter*].

Mr. Jairam: You skipped...

Mr. Chairman: That is not what we are reading. Have you...

Mr. Jairam: After "King Kong" there is laughter.

Mr. Chairman: But then.....

Mr. Williams: I am referring you later down in the paragraph.

Mr. Chairman: You did not signal us man.

Mr. Williams: No, Sir. I did. I did say that.

Mr. Chairman: I am sorry. I did not hear that.

Mr. Williams: It is alright. Yes, the sentence beginning with "King Kong", I do not know if you see that, it is four lines from the bottom of that paragraph. Are we adding in...

Mr. Jairam: Yes.

Mr. Chairman: Yes, but "King Kong" is not the beginning of the sentence there.

Mr. Williams: "But you see King Kong has decided he wanted to build a palace to his ego [*laughter*] and a monument to his own stupidity so that he could sit inside and be a monument inside a monument". Do you agree those are the words of Dr. Rodney in that speech?

Mr. Kwayana: If necessary, yes.

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Mr. Williams: He was referring to “King Kong being a monument in a monument”. Who was he referring to whom?

Mr. Kwayana: Do you want my endorsement?

Mr. Williams: I am asking a question.

Mr. Kwayana: Well it is clear.

Mr. Williams: You ask for the protection of the Commissioners yesterday, I had the occasion to comment and *Stabroek News* said I was agitated.

Mr. Chairman: That does not merge the speech, Mr. Williams.

Mr. Williams: No, Sir, but am I going to have the witness answer the questions when I asked him?

Mr. Chairman: Mr. Kwayana, please answer as economically as you can.

Mr. Kwayana: If the questions can be economic too.

Mr. Williams: Yes, well I read to you the words and he is referring to King Kong’s own stupidity and that King Kong should build a monument so that he goes inside and be a monument also in a monument. Who is Dr. Rodney referring to?

Mr. Kwayana: The Prime Minister of Guyana.

Mr. Williams: And that was who?

Mr. Kwayana: As I said before.

Mr. Williams: Yes, you are required to answer the question.

Mr. Kwayana: The same King Kong that you refer to in a previous passage.

Commissioner [Mr. Seenath Jairam, S.C.]: Mr. Williams.

Mr. Williams: Yes.

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Mr. Jairam: One moment please, Mr. Kwayana, Mr. Williams I thought the witness made it very clear when you read the earlier sentence in that paragraph that Dr. Rodney was referring to the Prime Minister of the day, Mr. Burnham. Is there a need to repeat again?

Mr. Williams: Yes, Sir. I am cross-examining him. I want to show the difference instances that he has referred to him and he has to answer who is he referring to because if I give you one instance and he answers it, you would not get the exact feel of the putridity and the rancour and vituperation with which he was addressing the Prime Minister at the time.

Mr. Jairam: You ought to credit us with a little bit of common sense.

10.20hrs

Mr. Williams: No, Sir, the Chairman asked me to read it for the public, the people who are listening, that is what I was asked to do and they would not know unless we tell them. I understand the Chairman to be saying that we need to spell out these things because it is not only us in here.

Mr. Chairman: You are just following instructions.

Mr. Jairam: You see, that is why the witness appearing to be difficult, but he is not being difficult because as far as he is concerned he has answered you that the expression ‘*King Kong*’ refers to a particular person. So, maybe, you need to think about how you are framing the questions to him.

Mr. Williams: Thank you, Commissioner Jairam.

Mr. Jairam: I thank you.

Mr. Williams: Yes, if I can continue, but could I have my question answered? This second round of insults still refers to Prime Minister Burnham?

Mr. Kwayana: Yes.

Mr. Williams: Okay, so I suppose that is the mode we can proceed on. The next paragraph and I read, these things are always difficult under cross examination. “One of the brothers in the audience, when we were at Grove, yesterday, suggested to us that what was required was to

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extend the zoo to take in the residence ... [*Laughter*] ... and then we would have one of the most prized exhibits of any zoo in the world ... [*Laughter*] ... people would come from all over the world and pay money to see King Kong.” What was required to extend the zoo to take in the residents? Who residence is Dr. Rodney referring to?

Mr. Kwayana: The Prime Minister’s residence.

Mr. Williams: Mr. Eusi.

Mr. Pilgrim: He said the Prime Minister.

Mr. Williams: Oh, you answered before I even completed the sentence. That is very good.

Mr. Pilgrim: He is trying to assist you in ...

Mr. Williams: Very good. Therefore the prized exhibit that the world would come to see in the zoo is still Prime Minister Burnham?

Mr. Kwayana: Yes.

Mr. Williams: Page 6 please, of the same exhibit EK 6. I wish to begin from the very first paragraph, line 3, from the top. The sentence beginning with “...the other evening ...” “The other evening, speaking at another site, I had to draw the analogy to say that if there ever was such a thing called the ‘Midas Touch’, which was the touch, that made everything turn into gold, then we will have a new creation in this society, the ‘Burnham Touch’, where everything he touches turns to shit.” Of course, Dr. Rodney in those generous terms is referring to Prime Minister Burnham.

Mr. Kwayana: Correct, yes.

Mr. Williams: And you do not think that he was motivated by a personal hatred for Prime Minister Burnham?

Mr. Kwayana: I said no.

Mr. Williams: This is to suggest ...

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Mr. Jairam: Mr. Williams.

Mr. Williams: Yes.

Mr. Jairam: There is something called “political pecong”. As far as I am concerned, Mr. Burnham was a good looking man, I saw a photograph of him, very good looking but in the political arena, you will get, you know, these banter. *[Laughter]* You translate that into hatred?

Mr. Williams: Sir, I do not know, yesterday we dealt with an issue like that and the question of words being menacing and we spoke about rhetoric and all of that and the witness insisted that it was not rhetoric. Might I respectfully refer you honorable Commissioners to page 12? There are many more, but I am highlighting those that are ... anyway, do not let me put my own spin on it ... page 12. This would be the first paragraph and I will begin from one, two, three ... the fourth sentence from the bottom of the first paragraph, “*The Struggle Continues*”. Yes, Sir, that sentence begins with “That is the tragedy of Guyanese life ...” It is on page 12, at the top, four lines from the bottom of the first paragraph, “That is the tragedy of Guyanese life ...” Yes, sir. “The man went around touching so many people on their heads and their shoulders, that that is the end for them after he touched them ... *[Laughter]* ... the man went around touching so many people ...” You agree that that is still referring to Prime Minister Burnham?

Mr. Kwayana: It is, yes. Oh yes, Counsel, it is.

Mr. Williams: There are lots more, but I will highlight those for now. Yes, I do not know if we have the CLR James’... Mr. Eusi, what those extracts that I just referred to ... do you agree that they could have motivated Dr. Rodney in being resolute about his declaration of getting rid of Burnham and the PNC?

Mr. Kwayana: Yes, I do not ...

Mr. Chairman: We did not hear you ...

Mr. Kwayana: I do not dispute that.

Mr. Williams: He does not dispute it. You agree?

Mr. Chairman: Apparently, witness did hear you but we did not.

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Mr. Williams: No, he agreed with me, Sir.

Mr. Chairman: Yes and he agreed but we did not.

Mr. Williams: Oh, sorry about that, Sir.

Mr. Chairman: Just repeat the question for us, he has already answered.

Mr. Williams: Yes, Mr. Chairman and Commissioners. I asked him about what I just read to him; those extracts and if he would agree with me ...

Mr. Kwayana: Please, Sir, that I did not hear. I asked you what?

Mr. Chairman: Yes, we can see that you heard and you answered properly, but we did not hear.

Mr. Kwayana: Oh, I see.

Mr. Williams: ... that would have motivated Dr. Rodney to be resolute in removing or getting rid of President Burnham and the PNC.

Mr. Chairman: Thank you.

Mr. Williams: I was hoping to put the CLR in context so that when I move off I do not have to come back to it because in context I am putting this to him, but if needs be I will have to go on.

The next issue I wish to address, that is why I was hoping to get on is this question of the right to life, I do not know if you wish me to provide photocopies and then come to that because this is a substantive ... I do not know if you could give the Commissioner and the lawyers ...

Mr. Pilgrim: I think that is your original, you know.

Mr. Williams: ... that is my original?

Mr. Pilgrim: I think so.

Mr. Williams: I hope so, yes, thank you my brother.

Mr. Chairman: The literature that you are handing out now is it ...

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Mr. Williams: It is being handed out.

Mr. Chairman: CLR James or ...

Mr. Williams: CLR James', *Walter Rodney on the question of power*.

Mr. Jairam: This is a chapter, Mr. Williams?

Mr. Williams: Yes, please, Commissioner Jairam.

Mr. Chairman: In which of his books?

Mr. Williams: It is there *Walter Rodney and the Question of Power*.

Mr. Chairman: This is the name of the chapter?

Mr. Williams: Yes, please, sir. It is the ...

Mr. Chairman: This is the name of the book too?

Mr. Williams: Well, you are asking a ...

Mr. Jairam: He wrote a lot of books, you know. One I remember is *The Black Jacobins*.

Mr. Williams: It is in ... "*The Black Jacobins*" ... I think ...

Mr. Jairam: I cannot remember which this is from.

Mr. Chairman: No, this would not be in "The Black Jack Wins". "*The Black Jacobins*" was published long before.

Mr. Williams: No.

Mr. Jairam: No, I said one of the books.

Mr. Williams: Sir, I will get the name for you, but in the interim we are dealing with this chapter, *Walter Rodney and the Question of Power*. I will get the name for you before we rest. I do not know if you are familiar with that, Mr. Eusi, because I know you are well read.

Mr. Kwayana: To be truthful ...

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Mr. Williams: Page 133.

Mr. Kwayana: To be truthful, I have heard a lot about this but I have never read it.

Mr. Williams: That is okay.

Mr. Kwayana: If it not a problem, I am not familiar.

Mr. Williams: But do you know what that chapter is pulled out from? Would you know that, which one?

Mr. Kwayana: I always heard it titled *Walter Rodney and the Question of Power*.

Mr. Williams: That is ... I agree with you. That is how we ...

Mr. Kwayana: That is what I have heard.

Mrs. Samuels-Brown: The witness has supplied the name of the book.

Mr. Williams: I will be able to get that information shortly. Honorable Commissioners, I wish to refer you to page 139, I would say it is the last paragraph on that page 139. Mr. Eusi, I am going to read the relevant part, "*That is why ...*" This is in respect of the question I put to you earlier that his version did not agree with the WPA's given by Donald Rodney, so this is why I am going to read to you. "*That is why Walter found himself in a car with a member of Burnham's Army making some arrangements about some gadget that turned out to be an explosive.*" Now, do you agree, this conveys clearly that CLR James is asserting that Walter was in the car with whom he described as a Burnham agent, which is something that we have already with Gregory Smith. You said he is Burnham's Agent too. But do you agree that he is saying Gregory Smith was in the car with Walter Rodney? When I say that, I am putting Gregory Smith in parenthesis.

Mr. Chairman: Are you sure that this can be put in context without reference to precedes it?

Mr. Williams: What?

Mr. Chairman: To what precedes it, the paragraph before.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Williams: No, Sir, but I am going to come to that. Remember, it was said that he was a student of CLR, I prefaced my questioning with that question and I am going to come to it. I just want to show incisively on this issue, that the witness, himself addressed as a critique of Gregory Smith's book, that Gregory Smith was never in the car and I remember he said, that he could not see how two men in front and he at the back and they are fidgeting with gadgets and all of that. I am saying, this directly speaks to that.

Mr. Chairman: I understand where you are headed, Sir.

Mr. Williams: Yes, Sir.

Mr. Chairman: But I just wish to say that we all have to be governed at the end of the day by the Terms of Reference, so not everything said has to be addressed because it may not be relevant to the Terms.

Mr. Williams: Sir, I am sorry, but this matter has been asserted at length before you and your honorable Commissioners, two days straight.

Mr. Chairman: No, but not everything that has been asserted has to be answered because it may not be relevant to the Terms.

Mr. Williams: Sir, but it is going to be relevant to the listening public and the mass base support of the Peoples National Congress.

Mr. Chairman: Yes, yes but ...

Mr. Williams: And the Guyanese people.

Mr. Chairman: ... that may be relevant from your perspective, but from the Commissioners perspective, we still have to be regulated by the Terms, so that ...

Mr. Williams: I am addressing the Terms.

Mr. Chairman: Okay.

Mr. Williams: This is what came out from the Terms, this deals specifically with Walter Rodney death.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Chairman: I give you some latitude, but I thought that I should make the point that not everything that is relevant from your perspective is relevant from the Commission's. The Commission is being guided by the Terms. You may have other perspectives.

Mr. Williams: I understand, but Mr. Chairman, this refers ...

Mr. Chairman: Please get ahead.

Mr. Williams: ... this is referring to the day or the night in question, that the explosion occurred in a vehicle in which Walter Rodney was and that is what CLR James is saying that is why Walter found himself in a car with a member of Burnham's Army making some arrangements about some gadgets, that turned out to be an explosive.

Mr. Chairman: But what is why? You see that is the difficulty of asking that question because ...

Mr. Williams: Pardon me?

Mr. Chairman: ... in that question because you only would make sense if you read what is before.

Mr. Williams: Sir, I am guided by you but that was going to come in another question.

Mr. Chairman: Okay.

Mr. Williams: Okay, let me read as you are suggesting beginning, with "Instead", the sentence beginning with "Instead".

Mr. Jairam: What page?

Mr. Chairman: Yes, okay.

Mr. Williams: That is what you were talking about?

Mr. Chairman: Go ahead, that helps.

Mr. Williams: Unless you want me to start from the very beginning of the paragraph, which is the "*Second point where Walter was wrong is that ...*" and he is saying the second point.

WALTER RODNEY COMMISSION OF INQUIRY

10.36hrs

Mr. Williams: I was going to show you where CLR James considered the approach of Dr. Walter Rodney, was not what he would have expected it to be. He is talking strictly Marxism, in relation to the way the Doctor was conducting himself at the time, in Guyana. That is why I wanted to go to the pit with this one, about the contention that Gregory Smith was never in the car, to show that CLR James was asserting that he was in the car. Then I will go on now, to the wider issue about how he misapplied Marxist theory.

Mr. Chairman: The question of the “taking of power,” a little after the word “because.” We started from there but...

Mr. Williams: [*Laughter*] Alright. Yes, please. The second point where Walter went wrong is that although he was aware of the lack of revolutionary experience and revolutionary temper amongst the leaders, whom he had, he did not train them and spend every minute of the day training them in the essentials, not of Marxism in general, but the taking of power; because the question of taking of power is a question thousands of years old, it does not depend on the knowledge of Marxism, it is knowledge that there is somebody waiting to destroy you. Walter did not do that. Instead, he took on all sorts of activities, on the conception that he had to show them that he was not asking anybody to do anything that he himself would not do. That is why Walter found himself in a car with Burnham’s army, making some arrangements, about some gadget –which turned out to be an explosive. Do you agree with the assessment of the great CLR James in that passage I read you, Mr. Eusi?

Mr. Kwayana: I do not. I have the utmost regard for CLR James –who is also one of my mentors- but in the facts there, he was misinformed. He was not present in Guyana, he was misinformed, and I told him, and explained that to him later. There was no report even from the Government of Guyana, or anyone, that Walter Rodney had sat in a car with Gregory Smith, whom I suppose was an agent of Burnham’s army. There was no such knowledge, until 2007, no such claim.

Mr. Williams: Could we continue?

Mrs. Samuels-Brown: Before you do....

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Williams: Yes, please, Madam.

Mrs. Samuels-Brown: ...could you please get the full name of the book for us, also the date of the first publication? I would appreciate that.

Mr. Williams: Yes, please.

Mrs. Samuels-Brown: Thank you.

Mr. Williams: Might I also refer you, Honourable Commissioners, to page 138.

Mr. Chairman: Which paragraph?

Mr. Williams: The final paragraph. I am reading to you a paragraph in which CLR critiques Dr. Rodney and his approach in Guyana at the time. I read, "A revolution is made with arms, but a revolution is made by the revolutionary spirit of the great mass of the population. You have to wait for that. Lenin, in 1917, in January, did not know that it was coming two, or three months afterwards, in Russia. You have to wait, you do not know. There is no calculation that comes, as Mark says 'like a thief in the night.' So, you had better be ready. Walter saw that his WPA had many good things about it, but he realised that Burnham was ready with the police and the army. He had them to use against the revolutionary movement, and against the people. Walter became too nervous, too anxious about it. He did not wait for the revolutionary people, and the revolutionary class to be in conflict with the Government before he could start the question of the insurrection." My question to you, Mr. Eusi, one, CLR James is making an analysis based on Marxist theory...

Mr. Kwayana: What is the question?

Mr. Williams: CLR James is making an analysis there based on Marxist theory?

Mr. Kwayana: Based on Marxist theory and his own insights.

Mr. Williams: Yes. He is saying that for you to apply Marxist theory, in that connection, it required, as a precondition, a revolutionary spirit and a revolutionary spirit of the great mass of the population. Do you agree with that?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: I agree that he said so.

Mr. Williams: Yes. He said that Dr. Rodney did not wait for that. Do you agree with that?

Mr. Kwayana: I do not agree with the whole analysis, but I agree that he said so.

Mr. Williams: In this passage, he is saying that there was no revolutionary mass of people gathered against the Government at the time that Walter Rodney was active, in that period.

Mr. Kwayana: He said so, yes.

Mr. Williams: Yes, but do you agree with that? He did not have the mass of people behind for any revolutionary or any insurrection against the Government.

Mr. Kwayana: I am getting a double message there, Sir.

Mr. Williams: Alright. He is saying that he did not have that revolutionary support-base of the people to tenure any insurrection against the Government. Do you agree with that?

Mr. Kwayana: I prefer you to put the words as read.

Mr. Williams: that is the word. Oh, you want me to read them again? Let me do that. "Walter became too nervous, too anxious about it. He did not wait for the revolutionary people, and the revolutionary class to be in conflict with the Government before he could start the question of the insurrection."

