

**BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY**

**HEARINGS: DAY 47**

(TUESDAY 12 OCTOBER 2021)

International Arbitration Centre  
3<sup>rd</sup> floor Ritter House  
Wickhams Cay II  
Road Town, Tortola

**Before:**

**Commissioner Rt Hon Sir Gary Hickinbottom**

Mr Niki Olympitis of Withers LLP (instructed by the Attorney General) appeared for various BVI Government Ministers and public officials.

Counsel to the Commission Mr Bilal Rawat also appeared.

Hon Andrew A Fahie gave evidence.

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Those present:

Mr Niki Olympitis, Withers LLP

Mr Bilal Rawat

Hon Andrew A Fahie

Ms Juienna Tasaddiq, Assistant Secretary to the Commission

Mr Andrew King, Senior Solicitor to the Commission

Ms Rhea Harrikissoon, Solicitor to the Commission

Mr Dame Peters, Audio-Visual Technician

Officer Denver Prince, Royal Virgin Islands Police  
Force

P R O C E E D I N G S

Session 1

COMMISSIONER HICKINBOTTOM: Mr Rawat.

MR RAWAT: Good morning, Commissioner. We are continuing with the evidence of The Honourable Premier this morning.

Before we do so, you may recall, Commissioner, that yesterday The Honourable Premier referred to when we were asking questions about the Virgin Islands Neighborhood Partnership Project to two articles which referred to the Auditor General's Report of that Project. We, during the course of the day, found one of those articles which dates from the 12th of February 2019, which was canvassed with the Premier. That, therefore--and I formally ask this, but it forms part of the record.

COMMISSIONER HICKINBOTTOM: Yes.

MR RAWAT: --of the Commission.

COMMISSIONER HICKINBOTTOM: Yes.

MR RAWAT: With the assistance of Sir Geoffrey Cox QC, we also found the second copy of which is now I think on your desk and with The Honourable Premier, and that dates from 12th of January 2012, and as the Premier pointed out it's from the BVI Beacon. I'm going to ask that that also gets admitted into the record of the Commission.

But if I may, what I would also like to do is read

1 into the record an e-mail that the Commission received from the  
2 editor of the BVI Beacon yesterday because that will give, I  
3 think, some context to the article. And the e-mail reads as  
4 follows, it's dated 11th of October, 2021, it reads:

5 "Good afternoon, Sir Gary and Mr Chandler, During COI  
6 testimony today on the Neighborhood Partnership Project, the  
7 Premier and Sir Geoffrey Cox suggested that the BVI Beacon  
8 published an article in 2012 based on a leaked version of the  
9 Auditor General's Report on the NPP. That account is not  
10 accurate. We did publish an extensive article on the  
11 Neighborhood Partnership Project from January 2012, which I've  
12 also attached in PDF. It does mention the Auditor General's NPP  
13 report in passing. But the information about the NPP included  
14 in the article did not come from any version of her report. As  
15 our article explicitly explains, the information came from a  
16 packet provided to the House of Assembly by the Ministry of  
17 Education and Culture. The relevant section is bolded below in  
18 the below excerpt from our article, and a side bar titled 'the  
19 programme report' - at the end of the online article and on the  
20 final page of the attached PDF - breaks down the specific  
21 documents on which the article was based.

22 The excerpt is as follows: 'Later, then  
23 Communications and Works Minister Julian Fraser publicly  
24 criticized the Programme'. And then there is a quote from the  
25 Honourable Fraser which is as follows: "We've asked for reports

1 on the programme to see what has been developed, which we  
2 haven't received. I haven't personally seen any tangible  
3 results - beneficial results that is - coming out of these  
4 programmes. End quote, Mr Fraser said during a December 2021  
5 HOA meeting.

6 The Ministry of Education and Culture subsequently  
7 provided HOA Members with a packet of information about the NPP,  
8 a copy of which has since been obtained by this newspaper. The  
9 documents include contracts and reports about activities of  
10 various churches. They also include basic though often vague  
11 and seemingly contradictory information about how the Programme  
12 spent its \$250,000 allocation for 2009. For 2010, by contrast,  
13 the documents obtained by the Beacon accounted for less than  
14 \$6,000 of the \$125,000 allocation officials said the NPP  
15 received before it was halted mid-year. Those two annual  
16 allocations are separate from two payments of \$98,400 made to  
17 Mr Skelton-Cline's firm for coordinating and managing the  
18 Project and other related responsibilities". End quote and  
19 that's where the e-mail ends.