Mr. Kwayana: I agree that that is a quotation from CLR James.

Mr. Williams: No, but I went pass that and I am asking you if you agreed that Walter Rodney did not, at the time, have any support, any mass based support of the people in conflict with the Government of the day?

Mr. Kwayana: I do not agree with that. That is...

Mr. Williams: So you disagree with CLR James'

Mr. Kwayana: ...yes, I do, on that point. Yes.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Williams: he was speaking, also, of an insurrection. Do you agree that his belief that Walter had involved undertaking an insurrection, at the time in Guyana?

Mr. Kwayana: That Walter was engaged in an insurrection?

Mr. Williams: Yes.

Mr. Kwayana: This was not my impression being one of the companies, in Guyana. I can describe it, but I have never heard that word flung about.

Mr. Williams: So...

Mr. Chairman: Mr. Williams, you need to remind us as to the relevance of the lines you are pursuing to the Terms Of Reference (TOR).

Mr. Williams: Sir, is that not the atmosphere at the time, we are dealing with?

Mr. Chairman: How is a quote from James related to the atmosphere of the time?

Mr. Williams: The witness let (as we say in Law) the evidence in when he said, "In explaining by any means necessary" and he took us back to 1861, an interview with Marks. He also said, at the end of that, that "Dr. Rodney was a student of CLR James." In doing that, he has made it possible for me to introduce what I have on CLR's position, about Dr. Rodney.

Mr. Chairman: He might have made it possible for you, but that does not mean it is relevant to the terms of reference. Everything said must not be answered, and because it was said you accept that it is relevant.

Mr. Williams: Mr. Chairman, I mean with respect, we sat down here for three days. We were regaled, many times, repetitiously, with a whole set of issues. We were taken way back to 1940. A lot of latitude has been given to this witness by the Commission. With respect, to say to me now, that issues have been raised now, by Counsel for the Commission, I can address.

Mr. Chairman: The truth is that, it is not relevant.

Mr. Williams: But, Sir, you did not say that....

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Chairman: And....

Mr. Williams: ...if you had said that to me at the time when Counsel was eliciting or told him that he cannot let that evidence in, or he cannot....

Mr. Chairman: It was not clear where a single reference would lead us. Now, you are carrying it so far and behaving as though it is relevant, but it is not relevant to the terms.

Mr. Williams: Mr...

Mr. Chairman: Promise me that you would not be too long on this.

Mr. Williams: Mr. Chairman, I will move on, but I agree to disagree with you on that. When I am addressing, I would deal more with it so that you will decide what weight you will put to it. At this time, I beg to disagree with your contention.

Mr. Chairman: Before you leave, if you can persuade us that it is relevant, do so. I am open to persuasion, but as I see it, and I was just re-reading the terms of reference, it is not relevant.

Mr. Williams: Sir, this is not relevant? It was let in...

Mr. Chairman: No, the fact that somebody mentioned it, and they did not know at the time...

Mr. Williams: Sir, it was an at length critique. It was not mentioned only *en passant*. It was dealt with as an issue.

Mr. Chairman: It is not relevant, looking at the terms afresh. It is not relevant.

Mr. Williams: Sir, we are establishing that Walter Rodney and the WPA were in a position of conflict with the Government and confrontation. How could that not be relevant, that a great commentator of the day in dealing with it, who was introduced....

Mr. Chairman: He was not commenting on the Guyana situation.

Mr. Williams: Sir, he was. This is referring to Dr. Walter Rodney in Guyana.

Mr. Chairman: Yes, but I do not think it is relevant...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Williams: As it pleases....

Mr. Chairman: Promise us to get ahead as fast as you can.

Mr. Williams: Sir, I will be grateful then, to take these objections over issue so we would not have to deal with them. Once they are on the record, we will have to deal with them.

Mr. Chairman: Yes, but remember that you were present. You did not take the objection.

Mr. Williams: So, you want me to object when you said you would allow these things in, Sir?

Mr. Chairman: No, no, no.... What I meant is, if you thought yesterday that reference to James was not relevant, you might have said so.

Mr. Williams: Mr. Chairman, I have sat here and have been regaled with all kinds of things that would not normally be let into evidence, because you said that they should be done.

Mr. Chairman: Now...

Mr. Williams: I would object to everything that goes on. There is nothing evidential that has been let into this Commission. Everything has been opinion and surmise, speculation...

Mr. Chairman: The point is...

Mr. Williams:I find at this stage to tell me that you are going to invoke strict rules of evidence... Sir, I....

Mr. Chairman: No, the Commission remains committed to giving latitude, but I think we are going too far now in getting into all the dreary stories.

Mr. Williams: I understand where you are coming from.

Mr. Chairman: I have never seen this particular one, *Rodney in the question of power*. I look forward to reading it. I do not think that pursuing it here would make it relevant.

Mr. Williams: I am pursuing it in context and I think it is very relevant to the confrontation by the WPA and Dr. Rodney, against the Government of the day.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Jairam: Mr. Williams, you used a term of phrase that “Dr. Rodney was in conflict and confrontation with the Government of the day”, what is the logical conclusion of that?

10.51hrs

Mr. Williams: That he coordinate his activities as he declared to get rid of them by any means necessary.

Mr. Jairam: ...and...

Mr. Williams: Adopted acts or activities in pursuance of doing that.

Mr. Jairam: ...and what... sorry?

Mr. Williams: Adopted acts or activities in pursuance thereof.

Mr. Jairam: ...and how are we to sift that in relations to his death?

Mr. Jairam: Sir, was the tinkering with the walkie-talkie which, I was not in the car, as a result of what Gregory Smith is saying, there was an explosion.

Mr. Jairam: I see.

Mr. Williams: That is what I was trying to show. That is why was saying that I want everything to come in the context here rather than going off on something else.

Mr. Jairam: I now follow you with that freeze.

Mr. Williams: Thank you Sir. So if we could move on now Mr. Chairman, unless if you want to take a break at this time, some minutes to eleven.

Mr. Chairman: [*Inaudible*]

Mr. Williams: Well I could start.

Mr. Chairman: Okay, you are not in extremist?

Mr. Williams: No Sir. We are just going by routine. Mr. Chairman, I see you in a hurdle that is why I am...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Chairman: No, we appreciate that. *Walter Rodney and The Question of Power* apparently this was a talk given on the 30th January, 1981, published by Race Today publications, 165 Willington Street at 'C' 24, I think that is in London.

Mr. Williams: That is the work of the Hon. Madam Commissioner who is very astute in this matter.

Mr. Chairman: Yes, she is always concerned that we know when a document was published. Alright, let us get ahead, it is good to know that.

Mr. Williams: Now you have put me in an ambiguous position because you are saying that not everything that was dealt with I should touch, but I think I need to touch this one. Mr. Eusi, I your testimony you dealt with the issue of the right to life you are very much concerned with it and you said that the taken lightly of the right to life was something that has come through the ages that has come through the years through different administrations up to the present. You were saying that what I can call calash disregard for the right to life was not only limited to that time but it is present today.

Mr. Kwayana: Yes.

Mr. Williams: Yes and I think that is on page 13 of your statement. Are you with me Hon. Commissioners?

Mr. Chairman: Yes.

Mr. Williams: That caption is *Governments and the right to life* beginning from the very first paragraph. "Considering the lapse of time since 13th June, 1980, 12 years on the watch of the People's National Congress (PNC) regime and 22 under the watch of its successor, the People's Progressive party/Civic (PPP/C), both have been shadow boxing with a paramount and vital human rights issue." You are with me Mr. Eusi on that, that is your statement?

Mr. Kwayana: Yes.

Mr. Williams: Is there a credible comparison between what is happening now with extra judicial killings and what happened at that time in that period? Could there be a credible comparison?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: Could it be a favourable comparison? I do not get that.

Mr. Williams: Let me then extrapolate. In that period could you indicate whether there is any figure about the number of extra judicial killings for that period 1978 to 1980 or even from 1970 to 1980 or if you want, up to 1992? You have any list that would have want to say there were ten, there were hundreds during that period of the regime that we are talking about - the PNC regime?

Mr. Kwayana: I do not have and do not sight figures for those periods. I was dealing with the principle from my observation that these killings were roughly treated the same way in both regimes. I have seen contesting figures, but what I am dealing is the attitude to when people get killed beginning with the notable case in this memorandum of the Hon. Vincent Teekah in 1975. I was trying to show that it was an attitude - no inquest and the rest of it.

Mr. Williams: ...and it is not different now because what we have now are numbers just under 500 of extra judicial killings.

Mr. Kwayana: I will not dispute it; I do not have the numbers.

Mr. Williams: You will not dispute it and you mention the fact Shaka Blair which really as far as I am concerned, was the beginning of that mayhem and killing feels in Guyana within the last decade. So that is why I was asking you if there is a credible comparison. I have never heard of any numbers that certainly none of that magnitude under the Burnham Regime during the period that we are dealing with. You agree with me?

Mr. Kwayana: The numbers are growing, but I am not sure I cited numbers; I do not think I did.

Mr. Williams: Well you have cited a couple of examples and I am saying to you...

Mr. Kwayana: ...the quality of Administration.

Mr. Williams: ...when you cited them we do not consider that you were talking about a large set of people been killed extra judicially as happens now. Do you agree with me?

Mr. Kwayana: You are asking me what you did not consider I was talking about Sir, and I ...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Williams: But you only mentioned three, so I considered there were hundreds you would have indicated that there were hundreds and you have only given three.

Mr. Kwayana: If I had the numbers.

Mr. Williams: Well, so we have to assume that there were none, there were no numbers because you are very astute. You are showing us that you followed Court matters, you file Court matters you are there...

Mr. Chairman: Sorry for interrupting you Counsel, but there is too much talking in the back and the members of the public need to be aware of the fact that you are here on condition that you can conduct yourself well, that the condition so that if you talk to the point that you interrupt the proceedings, we may have to ask you exempt yourself, go outside and talk, and when you are finished, you can come back in alright, so be quite, please.

Mr. Williams: Thank you Mr. Chairman.

Mrs. Samuels-Brown: For my own benefit, for my edification, are there, for example, Amnesty International figures which would have been available from, say, the 1970s coming up to now in relation to these phenomena in Guyana as in other countries, I am just asking.

Mr. Williams: Madam Commissioner, I am not aware of any for that period, but I would believe that with the astuteness of people like Mr. Kwayana and he had shown you that, how he even filed actions where none were filed that if there were such numbers, I am sure that he would have been able to put his hands on those numbers. You agree with me Mr. Eusi?

Mr. Kwayana: Well I think you are saying what you want to say, but what I did was to make a judgment and cite certain examples; that is all I intended to do.

Mr. Williams: I agree with you that even one life is important, but the numbers that we have in these days without inquest.

Mr. Jairam: Mr. Williams, I think you have made the point, come on.

Mr. Williams: As it pleases you Commissioner Jairam.

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Mr. Jairam: It is *Ad nauseam*.

Mr. Williams: I am sorry Sir, it is *Ad nauseam*.

Mr. Jairam: It is outside of our Terms Of Reference.

Mr. Chairman: If your numbers are correct Mr. Williams, that might be the subject of another inquiry, 500 extra judicial killing.

Mr. Williams: Sir, we will be calling for that, Sir, we have been calling for an inquiry and we have all kinds of inquiries other than that.

Mr. Chairman: Well until that time comes...

Mr. Williams: Where we have the families of those slain people without closure, and that is contemporary, but as Commissioner Jairam said, I have made my point. Okay, so we could move on from the rights. I have my colleague who has to catch a plane and I am trying to accommodate him. I wonder if I can allow him, Mr. Chairman and Commissioners, could I allow my brother who has to catch a plane and would not be back in a timely manner to deal with this witness could oppose him so that we could take his evidence.

Mr. Chairman: I got the impression that he was resisting your suggestion. Perhaps we could hear from him.

Attorney for Donald Rodney [Mr. Scotland]: Mr. Chairman, I do not know how long my learned Friend has, I am back on Wednesday, so if he can complete [*inaudible*] raise issues he has already called the interest...

Mr. Chairman: We will all finish with Mr. Eusi.

Mr. Scotland: My Friend will finish, my flight is 5 O'clock in the morning so I am here to...

Mr. Chairman: Tomorrow morning?

Mr. Scotland: Yes.

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Mr. Williams: Well, my Friend has raised with me and I have indicated to him that I really could not tell him that I could finish today because Mr. Eusi was in the box for three days and there may be issues that we wish to address. That is why I was asking you to interpose him, but if he does not wish to be interposed, we will have to deal with procedure from now on.

Mr. Chairman: Okay, we crave your indulgence; we will just consult it to ourselves. Please continue Mr. Williams.

Mr. Williams: Sir, could we take the break now?

Mr. Chairman: Yes, I think the house has now come and we will break for 20 minutes.

Hearing Suspended at 11.06hrs

WALTER RODNEY COMMISSION OF INQUIRY

Hearing Resumed at 11.38hrs

Mr. Chairman: We are now reconvened.

Mr. Williams: Thank you, Mr. Commissioner. I am about to wrap up. I have just two questions.

Mr. Eusi Kwayana, am I speaking loudly to you?

Mr. Kwayana: It is not the volume that I had any trouble with. I was telling you yesterday that some words were blurred.

Mr. Williams: Now I realise it is the same equipment that they use in the Parliament and I can assure you... I notice when you get a transcript it comes out certainly, from my experience, some comes out very jangly. Sometimes the system goes awry, but I thought that you were not hearing me that is why I was, more or less, shouting or trying to speak louder.

Mr. Kwayana: I do not get that impression.

Mr. Williams: Okay. Now, I want to ask you, you do not consider the paying of fealty to the President by the Chief of Staff as something that you approved?

Mr. Kwayana: Please repeat.

Mr. Williams: The paying of fealty by...

Mr. Kwayana: I see, yes. It is something I very strongly disapprove of, very strongly and I expressed it at the time.

Mr. Williams: Would you care to share some reasons with us for that? Is there any particular reason why you disapprove of it?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: I disapproved the swearing of loyalty to the leader of the Party at a Party Congress.

Mr. Williams: What about to the President of the country?

Mr. Kwayana: I have to see what the Defense Act says. I think it says the oath of office maybe to the State...

Mr. Williams: Yes.

Mr. Kwayana: ...and not to the President. I do not think there is any oath of loyalty to the President in the Law...

Mr. Williams: That is correct.

Mr. Kwayana: ...in Guyana. I do not think there is.

Mr. Williams: You are aware that up to recently the last Chief of Staff did so to President Jagdeo?

Mr. Kwayana: If that is so it is equally a violation of the Constitution.

Mr. Williams: Some things never change. I want to close by asking you if you believe that you would achieve closure because of the conduct of this Commission of Inquiry?

Mr. Kwayana: It is not a question I have addressed my mind to.

Mr. Williams: That would be all for Mr. Eusi Kwayana, please.

Mr. Kwayana: Thank you.

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Mr. Chairman: Thank you very much.

Mr. Pilgrim: Grateful, Commissioner. Mr. Kwayana, it is Andrew Pilgrim now questioning you on behalf of the family of the Rodney's.

I just wanted to know if you could clarify your position on fealty then and now. By that I mean, do you have a position on this taking of allegiance to the Leader of a Party then and now?

Mr. Kwayana: Then or now I will be opposed to it. I was always opposed to it publically.

Mr. Pilgrim: Similarly...

Mr. Kwayana: I am not in Guyana now and that is the reason that I may have missed it.

Mr. Pilgrim: Similarly, your position on extrajudicial killings as they have been described: Is your position then and now the same?

Mr. Kwayana: It is the same, Sir.

Mr. Pilgrim: Your position in terms of equality between the races, then and now, is it still the same?

Mr. Kwayana: It is the same.

Mr. Pilgrim: Your non-condonation of harassment by persons working in the service of the state, do you still condemn that now as you did then?

Mr. Kwayana: I still condemn it.

Mr. Pilgrim: During the course of your evidence you had indicated that you felt that the Government, of the day, and I think you were speaking of the period around 1978 and forward,

WALTER RODNEY COMMISSION OF INQUIRY

had done things to erode the right to life and to erode the constitution and democracy. I wonder if you could give us a brief indication of why you think those things were eroded by the Government of the day.

Mr. Kwayana: There was the killing of a Minister of the Government to which we were opposed – I mean both the Government and the killing – and there was not even an investigation and there was no inquest.

Mr. Pilgrim: Can you tell us a little bit about Ohene Koama?

Mr. Kwayana: Ohene Koama was killed on 18th November, 1979, on the anniversary of Jonestown, incidentally. My problem with that killing is the excuse given by the police that they were shooting in self-defense; that he had pointed a rifle at them and they retaliated by shooting him. They had already...

Mr. Pilgrim: Sorry go ahead.

Mr. Kwayana: They had blocked his car off so he was encircled and one would have thought that he could be arrested and brought before a court. There was an inquest but the inquest was never really completed, although, the Coroner declared no one criminally responsible. What was wrong with the inquest was that the Attorney-at-Law representing the family, Mr. Moses Bhagwan, moved that we should go to where the car was and attempt to fit the rifle in question. There were a bundle of them assembled into the back of the car. The story was that Mr. Koama went to the trunk of his car, opened it, took out a rifle assembled and pointed it at the police. When you looked at the rifles in the court, because those rifles were in court, it was a question whether they could in fact, assembled, hold in the trunk of that car. We went there three or four

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times to Eve Leary to carry out this test and the police officer in question, by that I mean either a constable or something called by the name of Agent, never testified. He was absent.

Mr. Pilgrim: And eventually he frustrated the proceedings? I think that is essentially what you are saying?

Mr. Kwayana: The Coroner, herself was frustrated. She had no power over the police. You could not tell the police to do anything because they had their own line of command. She called the next session for the court room and declared that no one was criminally responsible so, in my way of speaking, I see that as also a denial of the of right to life as in the case of Mr. Teekah because when I tried to find out how a Government secures the right to life there are inquests and investigations - and neither of these took place in those two cases.

Mr. Pilgrim: Do you maintain...

Mr. Chairman: I think we did have that yesterday.

Mr. Pilgrim: Yes, Commissioner, I am just trying, to circumvent as much as possible. I wanted to know if, based on your investigations, you were able to discover if Gregory Smith in his book or otherwise identified any persons who supported his account, who are available for questioning?

Mr. Kwayana: Supported what?

Mr. Pilgrim: His account. His version.

Mr. Kwayana: No. I cannot think of any except his sister who promoted the book and co-authored it and vouched for it and gave the impression that it was totally valid and honest.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Pilgrim: Did you understand her to be a witness to any of the events described in the book?

Mr. Kwayana: The only events she was witness to, I think, was his visit to the United States of America about 1982 for his mother's funeral and he seem to have free entry and exit and his illness. I think she may have visited him in Cayenne during one of his illnesses.

Mr. Pilgrim: I know that you indicated that Gregory Smith purported to identify Patricia Rodney as meeting him and that you spoke to Patricia Rodney and she denied ever meeting him but were there any persons, I know you referred to a "Fowler" and to another person, who you could identify? In other words, from my understanding of your testimony, you did not know who this Fowler was, you did not know who these other people that he purported to identify as members of the WPA who assisted him. Were there any people who you knew that he identified?

11.51hrs

Mr. Chairman: Before the witness answers, could you direct a question as to whether Patricia Rodney had met him?

Mr. Pilgrim: No, I think he had covered that already yesterday so I did not want to go over that. I just wanted to remind him that Patricia Rodney was mentioned and you said you specifically spoke to Patricia Rodney.

Mr. Kwayana: Yes.

Mr. Pilgrim: And she denied that encounter?

Mr. Kwayana: She denied going to his house with her husband as he alleged in the book. That is what I asked her about.

Mr. Pilgrim: Grateful. He mentioned other people who he said was from the WPA who assisted him not only getting to the airport and then eventually to Kwakwani.

Mr. Kwayana: Yes, Kwakwani.

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Mr. Pilgrim: I just want to know if any of those persons were people who you were able to identify?

Mr. Kwayana: None of them, but allowing for knowing for my lack of total knowledge I asked some other WPA members, and no one can really identify anyone by those names, Brother Morris and especially the chief instigator of all of this, Mr. Fowler.

Mr. Pilgrim: I want to take you to EK 6 very quickly which is *The Struggle Goes On* which is a speech by Walter Rodney of the 20th July, 1979?

Mr. Kwayana: Yes.

Mr. Pilgrim: My learned Friend, Mr. Williams, asked you some questions in respect of section under a caption *The PNC must go and they must go by any means necessary*. He read you a paragraph.

Mr. Kwayana: Yes.

Mr. Pilgrim: Was it your understanding at the time and maybe now as well that Walter Rodney was still even in that speech indicating to the rank and file to the persons listening to him that violence was not the way to go, was not the first or primary means they should be considering?

Mr. Kwayana: Quite correct. That is my interpretation and in fact, I chaired the meeting and this was always my understanding of what he was saying, and he went into some detail there and in other places.

Mr. Pilgrim: There is a sentence that appears immediately after the section my colleague read to you and I want to read that sentence. Mr. Chairman this is at Page 13 of the document and I am referring to the 2nd paragraph after the caption which begins "They have been". Not in that one, in EK 6 which is the "Struggle goes on". I am reading from that Mr. Kwayana. "They have been accusing us of fomenting violence, they have even had the temerity of working up hit lists, assassination lists of which the name of the Prime Minister and Hamilton Green and so on appear, someone who heard that was speaking to me the other day said "*well if al yuh really intend to assassinate them fellas, I tell yuh something, yuh got to join the queue*", there is

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laughter". Is it correct to say as you understand it that in this speech Walter Rodney was saying that assassination is not the way to go?

Mr. Kwayana: Quite correct and in fact he said it explicitly in that same speech in another portion.

Mr. Pilgrim: My learned Colleague also referred you to something in the writings of C.L.R. James. I do not know if you still have that copy, but I want to read a few parts of that to you to see if you are aware of them.

Mr. Chairman: Are you referring to *Walter Rodney and the Question of Power*?

Mr. Pilgrim: I am indeed Mr. Chairman.

Mr. Chairman: By C.L.R. James?

Mr. Pilgrim: Grateful to you.

Mr. Chairman: Just to attract our attention to the

Mr. Pilgrim: *Walter Rodney and the Question of Power* by C.L.R. James and I am relying on the copy that was circulated by my learned friend, Mr. Williams.

Mr. Chairman: What page...

Mr. Pilgrim: Page 140, the 2nd paragraph. Mr. James writes "and the assassin I believe has despaired, he was an agent of the Burnham Government". Who do you understand based on that alone and I have to accept that I am giving it to you somewhat out of context because I myself have not read the article. Who would you believe C.L.R. James to be referring to as the assassin who was the agent of the Burnham Government and who had disappeared?

Mr. Kwayana: I have some trouble there because I cannot say whom C.L.R. James was referring to, but I could identify a person of that description as Gregory Smith.

Mr. Pilgrim: Thank you. At Page 141 of the same document, C.L.R. James, in the second paragraph which is quite voluminous, Mr. Chairman, so I want you to join me at about nine or ten lines from the bottom, "He was a man with a worldwide reputation" and this appears to be a

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reference to Walter Rodney. And it continues with these words “He was a black man who was getting on with Indians. These same advantages however, turned into major liabilities before they made him more of a perceived threat to ...”

Mr. Chairman: Not before, because.

Mr. Pilgrim: I beg your pardon Mr. Chairman “turned into major liabilities because they made him more of a perceived threat to Burnham”. Do you agree with that in principle?

Mr. Kwayana: I agree with the analysis.

Mr. Pilgrim: Grateful to you. And it continues, “therefore I told him ‘beware of assassination because Burnham will kill you, you are someone who can represent the people against him’”. The first thing I want to ask you is if you have ever heard that quotation before?

Mr. Kwayana: I have heard it before, I have heard C.L.R. James himself, the honourable C.L.R. James himself told he that he had told Dr. Rodney that he would be killed in that manner.

Mr. Williams: I am sorry; did the witness say C.L.R. James himself told him that?

Mr. Kwayana: C.L.R. James told me this quite independently of this book and sometime after the incident of the assassination that he had warned Walter going back there in those terms. It had nothing to do; it was sometime after this book had been written, C.L.R. James, *Walter Rodney and the Question of Power*.

Mr. Pilgrim: Mr. Chairman I wonder if it is appropriate in circumstances then that the witness has acknowledge these sections, if we can put this in.

Mr. Chairman: [*Inaudible*]

Mr. Pilgrim: I do not think we have made an exhibit before, everybody should have copies, Marshall, and apparently it is the same thing just two versions. I was going to use the one that Mr. Williams had in circulation

Mr. Chairman: The issue is whether we should be receiving into evidence the exhibits only those parts that you refer to or really the whole book.

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Mr. Pilgrim: As I understand it, I am happy to put the whole article as to suppose the book in.

Mr. Chairman: You talking about the *Rodney and the Question of Power*?

Mr. Pilgrim: Yes, I would be grateful.

Mr. Chairman: Yes, I think that should go in its entirety.

Mr. Pilgrim: Grateful Mr. Chairman. That is the application and that would be EK 9.

Mr. Chairman: Yes, but has the witness been able to get a look at it?

Mr. Pilgrim: Yes, that is my understanding. Mr. Kwayana has you been able to see the excerpt of the article? Have you been shown a copy?

Mr. Kwayana: I have a copy, yes, Sir. I am not attempting to read it.

Mr. Pilgrim: I would not want you to read all of it now.

Mr. Kwayana: I am taking what both Counsellors have read to me as valid from the book and I

....

Mr. Pilgrim: With your leave Mr. Commissioner ...

Mr. Kwayana: What page it is please, what page?

Mr. Pilgrim: No we are not going to any other page just now, Mr. Kwayana.

Mr. Chairman: What I would suggest it that we receive the whole article.

Mr. Pilgrim: That is the application Mr. Chairman.

Mr. Chairman: Are you finished with your questioning?

Mr. Pilgrim: I am finished that article, just one or two more Mr. Chairman, I will be finish in a moment.

Mr. Chairman: Are you proposing to put a title on it?

Mr. Pilgrim: I had asked for EK 9 Mr. Chairman if that is convenient.

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Mr. Chairman: EK 9?

Mr. Pilgrim: Yes, Mr. Chairman. I am advised that that is acceptable.

Mr. Pilgrim: Grateful to you Mr. Chairman.

Mr. Chairman: The article is now received and marked EK 9 and the article is *Rodney and the Question of Power* by C.L.R. James?

Mr. Pilgrim: Mr. Chairman, just for clarity there are two versions circulating and the page references I made were to the version of the article as circulating by my learned Friend, Mr. Williams, because there is another version with a slightly different appearance so I just wanted to be sure that Mr. Chairman is marking EK 9 as the version as circulated by my colleague.

Mr. Chairman: Does that indicate that there might be a Chapter VIII; there is a VIII before it?

Mr. Pilgrim: Indeed, indeed Sir.

Mr. Chairman: That is the very said one that we are dealing with.

Mr. Pilgrim: Grateful Mr. Chairman because the pagination is different so I just want you to be....

Mr. Chairman: And the full title is Walter Rodney not Rodney, *Walter Rodney and the Question of Power?* C.L.R. James.

Mr. Pilgrim: C.L.R. James and it runs from pages 133 to something like page 146.

Mr. Chairman: Page 146?

Mr. Pilgrim: Yes, Mr. Chairman.

Mr. Chairman: Very well, we are dealing with the same document.

Mrs. Samuels-Brown: Mr. Chairman, before the witness continues.....

Mr. Pilgrim: We would have to turn off.....I think too many are on.

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Mrs. Samuels-Brown: Yes, before the witness continues and out of deference to him so that he is aware that we have taken his caveat into account he has repeated that he has been able to verify the passages put to him although he has not yet had an opportunity to read the entire article, and perhaps it would be useful to the Commission if at some time later, he is able to read the entire article and communicate to the Commission whether in fact, it is the article he is aware of was written by C.L.R. James, but just out of fairness to him because I noticed he repeated a while ago

Mr. Pilgrim: Correct.

Mrs. Samuels-Brown: That what he was able to verify were the particular sections that were put to him so the document is admitted into evidence, taken into account what he has said.

Mr. Pilgrim: Grateful Madam.

Mrs. Samuels-Brown: you can be assured.

Mr. Pilgrim: Thank you Madam Commissioner. Mr. Kwayana you had also expressed during the course of questioning by my learned Friend, Mr. Williams, some concerns about state control of the University of Guyana (UG) at the time when Walter Rodney was refused his appointment?

Mr. Kwayana: Yes, Counsellor.

Mr. Pilgrim: Do you continue to not condone state control of the University today to the extent that it may exist?

Mr. Kwayana: Yes, I still oppose it.

Mr. Pilgrim: Those are my questions Mr. Chairman.

Mr. Kwayana: Thank you.

Attorney for Donald Rodney [Mr. Keith Scotland]: Mr. Chairman, may I commence?

Mr. Chairman: Yes, and for the purposes of the record just state your name.

Mr. Scotland: Mr. Kwayana.

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Mr. Kwayana: Yes.

Mr. Scotland: Good Morning, my name is, good afternoon, my name is Keith Scotland and I represent the interest of Donald Rodney.

Mr. Kwayana: Thank you.

Mr. Scotland: Briefly, apart from the accolades that you told us in your introduction, is it true to say that you would also written works on the contribution to Guyana by the Indo-Guyanese contribution to social change in Guyana?

12.06hrs

Mr. Kwayana: Yes, I have.

Mr. Scotland: You also wrote a similar work on the Afro-Guyanese contribution to cultural and social change in Guyana.

Mr. Kwayana: That is correct.

Mr. Scotland: You also authored the lyrics to the Party Song of Guyana's three leading political parties, then in 1980, the PPP, the PNC and the WPA?

Mr. Kwayana: That is correct, I had that privilege.

Mrs. Samuels-Brown: I am sorry, did you say song or songs? Did three parties have one song?

Mr. Williams: Three different songs.

Mr. Scotland: It is 'songs', each party...

Mrs. Samuels-Brown: And he wrote the lyrics for each of them?

Mr. Scotland: Each of them.

Mrs. Samuels-Brown: Thank you.

Mr. Scotland: Now, in your...

Mr. Chairman: Did that reach the Guinness Book of Records?

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Mr. Kwayana: May I give an explanation, please?

Mr. Scotland: Pardon?

Mr. Kwayana: May I explain something?

Mr. Scotland: Go ahead, Mr...

Mr. Kwayana: They were not in the same year. The first was in 1953, the second was about 1958 and the third was about 1980, the Working People's Alliance song.

Mr. Chairman: And my question was whether he had made the Guinness Book of Records for that?

Mr. Scotland: I would concur. Now, let us go down into the meat. A repeating theme ...

Mr. Williams: No, Mr. Chairman, is Mr. Scotland going to tender or layover the two writings or books that are referred to?

Mr. Scotland: No, I am just establishing that he wrote the books, not for what is contained in the books, am establishing the credibility and the stature of this witness. He wrote these books, I am not tendering any books.

Mr. Williams: No, but the best way to establish it is by producing it. We would love to see them but if you do not have them ...

Mr. Scotland: I will ask the witness after if he can give us a copy, but may I move on please? I know time is of the essence.

Mr. Chairman: Yes, please move on.

Mr. Scotland: I am on a disciplined schedule. Now, at page 13 of your witness statement you made references to Donald Rodney when you said, "The point has been made elsewhere in this testimony that the charge against Donald Rodney was discriminatory on the part of the 1980 DPP". Do you recall that?

Mr. Kwayana: Yes, I do.

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Mr. Scotland: Before I was interrupted and I am sorry for moving off of that trend of thought, I will go back to that, you mentioned throughout page 13 of the witness statement, the fourth paragraph, throughout your dissertation the concept of the right to life. Do you recall that?

Mr. Kwayana: Yes, I do.

Mr. Scotland: It is a repeating theme that exists with you, even now.

Mr. Kwayana: Yes, it is.

Mr. Scotland: It is true to say that existing in Guyana in June 1980 was a Constitution that recognized the right to life.

Mr. Kwayana: That is correct, yes.

Mr. Scotland: That would be contained in Section 4 of that Constitution. If you were to see it would you be able to recognise it, Sir?

Mr. Kwayana: I would, yes.

Mrs. Samuels-Brown: Which Constitution is this?

Mr. Scotland: The 1979 Constitution.

Mr. Williams: We have 1980.

Mr. Scotland: No, I am going to 1979. In October 1980 there was a change in the Constitution, so I want to be ... 1979, I have copies for Commission Counsel. Commissioners, I did my... "The Right to Life" would be contained... Could the witness be shown page 9? Does the Commission need a... Could you turn to page 9 of it for the witness, please, Sir?

Mr. Kwayana: Thank you, Counselor.

Mr. Scotland: When you refer in your repeated theme of *The Right to Life*, is it not true that it has its foundations in terms of the Guyana Constitution at Section 4 (1) which reads ... are you seeing it, Mr. Kwayana?

Mr. Kwayana: I am, yes.

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Mr. Scotland: “No person shall be deprived of his life intentionally, save an execution of the sentence of a court in respect of an offence under the Law of Guyana of which he has been convicted.” Is that not so?

Mr. Kwayana: Quite right, that is it.

Mr. Scotland: What is the side note? Is the side note, “protection of right to life”?

Mr. Kwayana: It is on the left or ...

Mr. Scotland: It is to the right. There is a side note to the right.

Mr. Kwayana: Protection of right to life, yes.

Mr. Scotland: I want you to keep that document. We will be doing some work with it. I now go back to the statement at paragraph 13 of your witness statement, which I read to you about the DPP being discriminatory against Donald Rodney on the part of the DPP in 1980. Do you recall that?

Mr. Kwayana: Yes, I do.

Mrs. Samuels-Brown: What page is that on?

Mr. Scotland: It is on page 13 paragraph 3 of his witness statement...

Mrs. Samuels-Brown: Oh.

Mr. Scotland: ...EK 1. Now, let us examine that statement, constitutionally. Would you agree with me that in June 1980, the Constitution that I just handed to you, was the Constitution that was in effect until 6th October, 1980, when a new Constitution came in?

Mr. Kwayana: This appears from the introduction here, the preamble...

Mr. Scotland: Yes?

Mr. Kwayana: ...to be the Constitution prevailing before the 1980 Constitution.

Mr. Scotland: Right, before 6th October proclamation.

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Mr. Kwayana: Correct, yes, before 6th October.

Mr. Scotland: Commissioners have we established that...?

Mr. Kwayana: I recognise it by the first line.

Mr. Scotland: That this was the prevailing Constitution, June...

Mr. Williams: Well, could we establish the year of the Constitution?

Mr. Scotland: The year of this Constitution would have been... it is the 1966?

Mr. Williams: Exactly, so it is the 1966 as amended.

Mr. Scotland: As amended.

Mr. Williams: From time to time.

Mr. Kwayana: It was 1970.

Mr. Williams: In 1970, there was an amendment to create the Republic.

Mr. Kwayana: That is right.

Mr. Williams: And after that, there was the 1980 Constitution.

Mr. Chairman: But the Constitution that we have in our hand is the Independence Constitution.

Mr. Williams: Yes.

Mr. Scotland: It is the Independence one.

Mr. Kwayana: It is the Independence one but...

Mr. Williams: It is the Independence one of 1966.

Mr. Scotland: But for my purposes, Commissioners, I want to establish that this was the Constitution in existence in June 1980 for the purposes of the interests that I represent, Mr. Kwayana, you have already agreed to that.

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Mr. Kwayana: I have agreed.

Mr. Scotland: Good.

Mr. Kwayana: I think.

Mr. Scotland: Now, you have said that the DPP was discriminatory against Donald Rodney.

Mr. Jairam: Mr. Scotland, I think you need to be careful. It is the second time that you are repeating that. The way I understand this witness is that he is talking about a particular person occupying the office in 1980. Your turn of phrase would give the impression that the DPP whoever he or she was at the time, was discriminatory. He is referring to the 1980 DPP and I would like you to be careful please.