20 THE WITNESS: Commissioner, if I may, I always start  
21 with a prayer. So, I will do that. Our Holy Ghost, Holy  
22 Spirit, take full control of these proceedings today, that your  
23 will be done for we have no might against this great company  
24 that come against us even though we know what to do but our eyes  
25 are upon thee and may you, Holy Spirit, take full control of

1 these proceedings that whatever comes out of any of our mouths  
2 or our hearts is only aligned with your will of this Territory  
3 and for us individually. So, now I turn this whole proceedings  
4 over to you, Holy Spirit of Our Father, hallowed be thy name in  
5 Heaven as it is on Earth, Amen.

6 COMMISSIONER HICKINBOTTOM: Thank you, Premier.

7 THE WITNESS: To the Chair, I want to state carefully,  
8 so the article came and the editor is allowed to do an e-mail to  
9 submit to the Commission of Inquiry? Because it goes back to  
10 the testimony of yesterday, all the information is not in this  
11 article, and we cannot have this be the impetus of evidence.

12 COMMISSIONER HICKINBOTTOM: Hold on a minute,  
13 Premier--

14 THE WITNESS: Because we know newspapers.

15 COMMISSIONER HICKINBOTTOM: The article was raised by  
16 you and Sir Geoffrey.

17 THE WITNESS: Exactly. But it was raised in the  
18 context of this. That it mentioned the Report.

19 COMMISSIONER HICKINBOTTOM: No, no, it was mentioned  
20 in this context. There is no sort of mystery, and nothing  
21 sinister about it. It was mentioned in the context that in 2012  
22 the Auditor General's Report was leaked and in 2019 it was  
23 leaked.

24 THE WITNESS: Right.

25 COMMISSIONER HICKINBOTTOM: Well, what the editor of

1 the Beacon wrote us about to say that that was not the case, it  
2 wasn't leaked, because what this says clearly is that, the  
3 Auditor General, it says, said on Friday that her office had  
4 delivered the Audit Report to the Ministry of Education and  
5 Culture last month.

6 THE WITNESS: Exactly.

7 COMMISSIONER HICKINBOTTOM: That would be in December  
8 2011 after you had left office.

9 THE WITNESS: Left office.

10 COMMISSIONER HICKINBOTTOM: And it's currently  
11 awaiting a response for inclusion in a final report to be sent  
12 to Cabinet.

13 THE WITNESS: Right.

14 COMMISSIONER HICKINBOTTOM: So, the editor was anxious  
15 to correct the impression that his article was based--the Beacon  
16 article was based upon a leaked report. It wasn't.

17 THE WITNESS: Well, I thank you there for that  
18 clarification in that respect, but they still mention that the  
19 Auditor General said she was going to submit the Report during  
20 that time.

21 The point that I want to make that must form part of  
22 the record, Commissioner, is that there were more information as  
23 far as my memory recollects, I don't know if I could find them  
24 now at this time supplied to the House of Assembly, and  
25 newspapers only print what they feel will get their papers sold,

1 which is the section of what was supplied with the analysis of  
2 the whole thing, but there was more information supplied to the  
3 House of Assembly at that time. I remember that very  
4 distinctively.

5 So, what I'm saying is that while I do not negate that  
6 the newspaper might have read certain parts of the documents to  
7 state this and print this, my memory recollection there was much  
8 more supplied, so I just don't want the information here to be  
9 the one as your bearing when you're doing the Report.

10 COMMISSIONER HICKINBOTTOM: This lists the information  
11 that was in the package that was sent to the House of Assembly  
12 Members. You would have had that package, because you were  
13 still a Member.

14 THE WITNESS: When I was asked, but I wouldn't know  
15 where to find that now. That was 2012. But there was more than  
16 just what is here. That's what I'm saying.

17 COMMISSIONER HICKINBOTTOM: More than what?

18 THE WITNESS: More than what is listed here, [ick all  
19 the errors that they were able to calculate that come to them as  
20 the negative errors.

21 COMMISSIONER HICKINBOTTOM: No, no, but the article  
22 lists the documents that were in the package.

23 MR OLYMPITIS: Commissioner, it says the Beacon  
24 includes--the package includes the following documents, so it's  
25 not exhaustive necessarily, but after the last paragraph it



1 states that the package, a copy of the package obtained by  
2 Beacon includes the following documents. The heading is  
3 "Programme Report" in the article.