Mr. Scotland: Commissioner, with the greatest of respect, before I started, I read the full statement which says...

Mr. Jairam: You did but the way that you are asking the questions would convey the impression that you are speaking about the DPP full-stop!

Mr. Scotland: Mr. Kwayana, if I have misled you and sometimes I can be opaque, with how I do things, I am referring to the DPP in June 1980, okay?

Mr. Kwayana: Yes, the same one that I referred to in my statement.

Mr. Scotland: Yes.

Mr. Kwayana: Thank you.

Mr. Scotland: Commissioner Jairam, does that clear up all ambiguity?

Mr. Kwayana: My answer is the same, yes.

Mr. Scotland: Now, you would agree that the appointment of the DPP in 1980 was contained in Constitutional provisions?

Mr. Kwayana: Yes.

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Mr. Scotland: Can I turn you, Sir, to Section 97 of the Constitution which is at page 76 under the heading *Appointment to Particular Offices, In Particular, The DPP* Section 97 page 76. Do you have it? Help him.

Mr. Kwayana: No, Sir. Thank you.

Mr. Scotland: Does the Commissioners have that Section?

Mrs. Samuels-Brown: It is on page 74.

Mr. Scotland: Page 74

Mr. Kwayana: 97, yes, "Appointment to..."

Mr. Chairman: I think it is page 76 in the one that I have.

Mr. Scotland: It is page 76.

Mrs. Samuels-Brown: Article 97.1?

Mr. Scotland: 97.1.

Mr. Chairman: Yes.

Mr. Scotland: Right. Is everyone...

Mr. Chairman: Yes, we are with you, go on.

Mr. Scotland: Mr. Kwayana...

Mr. Kwayana: Yes.

Mr. Scotland: Do you see it there?

Mr. Kwayana: Yes, I do.

Mr. Scotland: Does it read, "The Director of Public Prosecutions, in this Article referred to as the "Director", shall be appointed by the President acting in accordance with the advice of the

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Public Service Commission tendered after the Commission has consulted with the Prime Minister.”

Mr. Kwayana: Correct, yes.

Mr. Scotland: As you understand it, is it that the President will appoint after receiving the advice of the Public Service Commission but after the Commission consults with the Honorable Prime Minister.

Mr. Kwayana: That is what I understand it to mean between 1976 and 1980 who was the Prime Minister of Guyana?

Mr. Kwayana: The Honorable L.F.S. Burnham.

Mr. Scotland: Thank you. Let us deal now in the context of your statement with the removal from office of the DPP. May I respectfully refer you, on the same page, to Section 97 Sub Section 5 of the said Constitution which deals with the removal? Do you see Sub Section 5?

Mr. Kwayana: 5?

Mr. Scotland: Same page.

Mr. Kwayana: Yes.

Mr. Scotland: May I read?

Mr. Chairman: Yes, go ahead please.

Mr. Scotland: “The provisions of Article 118 of the Constitution which relates to removal from office shall apply to the office of the Director and the prescribed authority for the purposes of paragraph 4 of that Article, shall be the Prime Minister or Chairman of the Public Service Commission for the purposes of paragraph 6 of that Article, shall be the Public Service Commission.” Do you see that there?

Mr. Kwayana: Yes, I do.

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Mr. Scotland: Do you understand that provision to mean that for the removal of the Director, the prescribed authority for the removal, shall be the Prime Minister or the Chairman of the Public Service Commission?

Mr. Kwayana: I understand that, yes.

Mr. Scotland: Now, let us look at the Commissioner of Police in the same. You would agree that the appointment of the Commissioner of Police was a constitutional act in 1980?

Mr. Kwayana: Yes.

Mr. Scotland: Could you turn to Section 107.1 page 82. Do not help him, he knows... page 82 of the said document?

Mr. Kwayana: Page 82.

Mrs. Samuels-Brown: What is the Section he just read?

Mr. Jairam: Section 107.1.

Mr. Scotland: Section 107.1 page 82.

Mr. Chairman: The one before that was ...

Mr. Hanoman: It would be 'Article' instead of 'Section', please – Article 107.

Mr. Scotland: Is it 'Article'?

Mr. Hanoman: Yes.

Mr. Scotland: Article...

Mr. Kwayana: It is Article.

Mr. Scotland: ...107.1. Do you have it? Page 82 "The Commissioner of Police"

Mr. Kwayana: Page 82, 107?

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12:21hrs

Mr. Scotland: One.

Mr. Kwayana: Yes, I have it here.

Mr. Scotland: Does it read, Sir, “The Commissioner of Police shall be appointed by the President, acting in accordance with the advice of the Police Service Commission provided that the Commission shall not tender any advice for the purposes of this paragraph unless the Prime Minister concurs in that advice.”

Mr. Kwayana: Yes.

Mr. Scotland: I am not going to be repetitive. Do you understand that to mean that the Prime Minister at that time must concur with whoever it is must be the Commissioner of Police?

Mr. Kwayana: Yes.

Mr. Scotland: We take it that we speak of the same Prime Minister, between the period 1976 to 1980?

Mr. Kwayana: The same Prime Minister, yes.

Mr. Scotland: For the removal, in other words, I will put it in layman’s terms; neither the Director of Public Prosecution (DPP) nor the Commissioner could either be appointed or removed except from the Prime Minister?

Mr. Kwayana: Yes.

Mr. Scotland: I did not hear you, Sir. You are dropping your voice.

Mr. Kwayana: I said ‘yes’ or, in one case, the Chairman of the Commission.

Mr. Scotland: We will get to the Chairman of the Commission in a short while.

Mr. Kwayana: Yes.

Mr. Scotland: Section 107.4, and that is on the same page 82, deals with the removal from office of the Commissioner; the same page. Do you have it, the provisions of Article 118 of the

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Constitution which relates to the removal from office, “shall apply to the Office of Commissioner of Police” and the prescribed authority for the purposes of paragraph four of that article shall be “the Prime Minister or Chairman of the Police Service Commission, for the purposes of paragraph six of that article shall be the Police Service Commission”. Do you see it there?

Mr. Kwayana: Yes.

Mr. Scotland: Now...

Mrs. Samuels-Brown: I am sorry, Counsel. Sorry to disturb you. Before you continue, what is the section you read from in relation to the removal from office of the honourable DPP?

Mr. Kwayana: The section for the removal of office from the honourable DPP is paragraph 97.5.

Mrs. Samuels-Brown: Did you read section 118?

Mr. Scotland: I am going to read that now.

Mrs. Samuels-Brown: Thank you.

Mr. Scotland: Let us now then see what Section 118 says. I am going systematically. Section 118 is contained on page 88...

Mr. Jairam: Article.

Mr. Scotland: Article 118 is contained on page 88, and when it comes to removal, it is section 118.4, so page 88. Do you see it?

Mr. Kwayana: It is there, yes.

Mr. Scotland: Right. It reads for removal, “If the prescribed authority advises the President that the question of removing the officer from office under this article ought to be investigated then...” and it goes on to say what the President will do, yes?

Mr. Kwayana: Yes.

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Mr. Scotland: We have already read that the prescribed authority for both the DPP and the Commissioner of Police was either the Honourable Prime Minister or the Chairman of the Commission.

Mr. Kwayana: Yes.

Mr. Scotland: Let us then see, to wrap up this area, who appointed the Chairman of the Police Service Commission and the other Commissions in June 1980. May I draw your attention to Article 95 of the Constitution? In particular, Article 95.3 which deals with the appointment of the Chairman for the avoidance of...

Mr. Chairman: Which chairman are you referring to?

Mr. Scotland: I am referring to the Chairman of the Public Service Commission, first.

Mr. Chairman: ...and the Chairman of the Police service Commission.

Mr. Scotland: I will do that after.

Mr. Chairman: Be very explicit. Be very clear.

Mr. Scotland: Yes, please, Sir. Commissioners, may I take it that because I will ask that this be put in, 95.1 deals with the appointment and how many and who appoints the numbers. I will address the Commission in time on that but it is there. I do not want to go through that with the witness, to save time. I am just going with removal and appointment now. Let us look at Article 95.3. Do you see 95.3 there at page 73?

Mr. Kwayana: Yes, I do.

Mr. Scotland: "A Chairman and a Deputy Chairman of the Public Service Commission, shall be appointed by the President acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition from among the members appointed under subparagraphs A & B." Do you see that there?

Mr. Kwayana: That is 95, what, please?

Mr. Scotland: Pardon?

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Mr. Kwayana: 95, what subsection?

Mr. Scotland: 95.3.

Mr. Kwayana: 95.3.

Mr. Scotland: Yes.

Mrs. Samuels-Brown: Half way down the page.

Mr. Scotland: Half way down the page you will see it.

Mr. Kwayana: I have “three members appointed...” 95... Oh, I am reading (a) instead of 3, I am sorry, yes.

Mr. Scotland: Do you see it? “The Chairman and Deputy Chairman” Do you see it?

Mr. Chairman: Are you sure there was not an easier way instead of doing all of that? You could have put it to him another way. He is a knowledgeable man and a student of the life of this country, very knowledgeable, even on the Constitution. You could have put it to him that the appointment of the Chairman of the Public Service Commission is done in a particular way. He answers you ‘yes’, or ‘no’, and we move on.

Mr. Scotland: Thank you, Mr. Chairman. Would you agree with me, Sir, that that appointment is done by the President acting on the recommendation of the Prime Minister of the Chairman of the Public Service Commission, after consultation with the leader of the Opposition?

Mr. Kwayana: The microphone is very bad. Yes.

Mr. Scotland: Finally, the ouster, or the taking out of officers of the DPP and the Commission of Police from the normal train of public officers is contained in Article 96 Subsection 7 of the said constitution on page 75 so they are taken out and placed directly under the Prime Minister, and/or the Chairman of the relevant Commission. Do you see it there? Page 75, look at 7. (a) has the DPP and (h) has the Commissioner of Police, or any other office in the Police Force.

Mr. Chairman: You are saying that this is in the Independence Constitution?

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Mr. Scotland: Yes. This is the Independence which was in existence in June, 1980.

Mr. Chairman: Is that pursuant to the amendment?

Mr. Scotland: It was amended in October, I think, 1980. I am at Article 96....

Mr. Kwayana: October 6...

Mr. Scotland: October 6 is the new Constitution, but do you agree with my statement there, Mr. Kwayana, so I can move on?

Mr. Kwayana: I am looking for it. What page is it?

Mr. Scotland: It is page 75, look at paragraph... Mr. Chairman, I am trying to save time but the witness wants to see it.

Mr. Chairman: Okay, that is fine.

Mr. Scotland: Page 75.7 (a) and (h) where it is ouster from the Judicial Service Commission.

Mr. Chairman: I am just trying to remember whether the other Independence Constitutions had that provision.

Mr. Scotland: Pardon me?

Mr. Chairman: I was just trying to remember whether the other Independence Constitutions had that provision.

Mr. Scotland: I did not see it in Trinidad. Maybe Commissioner Jairam...

Mr. Chairman: But you have had many amendments to yours, you know?

Mr. Scotland: After, yes.

Mr. Chairman: You now have the Republican Constitution.

Mr. Scotland: This is a very... Sir, Mr. Kwayana, do you see it there? Article 96.7, for where they removed or where the Officer of the DPP and the Commissioner were removed out of the Judicial and Legal Services Commission (JLSC), do you see it?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: The page is very shady, I cannot really...

Mr. Scotland: Okay, but if I say to you that it is there, would you accept it?

Mr. Kwayana: Yes.

Mr. Scotland: Thank you. May I move on please? This is the context in which I want to approach Donald Rodney. Could you tell us, at the time, if I am correct, that the DPP in June 1980 was one Mr. Ramao.

Mr. Kwayana: Ramao.

Mr. Chairman: Spell that for me.

Mr. Scotland: R-A-M-A-O.

Mr. Kwayana: It is sounded as 'ong'. It is Portuguese origin I think.

Mr. Scotland: Emmanuel Ramao?

Mr. Kwayana: Yes.

Mr. Scotland: Is it not true to say, Sir, as in keeping with the constitutional provisions, that he was appointed on the advice of the then Prime Minister as the DPP?

Mr. Kwayana: Certainly, yes.

Mr. Scotland: Who was the Commissioner of Police at the time who ordered the charge of Mr. Donald Rodney in 1980, can you recall? You are a wealth of knowledge?

Mr. Kwayana: Are you saying the Commissioner of Police who ordered the charge?

Mr. Scotland: Who was the Commissioner of Police at the time?

Mr. Kwayana: I think it should be Mr. Lloyd Barker.

Mr. Scotland: Lloyd Barker. He, again, was appointed on the direction, under the Constitution, of the then Honourable Prime Minister?

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Mr. Kwayana: Yes.

Mr. Scotland: Now I can go to your witness statement and take you to some articles.

Mr. Jairam: Are you suggesting that men and women who hold public office, because they are appointed in a certain way, are behold onto the Prime Minister?

Mr. Scotland: I have not made any such suggestions.

Mr. Jairam: No, I want to know where you are going with this.

Mr. Scotland: I will have submissions on it, as it relates to the charge of my client.

Mr. Jairam: Alright.

Mr. Scotland: I have no guile. The reason why I am laying this foundation is because I will have a submission, not men or women who are appointed will be behold on but they would have to act in a certain way fearing the threat of removal from office which have.... Yes? Thank you. I am doing it... Sir, let us go. On page three of your witness statement, you indicated that, and I am paraphrasing you here, that "Gregory Smith, the maker of the fatal walkie-talkie was not charged, but Donald Rodney, who said that Smith was the maker of the walkie-talkie, was charged for possession of explosives." Do you recall?

Mr. Kwayana: Yes.

Mr. Scotland: ...was apart from Donald Rodney, who unequivocally indicated that Mr. Gregory Smith, Sergeant in the GDF, was the maker of this walkie-talkie. Was there any other evidence to refute what Donald Rodney said, that Smith was the maker?

Mr. Kwayana: There was no other evidence before the court, at all.

Mr. Scotland: It not true to say, subsequently, when there was water more than flour, that Smith admitted, "Look, I made the device." He put a spin on it, but he admitted to be the maker of the device?

Mr. Kwayana: Precisely, yes. Confirm that detail in Donald Rodney's statement.

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Mr. Scotland: I want to go then, directly; the interest that I represent has in some way been linked in a negative way to these events. You said that, “the evidence disclosed to the state...” Page 6, your last paragraph, “...involvement in a plot to destroy a bothersome citizen but the state used Donald’s statement to prosecute him and failed to act on that statement that Smith had given him that package.” Do you recall that?

Mr. Kwayana: Yes, I do.

12.36 hrs

Mr. Scotland: Would you like now, Sir, to tell us in that statement of Donald Rodney, did he not say categorically say that neither he nor the late Dr. Rodney knew that the item that he was carrying was an explosive item?

Mr. Kwayana: Yes, he did.

Mr. Scotland: Well I have to ask you, rhetorically, from another branch of Law that I practiced. If there is no other evidence saying, well look, is there any evidence to refute that categorically statement made by Donald Rodney?

Mr. Kwayana: There was none.

Mr. Scotland: ...and up to now, well apart from the book which we will come to, there is none?

Mr. Kwayana: There is none.

Mr. Scotland: At the time of the charging, let us go back to 1980, so let us do the time capsule travel.

Mr. Williams: Are we trying this case now, Mr. Chairman and Commissioners and is my learned Friend appointing the vulnerable witness as the Judge in the matter? I am sure the destination I thought he was making a point in the presence.

Mr. Chairman: ...as witness only, but even if he was trying the case which I do not think [*inaudible*] would need a witness if he was.

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Mr. Scotland: Mr. Chairman, may I go back to (i) of the of the Commission to examine the facts and circumstances immediately at the time and subsequent to the death and say that I am being very relevant and very faithful to the Terms Of Reference?

Mr. Chairman: I have not stop you.

Mr. Scotland: Thank you.

Mrs. Samuels-Brown: I would just add that these matters would have, of course, also have to refer to the explore with members of the police force and when they do arrive, who probably could speak more conclusively on these issues.

Mr. Scotland: Yes, but Madam Commissioner I am branching off from references made in his statement. May I continue please? Sir, now going back to the question you said there was no evidence to refute nothing at all at the time in 1980 Donald Rodney statement that neither he nor the late Dr. Rodney knew that the item they were carrying was walkie-talkie? You agree with me?

Mr. Kwayana: I do, yes.

Mr. Scotland: Let us just put now very briefly, I would only touch on what I want to make sure no stone is unturned, a context of having a walkie-talkie. In terms of communication, there was no land line at the WPA head quarter?

Mr. Kwayana: Correct, none.

Mr. Scotland: A legitimate means of mobilising and speaking to your constituents, you would agree, would be a walkie-talkie, if you do not have a phone?

Mr. Kwayana: No.

Mr. Scotland: With other persons.

Mr. Chairman: Sir, you have me little lost because I thought the evidence was that Donald and Walter, they did go near to the prison expect to meet Smith and receive a communication device, a walkie-talkie. What I understand, they not to have known is that that walkie-talkie was

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contained an explosive, but they did go there if I understand the evidence correct, I do not know if I am wrong to receive a communication device namely a walkie-talkie.

Mr. Scotland: I am just establishing the legitimacy of that purpose so I have not...

Mr. Chairman: Now, what is your response to what I am saying, you were saying that neither one knew that they were going there for a walkie-talkie?

Mr. Scotland: No, I am saying that they knew that they went there for a walkie-talkie.

Mr. Chairman: But not one with an explosive device? So we are all on the same page?

Mr. Scotland: Yes, we are.

Mr. Chairman: Okay, very well.

Mr. Kwayana: I think he meant explosive.

Mrs. Samuels-Brown: I believe that you are really expanding on what is at page 13 of the witness's statement? The second paragraph which heads "the use of the walkie-talkie"

Mr. Scotland: That is exactly the area I am going on. So I am expanding Sir, and I very grateful, Madam Commissioner to your statement of the legitimacy of the use of the walkie-talkie at that time.

Mr. Kwayana: Yes.

Mr. Scotland: ...and that in Guyana in 1980 you would agree that someone son of the soil did not had a plethora of persons in that type of technology who possess that type of knowledge, there was a limited amount of persons, yes?

Mr. Kwayana: Correct.

Mr. Chairman: But it is all undisputed evidence that that was the situation obtaining in the country at the time in relation to telephone. So I do not want to stop you, but we must be careful not to be retracing steps about where there was no dispute.

Mr. Scotland: I promise that around 13.05hrs I will finish I really do need to...

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Mr. Chairman: Okay, I was giving a general warning.

Mr. Scotland: I understood.

Mr. Chairman: The more counsel are admitted, are given stand are the more I think they may need to be heard, they may just be repeated what was before...

Mr. Scotland: No, I do not wish to do that at all.

Mr. Chairman: I am uplifted by your assurance.

Mr. Scotland: Thank you. Now you said and let me go to an area that you did not touch at all at paragraph 7, at page 7, sorry of your witness statement under the heading well you say, "on Counsel's advice have omitted testimony on the character of Donald Rodney has not required" - page 7, third paragraph, one whole line. I think, respectfully, as a person of interest the character or Donald Rodney is required. Could you tell us something of the character of Donald Rodney? Let me lead you a little. Is it true to say that at the time in 1980 Donald Rodney was a qualified quantity surveyor and land surveyor?

Mr. Kwayana: Yes, that is correct. I knew him as a quantity surveyor. I do not know about the land surveyor part.

Mr. Scotland: He was therefore a member of the professional working class in Guyana.

Mr. Kwayana: Oh yes. Quantity surveyors were rare.

Mr. Scotland: So he was a rare quantity?

Mr. Kwayana: And they are rare now, yes.

Mr. Scotland: Tell us also, you said in one area of your witness statement that he had no guile?

Mr. Kwayana: Yes.

Mr. Scotland: Could you expand on that for me?

Mr. Kwayana: He was a most open kind of person he was not a "smart-aleck" or anyone like that, he would be very caned he talks very little and would be very open and sincere in what he

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was conveying and communicating to people and he was also a very reliable person, a person that you could trust.

Mr. Scotland: A person who you can trust? As indeed Dr. Rodney trusted him.

Mr. Kwayana: Yes.

Mr. Scotland: Keep going.

Mr. Kwayana: And I trusted him.

Mr. Scotland: You trusted him also.

Mr. Kwayana: When I saw his statement I knew that it is what he believed and what he knew he was not making anything up. He was not going to write there anything that he did not believe were answer to any question in a way that was not his conscience that was the kind of person I esteem him to be.

Mr. Chairman: Counsel, did you properly lay the foundation for all of that? I mean did the witness know him and in what context he could speak in that way.

Mr. Scotland: Mr. Chairman, I was taking your admonition at the time, I would have taken it.

Mr. Chairman: I am not suggesting that you do it the wrong way; you need to lay the foundation.

Mr. Scotland: Tell us before 1980 how long did you know Donald Rodney?

Mr. Kwayana: Not long, but he impresses himself... Immediately.

Mr. Scotland: Approximately, what year did you met him, tell me?

Mr. Kwayana: Not before 1979.

Mr. Scotland: So you knew him for about a year?

Mr. Kwayana: Probably.

Mr. Scotland: And you would have interacted with him enough to form an opinion?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: He was not very busy in the Working People's Alliance, but I met him not so much on political matters. I spoke with him as a public servant and we would discuss matters generally. He was not at that time what we would call an activist.

Mr. Scotland: So he was not an activist?

Mr. Kwayana: He was not an activist in my recollection.

Mrs. Samuels-Brown: Can the witness assist us with where he was employed; he said he was a public servant?

Mr. Scotland: Where was he employed?

Mr. Kwayana: He was employed at the Ministry of Works, some section at the Ministry of Works.

Mrs. Samuels-Brown: Thank you.

Mr. Scotland: Now I would like to take you directly to EK 2 in particular which is the Working People's Alliance the assignation of Dr. Walter Rodney, you recall that document?

Mr. Kwayana: I do. I wrote that document, I should say.

Mr. Scotland: You said in page one of that document paragraph two and I know you have the wonderful gift of recovery, the plans of the assassination of Walter Rodney although fatal successful went wrong in certain respects?

Mr. Kwayana: Yes.

Mr. Scotland: They had not calculated for the role of Donald Rodney, nor for his fatal presence on his fatal journey. Donald was able to name the agent who had delivered the receiving set with traitorous bomb, do you recalling that?

Mr. Kwayana: Oh yes, that was my conviction.

Mr. Scotland: ...and the agent that you refer to there was the Gregory Smith.

Mr. Kwayana: Gregory Smith, was named by Donald Rodney.

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Mr. Scotland: You then move on to paragraph two and I want to do a little demonstration with you after at page two, sorry, paragraph two to make it appear credible that Walter Rodney was consciously carrying a bomb with the intent to assault the prison the agentthrough Donald certain instructions. Walter was instructed to travel north on foot and on reaching the prison, walk near to the prison fence, yes, you remember that?

Mr. Kwayana: Yes, I do.

Mr. Scotland: The reason given was that the maker of the walkie-talkie set wanted to test whether there was whether metal would interfere with the transmission to make sure that Walter would be hit in the face and thus identifiable, he was instructed to hold the set in front of him and bend over it to see a flash of light. Do you see that?

Mr. Kwayana: Correct.

Mr. Scotland: Now in that regard, you also link the removal of the guards around the prison at that time.

Mr. Kwayana: Yes.

Mr. Scotland: You also link in your chain of evidence the insistence of Gregory Smith according to Donald, of the synchronisation of the watch?

Mr. Kwayana: Yes.

Mr. Scotland: I want to do something subject to the Commission through the Chair. When you say, hold the the walkie-talkie to his face”, Mr. Chairman, can I have your order to hand him this cell phone, please?

[Marshall took cellular phone to witness]

Mr. Scotland: This is not a walkie-talkie, it is a cell phone, alright. I do not trust walkie-talkie. Show the Commission...

Mr. Chairman: Why is it he needs to demonstrate that, you could do it as well?

Mr. Scotland: He could use the bottle?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Chairman: You can do it as well.

Mr. Scotland: I am not the witness Mr. Commissioner.

Mr. Chairman: He is not speaking of any knowledge, you know of that.

Mr. Scotland: He is speaking from what Donald told him. He has it already Mr. Chairman.

Mr. Chairman: Well let him go but he is in not better position to hold it than you.

Mr. Scotland: Do you want me to do it Mr. Chairman?

Mr. Chairman: I do not know why not.

Mr. Scotland: Bring it back to me.

[Marshall took cell phone to Counsel]

Mr. Scotland: Would it be your demonstration, are you seeing me Sir, that Dr. Rodney was supposed to hold the walkie-talkie like this, close to his face to see the light go off, correct?

Mr. Kwayana: I got the impression that he was to hold it somewhere here and bend over it.

Mr. Chairman: That was my impression too because he had to be looking for a light, he cannot hold it so and look for a light.

Mr. Scotland: So how far would he hold it? That is why it is better he does it Mr. Chairman.

Mr. Chairman: So he had to hold it here.

Mr. Scotland: Could you show us how he was supposed to hold it? Stand up. Use the bottle as the walkie-talkie.

Mr. Kwayana: In my mind...

Mr. Scotland: Like that.

Mr. Chairman: he has to be looking for a light.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: ...and then, thank you Mr. Kwayana, the device would go off and he would be obliterated? Correct?

12.50hrs

Mr. Kwayana: His features would be destroyed and unrecognisable.

Mr. Scotland: ...and unrecognisable. That is what you mean by that paragraph in your dissertation?

Mr. Kwayana: Yes.

Mr. Scotland: I want now to do the timeline relative to Gregory Smith. You would agree with me that on the 14th June, 1980, the WPA received a signed statement from somebody from Kwakwani?

Mr. Kwayana: It was not, excuse me, on the 14th June.

Mr. Scotland: When did the WPA receive that signed statement?

Mr. Kwayana: We received a signed statement some days after Donald Rodney's statement became public.

Mr. Scotland: Alright, well maybe I should take it like this then. On the 16th June 1980, Donald Rodney named Gregory Smith as the agent who had given the fatal device that killed Dr. Rodney?

Mr. Kwayana: Yes.

Mr. Scotland: In that statement, Donald Rodney gave not just a description, but where he worked and his position in the Guyana Defense Force, as a Sergeant?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: Yes.

Mr. Scotland: With other particulars about this Gregory Smith?

Mr. Kwayana: Yes.

Mr. Scotland: On the 14th June, according to information that you gathered, Gregory Smith was seen in Kwakwani, a town in Berbice, at 10:30hrs in the morning being landed by a Guyana Defense Force plane?

Mr. Kwayana: Yes, that is true. May I point out that the statement; we did not receive that information on the 14th...

Mr. Scotland: I understand. I was just going for the timeline. On the 13th we have Dr. Rodney killed, on the 16th we have Donald Rodney giving a description of Gregory Smith, but on the intervening period, on the 14th, you have Gregory Smith landed in Berbice in a Guyana Defense Force plane at 10.30hrs in the morning, that is broad daylight?

Mr. Kwayana: That is correct, yes.

Mrs. Samuels-Brown: Just a minute, please.

Mr. Kwayana: That is the information we received.

Mrs. Samuels-Brown: Are you referring to a writing that this witness had made still, or a statement, which one?

Mr. Scotland: I am still on *Assassination*, it is in the document.

Mrs. Samuels-Brown: Thank you. That expands on what we have in his statement at page 12?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: At page 12, yes.

Mrs. Samuels-Brown: Thank you.

Mr. Scotland: It is an expansion at page 12. Let me ask you two things about that, it is true that it was established that the father of Gregory Smith lived in Kwakwani, Berbice – Gregory Smith's father?

Mr. Kwayana: His father, yes. Our informant was very well acquainted with the family.

Mr. Scotland: Now, is it not true to say, Sir, that a normal Guyanese citizen could not have commandeered a Guyana Defense Force plane to land them in Berbice? That had to come from some official order? Is that a reasonable conclusion?

Mr. Kwayana: A very reasonable conclusion.

Mr. Scotland: A very reasonable conclusion. On 17th June, 1980 – we are going along with the timeline – Gregory Smith was taken away in a Guyana Defense Force plane to some destination unknown outside of Guyana?

Mr. Kwayana: Yes. That is...

Mr. Chairman: I lost that one, Counsel.

Mr. Kwayana: That is what?

Mr. Scotland: In 17th June, 1980, Mr. Chairman, on the 13th Dr. Rodney was killed. On the 16th Donald Rodney names Gregory Smith with full particulars. On the 14th the day after Dr. Rodney is killed, we have Gregory Smith being landed in Berbice, Kwakwani, Mr...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: Kwakwani, that is correct.

Mr. Scotland: Can I continue? You look distracted.

Mr. Kwayana: No.

Mr. Scotland: ...being landed in Berbice, where his father lives and just to complete the details, he lands with children and a lady. Correct?

Mr. Kwayana: That was our information, yes.

Mr. Scotland: Good. Now, we go to the 17th June, 1980, Gregory Smith was taken away in a GDF plane to an unknown destination outside of Guyana. Correct?

Mr. Chairman: That is on the 17th?

Mr. Scotland: The 17th, am I correct so far, Sir?

Mr. Kwayana: Yes.

Mr. Scotland: Tell us, and I want you to give me your opinion: The leaving of the country would involve several aspects of the state, several state constituents, correct?

Mr. Kwayana: Yes.

Mr. Scotland: Immigration would have to facilitate it and in particular, I do not want to put words in your mouth, do you see any significance in his leaving in a Guyana Defense Force plane? What is the significance of that as it relates to Gregory Smith and his alleged involvement in the death of Dr. Rodney?

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: The Guyana Defense Force authorities would have to authorise that journey, that use of that plane, in any case.

Mr. Scotland: Who was the Chief of Defense at that time, June 1980? Who was in charge, the Minister of Defense?

Mr. Kwayana: The Minister of Defense was the Prime Minister Mr. Burnham and there was also a Chief of Staff, by whatever rank, Brigadier or... Mr. Norman Mc Lean.

Mr. Scotland: We have Norman? I did not get the surname?

Mr. Kwayana: Norman Mc Lean.

Mr. Scotland: Norman Mc Lean, he was the Chief, but the overall Minister then was the Honourable Prime Minister?

Mr. Kwayana: The Honourable Prime Minister.

Mr. Scotland: So that is on the 17th, yes?

Mr. Kwayana: On or about.

Mr. Scotland: So as of the 18th of Guyana, Gregory Smith was out of country, yes? And then...

Mr. Kwayana: Another factor is the Civil Aviation Authority.

Mr. Scotland: They Civil...sorry?

Mr. Kwayana: Civil Aviation.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: Mr. Chairman?

Mr. Scotland: Hold on, the Chair is having a word. He is saying another factor of involvement would be the Civil Aviation Authority?

Mr. Kwayana: Yes.

Mr. Scotland: What would be the involvement, pray tell?

Mr. Kwayana: For the movement of the plane.

Mr. Scotland: They would have to authorise it?

Mr. Kwayana: Yes.

Mr. Scotland: Thank you. Would it be true to say then that the egress, the exit, the exodus of Gregory Smith was not a simple exercise? It involved state apparatus?

Mr. Kwayana: It did involve state apparatus.

Mr. Scotland: And in fact I will have to use the plural, I would have to say state apparati.

Mr. Chairman: You heard of Latin?

Mr. Kwayana: Yes.

Mr. Scotland: Trying.

Mrs. Samuels-Brown: Just for the other Counsel present, some of this is supported by the Exhibit with which we have been provided by the police LJ/CID/WR1, which contains statements which are relevant to the matters you are exploring, just so that we may...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: Madam Commissioner, I assure you, not with this witness, and we are grateful for the document and I will be going to it when the relevant witnesses come. Now, may I continue, Madam Commissioner? So on the 17th Gregory Smith is out of the country. Correct?

Mr. Kwayana: Yes.

Mr. Scotland: But on the 18th the Police put a notice in the newspaper asking for assistance to locate Gregory Smith. Is that not so?

Mr. Kwayana: The police did put a notice.

Mr. Scotland: But a notice was put?

Mr. Kwayana: I am a bit obscure about the date.

Mr. Scotland: We have it on the 18th and I got it.

Mr. Kwayana: You see that was written contemporaneously and I rely on what was there.

Mr. Scotland: But is it true to say that on the 18th, the day after he leaves the country, a notice was put in the newspaper by *The Chronicle*? Sir, Can I take you to page three of the article that you wrote *The Assassination of Dr. Walter Rodney*, page three, the last paragraph, on 18th June?

Mr. Kwayana: Yes.

Mr. Chairman: Before you get to that just help us with which paper that notice appeared in?

Mr. Scotland: *The Guyana Chronicle*.

Mr. Chairman: Yes, thanks.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: I will go to the...

Mr. Kwayana: This would not have been written...

Mrs. Samuels-Brown: Which newspaper? What date?

Mr. Scotland: 18th June, 2014. On 18th June could you read that for me please?

Mr. Kwayana: “On 18th June, the day after Donald Rodney first spoke to the police, the police put a notice in the *Guyana Chronicle* seeking the assistance of the public in the location of the man named by Donald Rodney...”

Mr. Scotland: As?

Mr. Kwayana: “...as Gregory Smith.”

Mr. Scotland: Thank you. Do you see the statement there, Sir? In our chronology, would it be then that Smith leaves the country in a GDF plane on the 17th but on the 18th there is a notice in the newspaper asking for the advice of Gregory Smith?

Mr. Kwayana: Yes.

Mr. Scotland: Pardon?

Mr. Kwayana: Yes.

Mr. Chairman: That is the day after he spoke to the police?

Mr. Scotland: He would have left on the 16th and he would have spoken to the police on the 16th or the 17th, yes. He would have given them a description since the 16th. You cannot nod. The nod...

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Kwayana: Yes

Mr. Scotland: Those are all, may I say. Mr. Chairman, maybe I should clear that up with one discreet question. This is since the 16th the police would have had a description of Gregory Smith from Donald Rodney?

Mr. Kwayana: Yes. The only source that I know of, yes.

Mr. Scotland: Yes. This is part of your strand of rope that you used to form your circumstantial evidence and come to your conclusion of state involvement?

Mr. Kwayana: Correct, yes.

Mr. Scotland: May I continue, Mr. Kwayana?

Mr. Kwayana: Yes, thank you.

Mr. Scotland: Did Sergeant Smith, on his own, as a Sergeant in the Army, from your knowledge of Guyanese culture in 1980 and what went on, have the weight to do all of what was done, what I just recited, to orchestrate his departure out of Guyana?

Mr. Kwayana: Not at all. No. By no means...

Mr. Chairman: I did not follow that, I am sorry.

Mr. Scotland: Did? Pardon?

Mr. Kwayana: Not at all. By no means could a Sergeant commandeer a plane.

Mr. Scotland: Hold on, the Chairman needs clarification.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Chairman: I did not follow the question. I was distracted for a moment.

Mr. Scotland: Should I re-ask it?

Mr. Chairman: I think the answer is on record, but what was your question?

Mr. Scotland: Did he have the wherewithal to do that on his own?

Mr. Chairman: Who is he now?

Mr. Scotland: Gregory Smith, to orchestrate his exodus from Guyana, in that manner?

Mr. Kwayana: He would not as a Sergeant of the Army have the authority to commandeer a plane.

Mr. Scotland: Would it be true to say then that manner of exit, speaks of involvement of a higher hand - a higher echelon?

Mr. Kwayana: Yes, certainly.

Mr. Scotland: That would have to be state run agencies such as Aviation, Immigration, Guyana Defense Force?

Mr. Kwayana: Yes.

Mr. Scotland: Apart from that, you put into your mix, to come to your conclusion of who was involved in the death of Dr. Rodney that there was an attempt to obfuscate or to deny as Peter did, the existence of Gregory Smith?

Mr. Kwayana: Yes that is right.