4 COMMISSIONER HICKINBOTTOM: I'm sorry, I can't find  
5 that in this copy.

6 MR OLYMPITIS: There is a heading--

7 MR RAWAT: It's an insert box--

8 COMMISSIONER HICKINBOTTOM: I've got it.

9 MR RAWAT: --on the penultimate page.

10 MR OLYMPITIS: It says "in early 2011, the Ministry  
11 provided the House of Assembly the packet of information about  
12 the Project, a copy obtained by the Beacon includes the  
13 following documents."

14 COMMISSIONER HICKINBOTTOM: Yes.

15 THE WITNESS: Yes.

16 MR OLYMPITIS: My point is it's not necessarily an  
17 exhaustive list.

18 COMMISSIONER HICKINBOTTOM: That may be so.

19 MR OLYMPITIS: Yeah.

20 COMMISSIONER HICKINBOTTOM: That may be so. Okay.  
21 But what you're saying is that information looked at both by the  
22 Beacon which was separate from the information looked at by the  
23 Auditor General and the information looked at by the Auditor  
24 General may paint a false picture?

25 THE WITNESS: Well, I'll put it this way. I cannot

1 say that neither of them have the accurate picture because you  
2 can't rely on a newspaper article, with due respect to the  
3 Beacon, as evidence when they do newspapers or onlines. What it  
4 did do is clarify that it wasn't a leak per se, but it did  
5 mention the Auditor General said she is going to hand in the  
6 Report which justifies that it was never made public at that  
7 time at least.

8 COMMISSIONER HICKINBOTTOM: But the--but the  
9 underlying information that was made available to Members of the  
10 House and to you.

11 THE WITNESS: And more information because, as you  
12 rightfully heard, there was more information, so I don't know  
13 how to analyze it, I don't know how to access it, but there was  
14 more information.

15 COMMISSIONER HICKINBOTTOM: And so, when you got this  
16 information, what did you do?

17 THE WITNESS: Well, at that time, as my memory  
18 recollect, I carried it to the House. The House asked for  
19 information, and I took it to the House. The Member that was in  
20 question was on our side. Like I said, there was some political  
21 concerns, so I wanted to make sure that once the House asked for  
22 information and the standing law is you take it to the House.  
23 But there was more information than this. I don't remember what  
24 all, but I can remember there was more information.

25 COMMISSIONER HICKINBOTTOM: When you say you took it

1 to the House, what do you mean?

2 THE WITNESS: The House had been asking questions  
3 about this, I said that yesterday, so this would have been  
4 some--this would have reflected some of what was taken to the  
5 House of Assembly, but there was more information, and I cannot  
6 rely just on this. That's where my recollection takes me.

7 The aim of this article is not a debate, it is just  
8 clarifying that there was not the leak but there was information  
9 that came to the House, but it was not all information, but it  
10 does clarify that it was not up to now that the Report was not  
11 made public, so that the Ministry could have answered in full  
12 because, if these assessments are being made, the Ministry would  
13 have been able to respond, but I was long gone from the Ministry  
14 when this article was written.

15 So, what I'm saying is that these continue to be  
16 one-sided stories, one-sided angles, and the Ministries pass  
17 through the Auditor General's Report would have been the key to  
18 start it and to allow for some balance to these stories.  
19 Because I said yesterday and I say it again, there are three  
20 sides to every story, your side, my side, and the truth. And  
21 the other information or other information the Auditor General  
22 had would have been able to bring that balance.

23 COMMISSIONER HICKINBOTTOM: You've read this article?

24 THE WITNESS: I read the article.

25 COMMISSIONER HICKINBOTTOM: Yes.

1           And the article you say is imbalanced. The article  
2 indicates that churches were contacted and many expressed  
3 enthusiasm about the Project?

4           THE WITNESS: Um-hmm.

5           COMMISSIONER HICKINBOTTOM: And that supports some of  
6 the evidence that you gave yesterday.

7           What it does do, though, is it says the money, what  
8 happened to the money cannot be traced because there are no  
9 reports of what happened to the money.

10          THE WITNESS: Yeah, but no one worth their salt  
11 realizing a newspaper article to dealing with anything with any  
12 political structure for them to be free. You have to rely on  
13 the information from the Ministry. There was information in  
14 there that I know would have balanced this article and the  
15 Auditor General's article. I know that I don't have them, but I  
16 know that, so that's all I'm saying. This cannot be the impetus  
17 of which the Report is going to be written.