WALTER RODNEY COMMISSION OF INQUIRY

Mr. Scotland: That would have been and here I go back to my direct - I am linking everything to my Terms Of Reference – that would have been to discredit Donald Rodney? He is lying.

Nobody knows who is named Gregory Smith in the army. Is that not so?

Mr. Kwayana: That is correct. Large campaign.

Mr. Scotland: As it turned out though, the records speak for themselves. God bless Ms.

Beharry and Ms. Gwendolyn Jones and others. They have identified Gregory Smith as a Sergeant in the Army. Correct?

Mr. Kwayana: Yes, Ms. Pamela's appearance was dramatic and for the Working People's Alliance, a source of great encouragement. She saw this notice, I believe in the newspaper.

Mr. Scotland: Yes, tell us.

Mr. Kwayana: And could not understand how there was confusion about identification of Gregory Smith so she came forward.

Mr. Scotland: Because she is saying, "*look I have family who is living with the man with children*". Correct?

Mr. Kwayana: That is right.

Mr. Chairman: That is Ms. Beharry?

Mr. Scotland: Yes.

Mr. Kwayana: She lived with his wife and some children.

WALTER RODNEY COMMISSION OF INQUIRY

13.05hrs

Mr. Scotland: She lived.....

Mr. Chairman: I was saying Ms. Beharry was one who was living with him, but she was the one who was breaking the story?

Mr. Scotland: She was doing much more than that, but we will continue. She was someone who came forward at the time when Donald Rodney seems like a voice crying in the wilderness.

Mr. Kwayana: Precisely...

Mr. Scotland: Official down denies the existence, the Chief of Defense, but let us go one step forward into the credibility. Is it not true to say that on 26th June, 1980, the Police entered Smith's house and remove electronic equipment, surveillance electronic equipment?

Mr. Kwayana: This was a report in the *Catholic Standard* which could not be denied and was not denied officially.

Mr. Scotland: And also is it not true to say, according to Ms. Beharry and others that at one time, there was a forbidden phone and at one time when she used the forbidden phone, he was able to play back the conversation that she had on the phone.

Mr. Kwayana: Yes, that is correct.

Mr. Scotland: Yes, so we can establish that at Gregory Smith's home, well the home that he lived with Ms. B...

Mr. Kwayana: No.

Mr. Scotland: Ms. Jones.

Mr. Kwayana: Ms. Beharry lived in the home of Smith and Jones.

Mr. Scotland: At the home that Smith lived with Jones he had a device which just could not record, but play back what you say.

Mr. Kwayana: Ms. Beharry actually said it was recorded at Timehri...

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Mr. Scotland: Good.

Mr. Kwayana: ...at which there is a Defense Force base.

Mr. Scotland: A Defense Force base which was linked to his home?

Mr. Kwayana: Correct, yes.

Mr. Scotland: There was a link to Smith's home at an army based in Timehri where they were recording and surveillance equipment?

Mr. Kwayana: Yes.

Mr. Scotland: I want to ask you this, relative to... I am doing an exercise of comparator of the credibility of Donald as oppose to Gregory Smith and I do not mean any way to... I know Mr. Smith is dead, but I must do my job, okay? Let us do it. Smith had claimed in his book that he at the time in 1980 had left the Army and he was, for all intense and purposes, a freelancer, correct?

Mr. Kwayana: Yes, he gave that impression.

Mr. Scotland: Donald Rodney claimed at the time that he was an active Sergeant in the Army, correct?

Mr. Kwayana: Yes.

Mr. Scotland: When the dust cleared and the facts were collated, is it not true that Pamela Beharry made it pellucid that she and Gwendolyn visited Sergeant Gregory Smith at the Army base?

Mr. Kwayana: At the Marine Wing.

Mr. Kwayana: Yes.

Mr. Scotland: At the Marine Wing and that was also confirmed by one Ignatius Mc Rae who confirmed...

Mr. Kwayana: Under oath, yes.

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Mr. Scotland: ...under oath that Smith was an active member? Yes?

Mr. Kwayana: Yes.

Mr. Scotland: Could we say....

Mr. Chairman: What year are you dealing with?

Mr. Scotland: He was an active member in 1980, Smith.

Mr. Kwayana: That was the question that was in the trial of Donald Rodney.

Mr. Scotland: Yes. We confirm that. That was one for the credibility of Donald as opposed to Smith. Let us go to number two. Donald Rodney states that Smith, Gregory Smith that is, ask them to synchronise their watches especially around the eight o'clock time. Do you recall that?

Mr. Kwayana: Yes.

Mr. Scotland: In any document you have seen in your years on this earth, have you ever seen a refutation of that claim from Gregory Smith?

Mr. Kwayana: No, he asked them to synchronise their watches before Donald Rodney left his yard.

Mr. Scotland: ...his yard so that they can know... because they were supposed to be at a certain time at a certain place.

Mr. Kwayana: At 8 p.m., yes.

Mr. Chairman: What date is that?

Mr. Scotland: That is the 13th June, 1980, the fatal night.

Mr. Chairman: I am not asking those questions for myself but hundreds of thousands of people if not millions around the world are listening...

Mr. Scotland: Mr. Chairman, I am grateful for that. The synchronising of the watches was on the 13th June, 1980 for eight O'clock to be by the jail, correct?

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Mr. Kwayana: Yes, that is it.

Mr. Scotland: That is two for Donald. Donald Rodney in all his statements has stated that as far as he and Dr. Rodney knew they had no explosives on them but what they had was a “walkie-talkie” device to be tested by Gregory Smith and Dr. Rodney, do you recall that?

Mr. Kwayana: I do, yes.

Mr. Williams: Mr. Chairman, I think we were assured when Commissioner Jairam asked whether Donald Rodney is coming to testify and he was answered in the affirmative... In the light of that, do we go through it what his statement was with another witness?

Mr. Scotland: I am not going through a statement. I am going to watch his credibility with this witness who has given a statement relative to the events.

Mr. Williams: If he is coming with his credibility, I do not think any other witness’s opinion of him could override when he goes into that box and give his evidence about his credibility.

Mr. Scotland: Mr. Chairman...

Mr. Williams: I just thought that my Friend had to travel so I shortened my cross-examination or examination if you wish. If we are going to go into Donald Rodney’s statement when Donald Rodney has to come as Commissioner Jairam has essayed...

Mr. Chairman: Mr. Kwayana’s responses and demeanour and all the rest to test Donald’s credibility?

Mr. Scotland: Mr. Chairman, it goes directly to your Terms Of Reference, respectfully.

Mr. Chairman: This specific issue. You said that you are using the evidence given now to test Donald’s credibility?

Mr. Scotland: Yes, because if he comes to test....

Mr. Chairman: What Mr. Williams is saying is Donald will appear and he is the best just of his own credibility... his appearance, his performance.

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Mr. Scotland: Mr. Chairman, with the greatest of respect, that would be self-serving, he would come and say he is Mother Theresa. This is the witness and other persons to test... When he comes to say what he says, if it bears fruit or if there is a traction with other witnesses...

Mr. Chairman: I wanted you to justify precisely what you are doing and I think you now come closer to doing it, thank you very much.

Mr. Scotland: May I please continue please, Mr. Chairman. May I?

Mr. Williams: Sir, I am not sure if we are confusing the reputation and credibility. If we are going to talk about credibility, the witness has to be in this box and we examine him and we look at his demeanour, his consistency and the varsity and the like. That is what my learned Friend is saying he is doing. He cannot get that from the witness. Is it he is talking about the reputation?

Mr. Chairman: It is his consistency of account that has to be given by other witnesses may be test too or perhaps the main test of his credibility.

Mr. Williams: Reputation?

Mr. Scotland: Mr. Chairman, in another place it would be called corroboration. May I continue please, Sir?

Mr. Chairman: Please go ahead.

Mr. Scotland: Thank you very much. Sir, can I take you back to where I was at number three where you know that Donald Rodney had stated that he neither he nor Dr. Rodney at the time knew that what they had was an explosive device but a “walkie talkie” to be tested between Dr. Rodney and Gregory Smith? Do you recall that?

Mr. Kwayana: Yes.

Mr. Scotland: In the spin put in his book by Gregory Smith he indicated that “no, he did not give them any explosives but by some extension they would have had explosives and put it on something went awry”. Do you recall that? He gave them a warning and the tutorial. Do you recall that? Here is my question to you. Did not one Mr. Kendall confirm that the remnants of the

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device found on the night to the 13th June, 1980, was device that could have been remotely triggered from elsewhere?

Mr. Kwayana: He confirmed it on oath in my presence in reply to Defence Counsel.

Mr. Chairman: Is that at the inquest?

Mr. Kwayana: Mr. Doodnauth Singh.

Mr. Scotland: At the inquest or at the Magistrate Court?

Mr. Kwayana: I think it was at the trial...

Mr. Scotland: The trial of Donald Rodney.

Mr. Kwayana: ...of Donald Rodney and I just want to say... We used it in *Dayclean*.

Mr. Scotland: Right.

Mr. Kwayana: ...and if it were the inquest it would be eight years after and that was not the atmosphere because it was contemporaneous

Mr. Scotland: It was at the trial of Rodney.

Mr. Kwayana: He said that from the debris and particles found the device could have triggered remotely.

Mr. Scotland: Donald Rodney....

Ms. Samuels- Brown: Sorry before you go could you clarify for us on what basis we should accept this Mr. Kendall's expertise in this area? Do we know what his occupation was? I do not want to unduly delay you, but it would be nice to be able to fit it in right here.

Mr. Scotland: Yes, please. Can I enlist the assistance in finding that document from Attorney...? Kendall, Dr. L. Mootoo...

Ms. Samuels-Brown: Please do not delay us too much...

Mr. Scotland: No, Madam, it is a neat...

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Mr. Samuels-Brown: And if it is that you have the transcript there Counsel, would you care to share with us whether you have the transcript of the trial or is it something you want to reserve? I now look into Counsel's brief.

Mr. Scotland: I procured a copy of some of the transcript....

Mr. Williams: I would be grateful for a copy.

Ms. Samuels-Brown: As I say I am not really permitted to look into Counsel brief, but it is a matter that you two could discuss subject to the Secretariat. Counsel I suggest you continue until you find it.

Mr. Scotland: No, I... It is contained at the transcript of the proceedings at the Magistrate Court, page 10 of the transcript, Assistant Superintendent Kendall....

Mr. Williams: Could I inquire, when he says Magistrates' Court what...

Ms. Samuels-Brown: The trial of Donald Rodney.

Mr. Williams: The trial of Donald Rodney?

Mr. Chairman: Is it at the hearing before the High Court or the Preliminary Inquiry?

Mr. Scotland: The hearing before the Magistrate.

Mr. Chairman: Preliminary Inquiry?

Ms. Samuels-Brown: I do not know that hearing before the High Court... They had abolished that.

Mr. Chairman: There was no hearing before the High Court. I am advised that we never got that far.

Mr. Scotland: No, it never went to the High Court. It was tried summarily.

Mr. Kwayana: The Administration of Justice Act gave the Prosecutor the right to determine that it would be a summary trial and not go to the Jury at all.

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Ms. Samuels-Brown: I believe some where among our papers we have at least some reference to that trial if not the entire transcript so I am sure that the Secretariat will check to see if we need to trouble you.

Mr. Scotland: I have my only copy on the CD, the antiquity of it but can I say...

Mr. Williams: The original copy.

Mr. Scotland: [*Laughter*]. May I proceed, Madam. Sir, you said you attended the trial and you were there when Superintendent Kendall said "I have had training in explosives and ammunition at the International Police Academy in the United States of America"?

Mr. Kwayana: Yes.

Mr. Williams: Mr. Chairman, what are we doing? I am asking what we are having right now is a reference to the contents of a document but we do not have it. Who has it? I was asked to make copies of my document when I was making reference to it when you did not have it, so all I am asking is to have a copy.

Mr. Chairman: And that is fair. Counsel will you undertake to make copies available of the document in which you are relaying even if it comes after you are finish?

Mr. Scotland: I understand that that is part of the official bundle that the Commission has. If it is not part of the official bundle may I...

Mr. Chairman: Suppose even that we have it, the Commissioners, but others participating, including Mr. Williams, does not have it, what happens? Do you still owe it as a duty as a courtesy to him?

Mr. Scotland: Mr. Commissioner, may I say this? I will have a word with my client who those documents I received personally from him and before I make any commitment to disclose the document to Counsel on the other side... In fact, it is really a public document so I will just make the copy.

Mr. Chairman: I do not understand the reference to your client. Your client has nothing to do with it. Counsel has to know when to disregard the claim. You have a duty to the Commission.

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13.20hrs

Mr. Williams: Exactly.

Mr. Scotland: I will discharge it.

Mr. Chairman: Thank you.

Mr. Scotland: I will discharge it.

Mr. Chairman: Please, thanks.

Mr. Scotland: I will discharge it.

Mr. Chairman: It was not outlined at all.

Mr. Scotland: I will discharge it. Can I move on? I will make a copy.

Mr. Pilgrim: That very part that you are reading from is part of this ...

Mr. Scotland: I know, I know but ...

Mr. Chairman: Please proceed right now. We have to get ahead, please proceed right now.

Mr. Scotland: Mr. Chairman, when ...

Mrs. Samuels-Brown: I really want to support the Chairman that we can proceed. Counsel has promised that he will make it available, it is a public document, I have seen at least part of it, I just wanted to clarify that in the event we do not have the full transcript. Counsel would make this public document...

Mr. Williams: Could we have a copy today?

Mr. Chairman: I do not know whether you can have it today, the day is already getting fairly late but you will get it. We have been assured.

Mr. Scotland: Mr. Chairman, I will do everything to facilitate my learned Friend. Can I proceed with what I am doing?

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Mr. Chairman: No, but do not catch at everything, you do not even know the motivation behind that. Get ahead, man, focus.

Mr. Scotland: May I?

Mr. Chairman: Yes, you know sometimes in court if you mind what is being said around you by fellow Counsel you would not get ahead with your work? *[Laughter]*

Mr. Scotland: Thank you, Mr. Chairman.

Mr. Chairman: You have to show your experience. Do not mind what is going on at the side of you, get ahead.

Mr. Scotland: Mr. Kwayana, may I continue? And he said in your presence that not only was he trained in the United States, he was trained in the Department of Public Safety in Miami and on the United States Border Patrol in Texas, yes?

Mr. Kwayana: Yes.

Mr. Scotland: And his substantive position designs me as a bomb explosive expert, yes?

Mr. Kwayana: Yes, that is correct.

Mr. Scotland: It is true then to answer Commission's question directly that Superintendent Kendall was an expert in this area according to his testimony at which you were present?

Mr. Kwayana: Yes.

Mr. Scotland: And he indicated that the device could have been triggered remotely.

Mr. Kwayana: Remotely.

Mr. Scotland: Yes?

Mr. Kwayana: Yes.

Mr. Scotland: And then that triggering remotely would have involved, of course, a third party other than Donald and Dr. Rodney?

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Mr. Kwayana: Of course, yes.

Mr. Scotland: Let us do the math here by process of extrapolation. If it was that it was Gregory Smith who had the mother device, who else would have triggered that device other than Gregory Smith? Okay, who would have triggered that device? Who would have had the opportunity to?

Mr. Kwayana: Either Gregory Smith or someone appointed by him.

Mr. Scotland: By Gregory Smith.

Mr. Kwayana: Yes.

Mr. Scotland: Thank you. That is number three.

Mr. Chairman: Counsel was there evidence that the device could have gone off before having been triggered remotely?

Mr. Scotland: I do not have any such expertise. I am going with what I have.

Mr. Williams: Is there evidence of a mother device? Even though you invited me to object upfront, I will allow him to flow, but is there any evidence anywhere that there is a mother device retained by Gregory Smith or anybody?

Mr. Chairman: I did not hear that one.

Mr. Williams: Mother device, to use the term of my learned Friend.

Mr. Chairman: Mother device?

Mr. Williams: Yes.

Mr. Scotland: There was another device.

Mrs. Samuels-Brown: What I can say is that if you look at the post mortem reports of Dr. Johnson and Dr. Skuse ...

Mr. Williams: Yes.

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Mrs. Samuels-Brown: ... it does tend to support what is being put to the witness, however, the police statements also indicate and confirm that a search was immediately carried out at the home of Jones/Smith and items taken, but there has been no full inventory of the items that were taken from his house. A telephone has been mentioned and other things, but if you look in the statements ...

Mr. Scotland: I saw that.

Mrs. Samuels-Brown: ...with which we have been provided you will see reference to that, but to answer directly I have seen nothing so far to confirm a mother device taken from his house.

Mr. Scotland: Well, a compatible device, but Madam, may I say that I am respectfully going on the various strands of the rope? I am on strand number four. At least he agreed on this one, that Donald and Gregory Smith confirmed that on the night in question Donald Rodney visited his home; that was confirmed. At least he confirmed that one.

Mr. Kwayana: Yes.

Mr. Scotland: Good.

Mrs. Samuels-Brown: Confirmed that they were at his home.

Mr. Scotland: On 13th June, 1980, the night in question...

Mr. Chairman: They raided his home.

Mr. Scotland: No.

Mr. Kwayana: No.

Mr. Scotland: That Donald Rodney visited the home of Gregory Smith. Gregory Smith confirmed that and...

Mrs. Samuels-Brown: Sorry, you are referring to the book allegedly written by Mr. Gregory Smith?

Mr. Scotland: ...by Smith and the account given by Donald Rodney.

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Mrs. Samuels-Brown: Yes.

Mr. Scotland: I am doing the comparison and also it was confirmed and not denied by Gregory Smith that he did give Donald Rodney a device to give to Dr. Rodney. Correct?

Mr. Kwayana: Yes, that is correct.

Mr. Scotland: On the night of the 13th June, 1980?

Mr. Kwayana: Yes.

Mr. Scotland: Number six: Apart from Gregory Smith claiming that he sat in the car at some time with Donald Rodney and Dr. Rodney in the back, giving them a tutorial and apart from the article that was put in EK 9, C. L. R. James saying words to the effect, that Dr. Rodney should never have been in a car... Do you remember that?

Mr. Kwayana: Yes, I heard it this morning.

Mr. Scotland: Let me do the first one. Apart from Donald Rodney and his account on the night in question that there was no sitting in the car together and this book coming out in 2007; was there any other iota of evidence of his sitting in the car?

Mr. Kwayana: None...

Mr. Scotland: None.

Mr. Kwayana: ...that came to our notice at all.

Mr. Scotland: Do the math, 2007 is some 27 years after 1980 and truthfully, if you read properly the narrative of C. L. R. James, it is really in keeping with how C. L. R. talks, "Well, Walter should never have been there", he never claimed to be part of... or have evidence that he actually saw that, correct?

Mr. Kwayana: Yes, he was nowhere near.

Mr. Scotland: Finally, sorry, I have two more to go. I am almost finished. Smith claimed that it was the WPA that got him out of the country.

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Mr. Kwayana: Yes, he did claim that.

Mr. Scotland: The WPA who could not afford a landline at their main office, did they had any resources to orchestrate such an exodus of Smith?

Mr. Kwayana: Yes.

Mr. Scotland: At the time? Did they?

Mr. Kwayana: Not at all.

Mr. Chairman: Counsel, how much reliance can we place on C. L. R. James' account? When you look at the sources, his bibliography does not point to any source that would allow him to make a lot of the statements that he is making.

Mr. Scotland: Mr. Chairman, I am dealing with it to discredit it. That is why I am dealing with it. I agree with you. We are not at all at loggerheads on that point. I am agreeing with you, but I must mention it because how the question was posed before that evidence came in it was Smith's word against Donald's word, but today this article came up, so I had to deal with it frontally with the witness.

Mr. Williams: Mr. Chairman, this witness, in answer to Mr. Pilgrim has accepted the analysis put to him in relation to page 141 of C. L. R. James' article.

Mr. Chairman: Well, it may be harmonised in the witness's own analysis.

Mr. Williams: No.

Mr. Williams: I do not know if I will have a chance to deal with it. We will have to deal with that kind of how we approach the procedure like that, but he said earlier to me that he cannot accept anything that the analysis that we put to him from the same C. L. R. James' book because he was never here, he was never in Guyana.

Mr. Scotland: Mr. Chairman, may I answer that?

Mr. Williams: I will ask to reexamine on it.

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Mr. Chairman: No, but relying on other sources, James could have written and maybe did write things that other people who were close could agree with and do agree with.

Mr. Scotland: Mr. Chairman, may I be of assistance and put this matter to rest?

Mr. Chairman: Yes.

Mr. Scotland: The matter referred to by learned Queens Counsel on page 141, you will see that there was an actual quote with C. L. R James saying, "I am having a conversation with Walter and I am telling him beware of assassination because Burnham will kill you." It is put in quotes.

Mr. Chairman: Yes, he said that earlier.

Mr. Scotland: Yes. May I move on please? I am not going to that. I am going to something that he said.

Mr. Chairman: That was not what I was asking you about, but James also comments on a lot of stuff after the assassination and after. Now what you quote is before.

Mr. Scotland: Yes.

Mr. Chairman: Rodney was a regular visitor to his house as many of us who lived in England at a particular time and James told him that. That is what James wrote. We are in no position to doubt that.

Mr. Scotland: Good.

Mr. Chairman: We are talking about his comment on the death and the circumstances surrounding the death.

Mr. Scotland: Agreed.

Mrs. Samuels-Brown: May I enquire, following up on the Chairman, what is the specific question that was put by Mr. Pilgrim which Mr. Williams is saying the witness adopted as it relates because I thought Mr. Williams was saying that the witness agreed with Mr. Pilgrim that what C. L. R. James says in relation to whether he was sitting in the car or not, that the witness accepted that theory, is that what you are saying, Mr. Williams?

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Mr. Williams: No, he rejected that because he said C. L. R. James never came to Guyana.

Mrs. Samuels-Brown: Okay.

Mr. Williams: He would not have known.

Mrs. Samuels-Brown: Okay, thank you.

Mr. Williams: I am saying in response to Mr. Pilgrim who gave the... the microphone. Okay, what I said, Madam Commissioner, is that in answer to my question C. L. R. James said that Rodney had no right to be in the car with the explosive.

Mr. Chairman: Well, that is just a judgment and opinion.

Mr. Williams: The witness said he did not agree with that and in any event because C. L. R. James never came to Guyana and that he never had any knowledge but on page 141 when it was put to him by Mr. Pilgrim, these words "He was new. He was a man with worldwide reputation and he was a black man who was getting along with Indians. These same advantages, however, turned into major liabilities because they made him more of a perceived threat to Burnham, therefore I told him 'Beware of assassination because Burnham will kill you. You are someone who could represent the people against him' but they did not beware sufficiently, you have to be ready for the upheaval." There are other things that I read too and the witness agreed with this even though it is reported in C. L. R. James' same exhibit that I referred to.

Mrs. Samuels-Brown: Okay, thank you very much.

Mr. Chairman: But the witness did say that James told him that, that he told Rodney that.

Mr. Williams: Oh, so he is not relying then on the Exhibit?

Mrs. Samuels-Brown: He is accepting it in parts.

Mr. Chairman: He might be relying not for different things.

Mrs. Samuel-Brown: He is accepting it in parts.

Mr. Pilgrim: He did not write it.

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Mr. Williams: Who did not write it?

Mr. Pilgrim: He did not write it.

Mr. Chairman: Please proceed.

Mrs. Samuels-Brown: Thank you very much for clarifying, Mr. Williams. I am clear on it.

Mr. Scotland: May I continue, please, Sir?

Mr. Chairman: Yes, you may. Do not be distracted.

Mr. Pilgrim: I will deal with him.

Mr. Scotland: Thank you.

Mr. Chairman: Behave ...

Mr. Scotland: So, we are going, we are on point number seven, Sir, where you have agreed with me that the WPA would not have had the resources to jettison Gregory Smith away as he claimed in his book, yes, Mr. Kwayana?

Mr. Kwayana: It did not have the resources.

Mr. Scotland: And in fact did not even do so, correct?

Mr. Kwayana: It did not, absolutely not.

Mr. Scotland: Now, you also stated in part of your... It is in EK 2 that you tried to explain, the dichotomy, if one would call it that of Karen De Souza saying that Donald at the time said that "*a terrible accident had happened*". Donald's exact words were "*something terrible had happened*" not any "accident", would that surprise you?

Mr. Kwayana: No, not at all, I think that they can mean the same thing. Both expressions can mean the same thing.

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Mr. Scotland: I am putting it to you directly that Donald never said “*a terrible accident*” he said “something terrible”, but please explain to us how you can reconcile both things as meaning the same thing. Just in case.

Mr. Kwayana: If you are going through a tunnel and there is some kind of explosion and you get hurt, you cannot explain it. You have nothing to make that explosion and it is an accident. I was volunteering in a library and got a terrible injury to my head because I did not see something hanging from the ceiling. An accident in my understanding is something unexpected, something, for the time, unexplainable.

13.35hrs

Mr. Scotland: Would it be true to say, Sir, that at the time, which is June 1980, that ordinary people, the ordinary Guyanese, would have access to things such as detonators and walkie-talkie, or was that reserved for...

Mr. Kwayana: We had no access to those things.

Mr. Scotland: No access. Were those not things that were under the control of State Agencies?

Mr. Kwayana: State Agencies and perhaps some mining. I do not know what other use they have dynamite.

Mr. Scotland: Right, but certainly the State Agencies?

Mr. Kwayana: Yes, the State Agencies and places like that.

Mr. Scotland: And...

Mr. Kwayana: Mostly security forces.

Mr. Scotland: Security forces of which Mr. Smith was a member?

Mr. Kwayana: Yes.

Mr. Scotland: Then, Sir, I am asking you to the Terms Of Reference of this Commission, would you say then that having gotten the account of events from Donald Rodney, having gotten the own independent investigations that you and your organisation would have done, would you

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then conclude whether there was any State involvement in the death of Dr. Walter Rodney on the night of 13th June, 1980?

Mr. Kwayana: That is my whole point. There was State involvement.

Mr. Scotland: Would it be true to say that the involvement would have been before, with the removal of the guards, etcetera? Yes or no?

Mr. Kwayana: Yes, I put all of that into it.

Mr. Scotland: During, with Smith's complicity, yes? On the night itself when...

Mr. Kwayana: With, or without Smith's complicity. I think the people who ordered the removal knew about Gregory Smith's plans. That is how I would put it.

Mr. Scotland: Three, with respect to how Gregory Smith was ferreted away from, Guyana and the lack of proper investigating and charging of Gregory Smith, thereafter? That is after.

Mr. Kwayana: Yes, those are elements of circumstances pointing to that conclusion.

Mr. Scotland: Would you respectfully conclude that Donald Rodney was made a scapegoat in all of this?

Mr. Kwayana: I think the whole country is of that view...

Mr. Scotland: You have...

Mr. Kwayana: ...that Donald was made a scapegoat.

Mr. Scotland: You have wisdom to speak for the whole country, but today I want to limit your... and I will give you that, because you have it. Would you conclude that Donald Rodney was made a scapegoat in this entire affair?

Mr. Kwayana: Yes, it can be put like that.

Mr. Scotland: Mr. Chairman, may I just review...

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Mr. Chairman: Do not be too anxious to sit down because at one point today we had identified Civil Aviation, for example, a state agency. Immigration, involving Smith's going out of the county, the Defence Force, and so far its use of the Helicopter, was concerned.

Mr. Scotland: The GDF plane, yes.

Mr. Chairman: Now, are you suggesting that all of those agencies and perhaps others were involved or a particular agency? Let us get some specifics. At the end of this exercise we want to be clear in so far as if there is evidence of what should be a reasonable finding.

Mr. Scotland: Yes, please, Mr. Chairman. So, I do have your leave to... Thank you, Mr. Chairman. Now, Mr. Kwayana, I want to take you back to the various constituencies that we have identified being involved in the death and, according to EK 2 your document you said, "assassination" of Dr. Walter Rodney. Let us first deal with the GDF, yes?

Mr. Kwayana: Yes.

Mr. Scotland: Is it true that at the time, meaning June 1980, the records reveal that Gregory Smith was a serving member of the GDF?

Mr. Kwayana: That is our conviction.

Mr. Scotland: The GDF via the use of its aircraft...

Mr. Chairman: Mr. Scotland, Mr. Scotland, please, you have covered all of that already.

Mr. Scotland: Well I do not know what the Chairman is asking me, Commissioner Jairam. Mr. Chairman, are you not asking me to zero in on it?

Mr. Chairman: Yes but I think that the evidence about the GDF clearly states...

Mr. Scotland: So, I do not need to go there? You see, I was about to take my seat, you know? I do not like when...

Mr. Chairman: I did not have on my microphone, I am sorry. I think the evidence about the GDF is now coming from many sources and not contradicted, fairly clear. Today, we have now had the involvement of the Aviation, Immigration... What is the evidence, for example, that

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Civil Aviation gave permission... That is what should happen but every now and then there are departures from the norm. What is the evidence that Civil Aviation gave permission for that flight that took Gregory Smith out of Guyana to go?

Mr. Scotland: I will elicit the evidence in my way. Alright, thank you. I see where you want to go. We will get there differently. In order to leave the country...

Mr. Chairman: And too that Immigration knew about it. A lot of people enter these countries every year, my country too, and there is no record of them coming in so be very careful about involving agencies unless the evidence is clear.

Mr. Scotland: I will ask the witness, I will be fair. Tell us, what made you conclude that the Civil Aviation Authority was involved in this entire matter?

Mr. Kwayana: My intervention there was to say that they ought to be involved in the flight of aircraft...

Mr. Scotland: Yes.

Mr. Kwayana: ...and that is why I mentioned them because we are looking at something that is clandestine...

Mr. Scotland: Yes.

Mr. Kwayana: ...and not an overt official act but a clandestine official act so I thought it would be interesting to find out whether Civil Aviation had a record of that official aircraft.

Mr. Scotland: It is not like he went to the Cheddi Jagan International Airport and put a card and signed up, and walked...

Mr. Kwayana: Yes, absolutely.

Mr. Chairman: Are you sure... All the witness is saying is "*look, you should have that evidence*" but he is saying no more than it ought to have been involved, but that assumes that it was a normal sort of flight, but if it was meant to be a deviation from the norm and a clandestine flight, they would never know about it.

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Mr. Scotland: There is...

Mr. Kwayana: Excuse me.

Mr. Scotland: Yes.

Mr. Kwayana: The fact that they do not know about it would be important for the record I was making.

Mr. Chairman: I do not know because I have no evidence that a check is being made. I think it is a challenge to the Secretariat...

Mr. Scotland: It is, indeed.

Mr. Chairman: ...to make sure that... I do not even know if where the records are for that long ago but it is worth checking.

Mr. Jairam: In addition, there is a dangerous assumption. In a state of lawlessness, if there was, then we are assuming that in the normal course of things these various authorities would have had to be involved but if you had a lawlessness pervading then it is not necessarily so that you may have the Civil Aviation Authority being crimminist participant.

Mr. Scotland: Commissioner, may I say this, this came from the witness? There could be complicity by omission. I would, respectfully, like to cover that area.

Mr. Jairam: If you could, because we do not need him to surmise, be very careful as to how you ask your questions.

Mr. Scotland: I was about to take my seat. It was the Chairman who asked me to ask the question.

Mr. Jairam: The Chairman has asked you for very valid... For example, you raised the Immigration. You need to get from the witness, if you can, relevant evidence as to the role and function of the Immigration.

Mr. Scotland: I will proceed and do that but let me finish Civil Aviation.

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Mr. Chairman: Before you go any further I think Mr. Denbow, who is the Administrator of the Secretariat, wants to say something. They helped us to get together a lot of the evidence on which we are relying so he might have something to tell us.

Mr. Scotland: Yes, please.

Administrator to the Secretariat [Mr. Denbow]: Thank you, Mr. Chairman. At this moment I would like to comment on the request of the Guyana Civil Aviation Authority. As Chairman of the Guyana Civil Aviation Authority, I must indicate to you that the Civil Aviation Authority deals only with commercial or civil aviation. Military aviation is a different *kettle of fish*. Therefore, in Guyana, at this moment, we have a type of conflict where the Military utilises civilian registered aircrafts but, from time to time, when there are state flights or military flights, the Guyana Civil Aviation Authority would not be the wiser.

Mrs. Samuels-Brown: You are talking about now; could you tell us what happened between 1978 and 1980?

Mr. Denbow: What I could advise you is that there would be a coming witness who was a part of the air wing of the GDF and who will so testify about those flights or series of flights on the 14th and 17th June, 1980.

Mrs. Samuels-Brown: Thank you. What I was inquiring was whether, between 1978 and 1980, there was a dichotomy between civil and commercial aviation regulations and GDF regulations. Are you able to say?

Mr. Denbow: Yes, there was a dichotomy, and they still exist.

Mrs. Samuels-Brown: Thank you. That was all I wanted.

Mr. Jairam: Does that not pose a risk for international flights, the airspace and so on?

Mr. Denbow: In some States military aviation is regulated by military air traffic controllers and military administration. In some States the Civil Aviation regulates them. In Guyana, what we have is, sometimes we regulate them and sometimes we do not know about them.

Mr. Chairman: When you do not know then there is no regulation at all.

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Mr. Denbow: Yes, Sir.

Mr. Chairman: It could be an area for enormous lawlessness.

Mr. Williams: Mr. Chairman, we have porous borders. Our borders are long and porous. We have many flights that nobody could tell you about coming into Guyana.

Mr. Chairman: No, but if he is saying there are some military flights that are not regulated at all, you do not know what is going on. Anyhow, that is as it is. That is not our focus.

Mrs. Samuels-Brown: In fact, I would just refer again to the exhibit provided to us by the Police which has three or four statements relating to this particular issue, of planes leaving a particular area around about that time and enquiries being made for a particular person as it relates to this issue. I guess when the witness we have been promised comes, he will be able to speak more about these matters.

Mr. Scotland: Well that is Aviation. May I just move onto immigration? Mr. Kwayana, is it not true that the Immigration Officers are also members of the Police Force of Guyana?

Mr. Kwayana: They are police.

Mr. Scotland: Was that so in June 1980, as far as you know?

Mr. Kwayana: Yes. It is the Police Force.

Mr. Scotland: Thank you. Of course we have been through and I got distracted by several objections. You referred to a constitution where I asked you several questions about it....

Mr. Jairam: Must keep your attention span. These are distractions.

Mr. Scotland: When I am taken at all angles... I am very much focused.

Mr. Jairam: We are entitled to ask questions, this is an inquiry and Counsels must restrain their enthusiasm.

Mrs. Samuels-Brown: I think when he said "objections", he could not have been referring to Commissioners.

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Mr. Scotland: I was not referring to the Commissioners. If it came across like that, I do apologise. I was not at all referring to the Commission....

Mr. Williams: Neither was he disrespecting his colleagues.

Mr. Scotland: Neither.

[Laughter]

Mr. Scotland: May I ask that the Constitution be tendered and marked EK...

Mr. Jairam: We could take judicial notice of that. We do not need to...

Mr. Scotland: For the purposes of my submission at the end I am refereeing to it. I would ask that it be tendered and marked, please. I am not taking judicial notice, respectfully.

13.50hrs

Mr. Chairman: I think we have the Constitution as part of the literature that was handed to us by way of back ground. We can take judicial notice of it and I do not know that we need to burden ourselves by receiving it further.

Mr. Scotland: Mr. Chairman, I do not wish at all to be obtuse or abstinent, but this document I will be referring to it for its intense and purposes in my closing submission, and this witness has spoken to very important aspects or certain functionaries in this Constitution which had a role to play in the charging of Donald Rodney.

Mr. Chairman: Okay, we will... because it is not the present Constitution.

Mr. Scotland: It is not the present Constitution.

Mr. Chairman: It was the Republican Constitution and we will receive it and so tag it.

Mr. Scotland: Thank you. EK 10...

Mr. Williams: Mr. Chairman, we can call it KS 1.

Mr. Scotland: I know you would want to.

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Mr. Chairman: Counsel, do not hear everything. You get on.

Mr. Scotland: Thank you.

Mr. Chairman: Would it be proper for you to, now that we are receiving documents into evidence, tender C. L. R. James' piece?

Mr. Scotland: That was tendered as EK 9.

Mr. Chairman: That is already before us. Thanks for reminding me.

Mr. Williams: No, we could tender the other one, the transcript from the trial. That should be EK 11.

Mrs. Samuels-Brown: I think that it is Mr. Williams who should tender the C. L. R. James document. He is the one who is placing reliance on it.

Mr. Williams: That was tendered already.

Mr. Scotland: That was tendered already.

Mr. Chairman: Is there anything left outstanding now for you to tender?

Mr. Scotland: Not at this time with this witness, but may I ask if I could be of any further assistance to the Commission of Inquiry. The Commissioners asked me two areas, I covered it. I think I have covered all my areas. I think I am completed with this witness unless if I could be of further assistance.

Mr. Chairman: Well thank you very much. Mr. Christopher Ram, are you wish to be heard in relation to this witness?

Attorney For The Working People's Alliance (WPA) [Mr. Christopher Ram]: Sorry, Sir.

Mr. Chairman: I was just wondering whether you had wished to be heard in relation to this witness. Do you have any question to ask of him? I think we will go until 14:00hrs. We are about 10 minutes away. See how far you can get.

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Mr. Ram: Thank you very much, Sir. Mr. Kwayana, my name is Christopher Ram and I am watching the interest of the Working People's Alliance. In paragraph 4 of page 4 of your statement one of the issues identified to this Commission was "ethnic insecurity" would you care to tell this Commission what you mean by the term "ethnic insecurity"?

Mr. Kwayana: Counsel, the fact that in Guyana as a multiethnic country over the decades, both before and after independence there are concerns among ethnic groups and ethnic organisations about their future and their safety in relation to the governmental power and in relation also to social influences and almost everything that comprises the whole society so it plays a very important part in the political life. In Guyana, that is where I think that is where I think things come to a head. It cannot be wisely ignored – Guyana in the political sphere.

Mr. Chairman: I understand you to be saying that ethnicity plays an important part in the political life of Guyana and has an impact on all areas and social activity but I think the question is related to ethnic insecurity, not ethnicity, but ethnic insecurity, I am not sure that you...

Mr. Ram: Thank you, Mr. Chairman.

Mr. Chairman: ...have answered the notion of insecurity.

Mr. Kwayana: The insecurity in this complex is uncertainty among people of a particular ethnic group in some area or other. They do not have the same insecurities. Some may have insecurity of employment or employment in certain spheres, some may have insecurity in terms of governmental power, some may have insecurity in terms of social competition, but I wanted to indicate that it is a factor that plays into a lot of things and is often exploited by political people in order to develop and whip up support for their particular cause.

Mr. Ram: Mr. Kwayana, you are speaking in the present tense. Could you tell us how ethnic insecurity shape and affected the environment in and around 1980?

Mr. Kwayana: Well, in around 1980, there was a Government in control of Guyana and it had been there for since 1965. It had reestablish itself in very controversial elections which have been deemed elicited by groups of observers, observers who were not welcome into the country and so since it was African dominated, people like the Indian population had greater anxieties about

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ever being fully represented at governmental level. I suppose that the minority groups also had these insecurities and so far as African Guyanese are concern there was a great amount of insecurity regardless of the Government in the terms of the economic standing and economic clout in the country. In the 1980s... The fact was that the Burnham regime had not been properly elected, in my opinion, and I have said so at that time and now. It had just held a referendum which I have described and I have been examined on and so that in summary is what the ethnic insecurity in this area would be about.

Mr. Ram: Would you say...

Mr. Chairman: I am not sure that I heard everything that was said but when it came to the Afro-Guyanese with their Government in power – an Afro-Guyanese Government in power – was there insecurity too? What did the witness say about that?

Mr. Ram: He said yes, there was economic insecurity.

Mr. Chairman: Thanks.

Mr. Kwayana: I said they had great fear about economic standing and status in the country.

Mr. Chairman: Thank you.

Mr. Ram: Would you say, Mr. Kwayana, that the then Prime Minister, Forbes Burnham, understood the insecurities of both the major races?

Mr. Kwayana: I think he should have been aware of them and I do not know if you understood them as they ought to be understood. He must have had a view of them because it was the kind of politics played in Guyana in all those years.

Mr. Ram: In your opinion how did Prime Minister, Forbes Burnham, address the issue of ethnic insecurity?

Mrs. Samuels-Brown: Before the witness answers can you give us some moment, please? Could you repeat the question for us?

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Mr. Ram: In your opinion, how did Prime Minister Forbes Burnham address the question of ethnic insecurity?

Mr. Kwayana: Well, for the answer to that question we have to look at elections. It was not possible for Mr. Burnham's party to win an overall majority in a fair and free election and I am repeating things that I have said in Guyana over and over. Instead of working to develop with the People's Progressive Party which had a different kind of problem; the People's Progressive Party could at least up to a certain time win an overall majority based on the ethnicity of its own traditional supporters. Mr. Burnham's party was the one more likely to rely on rigged elections and this is exactly what happened, let us say, in 1973, without a doubt. I discussed this before and I was told that I have been repeating myself but I said from the stand that the 1973 elections were a fairy tale which we called "selections" and established a two-third majority of the People's National Congress in the National Assembly and I think it was the in understanding of those leaders of that Party that this would somehow put an end to the insecurity of African Guyanese. I do not think it did or ever could and I did refer also, and do not care to repeat, that groups of us had made recommendations from time to time to address this very unfortunate factor in the society but these recommendations have not been follow up by the main agencies concern. There were recommendations made by non-party groups, recommendations made by the, at one stage, by the people's Progressive Party it was referred to here as the National Patriotic Front. There were recommendations made in 1985 by the then ruling Party, the PNC. I do not know the name of that, but there were negotiations going on and these leaders know very well people want to a part of the dominant regime, they want to be a part of it they want to have a share in the Government and do not want to see themselves ethnically excluded so my whole point was that the way the particular Prime Minister dealt with the insecurities of the African Guyanese... I labeled it "political bankruptcy". I think it was totally unnecessary and is part of the contribution to the problems Guyana experiences.

Mr. Ram: Thank you, Mr. Kwayana. Do you know the name Dr. Tyron Ferguson?

Mr. Kwayana: Tyron Ferguson, he has been a head of a presidential secretariat I think in the time of President Hoyte and a scholar, I think, yes.

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Mr. Ram: I would like to read, if I may, an extract from pages 416 and 417 of Dr. Tyron Ferguson's book *To Survive Sensibly or to Court Hero Death* published in 1999. I have copies of the extract of those pages. May I go on, Mr. Chairman?

Mr. Chairman: Yes, please.

14.05hrs

Mr. Ram: Thank you, Sir. "Burnham's answer to the racial polarisation issue was to thwart conventional electoral democracy and to move the political control process along the path of authoritarian politics. He obviously accessed that mass political allegiance was founded on purely ethnic factors irrespective of policies, performance and programs. Electorally, he and his Party were never going to be judged on the merits of their case. From this vantage point, conventional electoral democracy was seen as relevant and expendable in the case. He thus moved decisively and openly to appropriate the entire electoral process." Mr. Kwayana, could you tell me what you understand by the words "decisively and openly to appropriate the entire electoral process"?

Mr. Chairman: Before he answers, I think you just need to let those who are not present here and even those who are present know the precise page and paragraph from which you are quoting.

Mr. Ram: I am sorry, Mr. Chairman, I thought I said that at the very beginning pages 416 and 417 of the book. The bottom of the page.

Mr. Chairman: Yes, you did quote from the last paragraph on page 417.

Mr. Ram: Page 417, yes please, Sir.

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Mr. Chairman: Yes. I believe the witness is ready and has been for a while to answer us. Please precede, Sir.

Mr. Ram: Yes, Mr. Kwayana?

Mr. Kwayana: He is saying that the Government referred to there or the leader, I think you named him, ignored all conventional electoral rules and standards in order to establish political power. That is how I understand it and he said it moved decisively; that would mean that regardless of opposition, regardless of protest, regardless of the judgments of human rights organisations and other observers.

Mr. Ram: Mr. Kwayana, you have spoken before on electoral fraud by the Burnham Administration. Do you have evidence of such practices or malpractices?

Mr. Kwayana: In the case of the referendum, there was a wide spread recording and documentation.

Mr. Ram: That was in 1978?

Mr. Kwayana: In 1978, the referendum of 1978. There is a publication giving the results of observers from Guyana who had been spread throughout the country by the Citizens Committee and the Collation for Democracy, but I do not have that document here. It ought to be available at the Guyana Human Rights association but the one I rely on is the fact that in 1976, as a member of the Working People's Alliance, I began to be very curious about the Official Gazette and to study it carefully. Bills coming up and I often attended the National Assembly to see what was going on and then I began to look at assignments of responsibilities to Ministers. As we know the Prime Ministers or President, whoever is Head of the Government, has the power

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under the Constitution to assign subjects and departments to a Minister, but the Constitution itself says that the Head of Government shall not assign subjects and departments that had been assigned by the Constitution or by any other law. In 1976, it struck me. You see I am going on again and talking. I was asked a very open ended question on which I have a lot to say so I will wish some prompting from the authorities here when I am saying too much. Please, thank you. So in 1976, I discovered that elections, the topic national registration elections, general elections and local elections had been assign to a Minister. I went back to the Constitution and thought it very curious so I discuss with some constitutional lawyers and filed an originating motion to have the notices assigning these responsibilities that should not be assign to a Minister struck down as unconstitutional.

Mrs. Samuels-Brown: Just to classify, the witness did raise this at page 6 of his statement but he refer to an action brought by him in the court by 1987.

Mr. Ram: Yes.

Mrs. Samuels-Brown: Am I understanding him to say that he had earlier brought actions based on his 1976 researches?

Mr. Kwayana: Yes that is right. I will get rid of that very quickly.

Mrs. Samuels-Brown: Okay, thank you.

Mr. Kwayana: I had, in fact, and it was in 1976, given an address for filing a defense so this thing took several years. In 1985, I got into the Parliament for the Working People's Alliance and constitutional matters came up on the floor for debate and I had heard nothing from the government in defense of this motion so I got up and began to make the same argument on the

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floor of Parliament and the Honourable Attorney General at the time, I remember who he is, got up and said that the members should know this matter is before the courts. I said I am very glad to hear that. I thought it had been scrapped somehow so I went to the Cause Book at the Supreme Court Registry and looked up what had happened as a result of the filing. I found the motion I had filed and to my surprise there was a defense there that had not been served. By this time it is Mr. Hoyte who was president and when I looked again at the distributions of the responses...

Mr. Ram: Mr. Hoyte became President in 1985, is that correct?

Mr. Kwayana: Yes, after the passing of Mr. Burnham, but I am talking about after the 1985 elections.

Mr. Ram: Sure.

Mr. Kwayana: He was still President. The assignment of the responsibilities then showed that Mr. Hoyte had taken this responsibility under his own wing. He had assigned it to himself. Those departments not assign to a Minister would be understood to be assign to the President. I filed the motion against the Attorney- General and President Hoyte. I said nothing to anyone. I just went and filed it quietly.

Mrs. Samuels-Brown: This is a second motion now, after the 1976 motion?

Mr. Kwayana: This is the second motion of the same kind.

Mrs. Samuels-Brown: Could you tell us... I am very sorry to interrupt. Nothing was heard of the 1976 motion? It was not heard in Court?

Mr. Kwayana: Of the first motion?

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Mrs. Samuels-Brown: Yes.

Mr. Kwayana: No. There was a defense on record, but the defense had not been served and so they declared the case abandoned by me and I had not known the procedures so well so I had not been checking to see whether there had been a defense because I expected it to be served so in this light, I quietly went and filed a second motion of the same kind and that came up, eventually, for hearing and the upshot for it was that in 1988, I think it was 1480 of 1988, it was heard in the High Court and the orders were given and the assignment of elections to Ministers was struck down as *ultra vires* the Constitution. One has to look at what it meant to have something assigned. Their argument was that you can assign anything to a Minister, but the constitution says the effect of an assignment of responsibility. It meant that a Minister has authority within these departments and subjects through the Permanent Secretary to give directions and so I was very glad for that because it put on record that elections had been handled in a manner hostile to the Constitution.

Mr. Ram: Mr. Kwayana, is it correct to say and would you agree that the assignment need not affect the fraudulence or otherwise of the elections?

Mr. Kwayana: Did you say “need not”?

Mr. Ram: Need not, yes. It could be procedurally wrong without being fraudulent?

Mr. Kwayana: In theory, it could be. In Guyana, it did affect the progress of the elections, the conduct of the elections.

Mr. Ram: If I may go back to my question to you, Mr. Kwayana, is whether you are aware and whether you could specifically cite reports of electoral fraud under the Burnham Administration?

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Mr. Kwayana: There were reports from 1968, 1973, and 1980. There were reports by observers, Commonwealth Observers and human rights organizations from North America and from the United Kingdom, the British Parliamentary Human Rights Association and others.

Mr. Ram: You are saying that these reports revealed or exposed electoral fraud?

Mr. Kwayana: They pronounced electoral fraud.

Mr. Ram: Mr. Chairman, I have exhausted that particular topic and so I would move on. Do we stop now because I have more that exhausted more than my ten minutes. It was like the 15 minutes of my learned Predecessor.

Mr. Chairman: We have gone longer than we have ever gone. It is 14.15hrs. I think what you are indicating is that you are not likely to be able to finish in.

Mr. Ram: No, Sir. This is correct, Sir. I would not be.

Mr. Chairman: Okay. Commission Counsel, unless you have anything to say to us, I think we are going to have to bring today's proceeding to an end. It is 14.15hrs or thereabout now. Do you wish to say something?

Mr. Scotland: Mr. Chairman, may I be excuse from attendance next week Monday and Tuesday. I have a Court of Appeal Appearance on both days in Trinidad.

Mr. Chairman: Okay, good luck with all of that. I take it that you are finished.

Mr. Scotland: I am finished with this witness and there is the burial of Justice Haneeze which will be on Monday.

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Mr. Chairman: Mr. Williams, you have your hand up, as it were, I recognise you please.

Mr. Williams: Thank you, Sir. I think we will have to deal with the question of the order in which we do examinations. I do not propose to be examining first at all times and my colleagues come after me. I would expect on occasions... I would suspect that when the witnesses really concern a colleague that they should go first...

Mr. Chairman: I think that is appropriate.

Mr. Williams: ...because I would not want to know at all times, I really should have been coming after them with this witness, but I would expect that in the future we would be able to regulate.

Mr. Chairman: I do not know how I got it, why I felt that you had signaled to open the batting as it were on.

Mr. Williams: Yes but I have indicated to my colleagues that I notice they more or less re-examining on my examination.

Mr. Chairman: Hereafter, if it directly concerns anyone...

Mr. Williams: I would like the opportunity to re-examine too on occasions.

Mr. Chairman: Very well.

Mr. Pilgrim: Mr. Chairman, may I say that Lara always came in one down. He never opened the innings.

Mr. Chairman: I think you have already attracted comments, man.

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Counsel to the Commission [Mr. Glenn Hanoman]: I just wanted to make sure that Mr. Kwayana, is available to return on Monday?

Mr. Chairman: Yes. I think that he has now been in Georgetown much longer than he might have planned for? Can you return on Monday or do you wish to have a break and come back later?

Mr. Kwayana: I am here on Monday, Mr. Chairman.

Mr. Chairman: You will be here on Monday?

Mr. Kwayana: Yes.

14.20hrs

Mr. Chairman: Mr Ram, give us your attention please just to tell us how long you are likely to be with the witness.

Mr. Ram: That will depend of course on the responses...

Mr. Chairman: You are giving us a lawyer's answer, please. Be more helpful if you can. Pardon

Mr. Ram: Would you like an accountant's answer, Sir?

[Laughter]

Mr. Chairman: That may be more helpful. Lawyers tend to be evasive that way, "*it depends on the answers I get*".

Mrs. Samuel-Brown: But approximately?

Mr. Ram: Sorry, Mr Chairman, I would like to think no more than 45 minutes.

Mr. Chairman: Okay because we need to get on and we need to plan our additional witnesses for Monday, Tuesday... Will Mr. Pieters be here and does he want to cross examine?

Mrs. Samuel Brown: Does anybody know?

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Mr. Chairman: Does anyone know?

Mr. Scotland: He said that he would be here next week, Mr. Chairman, but I am not sure what date. ...email just now...

Mr. Chairman: But now that we have a lot of Counsel, I take as if a subject does not address you, you would not cross examine for cross examine sake and if you are going over grounds that have already been covered, the Chairman is likely to tell you get on. To tell you to move ahead move on that is already on record. I hope that going forward is clear. Have Counsel going before you whatever you instructions on the stand that is on record. We the Commissioner do not need it be to on record twice times or more and you will be likely but probably asked to move on. So I want that to be very clear.

Mr. Pilgrim: Similarly, Mr. Chairman, when one is short as I was you may ask me to expand.

[Laughter]

Mr Chairman: Yes but you regulated yourself, as it were. You were not given any regulations you were appropriately brief. As of next week, we will attempt to add to the hours that we are sitting and so we are proposing and have agree that we start at 09:00hrs. I hope that all parties will take note and try to conduct their business accordingly. We will start at 09:00hrs as of Monday. We will go to 11:15hrs/11:30hrs and then take a 20-minute break also so bear that in mind, but we need to get in more time as it were and we are currently looking at how we can enlarge the afternoon sitting, but you will hear more about that. We will start at 09:00hrs. Five half hours for the week will give us another two and a half hours of sitting time and if we can do anything in the afternoon, we will try to do that too, but for now a pleasant weekend to all. We look forward to Monday resuming at 09:00hrs, but for now we stand adjourned.

Adjourned According at 14.23hrs

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