18          COMMISSIONER HICKINBOTTOM: So, I just want to be  
19 absolutely clear what your position is, you're saying that  
20 neither the Auditor General nor the Beacon had all of the  
21 information concerning reporting. And if they had, it would  
22 have resulted in a different picture being painted?

23          THE WITNESS: I'm not going to even base on the Beacon  
24 despite some the information may support what I've said and may  
25 not. This is a newspaper. I've learned in politics not to rely

1 on newspaper and new sites to tell you a story, with due respect  
2 to them. That is the only official, official, government  
3 official entity that I will base on by law. And what I'm saying  
4 the Auditor General's Report never had the attached appendix to  
5 it for our interviewing notes, never had attached with the other  
6 information or the Response from the Ministry to be able to be  
7 brought forward to the Cabinet to the House of Assembly so they  
8 could be made a public document.

9           So, on that time now, even although the Auditor  
10 General would have had the hard version, there would have been a  
11 balance to it because the information, the resources from the  
12 Ministry would have been able to come forward to say, well, they  
13 do agree or don't agree with the Auditor General's Report.  
14 That's the way it has been done from the time that I have been  
15 in this political field, that allows for due process, it allows  
16 for balance.

17           COMMISSIONER HICKINBOTTOM: Are you saying that  
18 Auditor General's Reports normally have her analysis appended to  
19 them?

20           THE WITNESS: Usually--usually, you are given the  
21 opportunity or even extensions to make sure because when you're  
22 doing these audits and when you're doing these things,  
23 Commissioner, you would agree that you're dealing with people's  
24 lives and reputation.

25           COMMISSIONER HICKINBOTTOM: I'm sorry, Premier. That

1 wasn't the question. Are you saying that Auditor General's  
2 Reports normally have attached to them her analysis and the  
3 Ministry's response?

4 THE WITNESS: It is allowed. I can't say if it has  
5 happened all the time, but in expressly in areas where there  
6 were topics of--that can be controversial topics, it's allowed.

7 COMMISSIONER HICKINBOTTOM: You're saying it's  
8 allowed.

9 THE WITNESS: Yes.

10 COMMISSIONER HICKINBOTTOM: What is it allowed by, and  
11 do you know of any report which has had those documents attached  
12 to it?

13 THE WITNESS: I wouldn't speak her from a hundred  
14 percentage knowledge because you will research and see, but I  
15 will tell you from natural justice, how can you write a report  
16 accusing someone, accusing a ministry and they do not be given  
17 an opportunity to do a counter report or to say, well, all  
18 right, I agree here, I think you need to review this. We will  
19 improve here or whatever the case may be because remember now  
20 the Auditor General is doing a full audit that seems like they  
21 will capture all the information, but it may not, so the  
22 Ministry always gets a copy--

23 COMMISSIONER HICKINBOTTOM: Of the draft.

24 THE WITNESS: Gets a copy of the draft, and they will  
25 be able to point out and say well, all right, this is the case

1 or whatever. It may be of some weight on the Auditor General  
2 changing the report and the Auditor General could very well say  
3 well, I don't agree. But at least on file there is nothing to  
4 compare the Auditor General's Report to. It allows for due  
5 process, it allows for natural justice.

6 COMMISSIONER HICKINBOTTOM: Okay. Thank you very  
7 much.

8 BY MR RAWAT:

9 Q. Can I just pick up on that.

10 Premier, the Commissioner has received a number of  
11 Auditor General's Reports--

12 A. Um-hmm.

13 Q. --done under different provisions of the Audit Act of  
14 2003. The Commissioner has investigated a number of those  
15 Reports more fully to give two examples to you, BVI Airways  
16 Report--I'll give you three, the BVI Airways Report, the report  
17 into the Elmore Stoutt school wall and the report into the Sea  
18 Cows Bays project. In none of those was the Ministry's response  
19 or anybody's response appended to the published final report.

20 But can we just be clear about what your evidence is,  
21 because you have spoken about something being published, but you  
22 have also spoken about something being on file, so is it your  
23 experience, as a Member of the House of Assembly that, when  
24 Auditor General's Reports are put before the House, they are  
25 accompanied by an addendum which is the Response of the

1 Ministry?

2 A. Well, I would say my experience in the House is that,  
3 as you would know, Commissioner, in my research, is that one of  
4 the foundation principles of English law is the rule of law  
5 which states that all men and women are entitled to the benefit  
6 of the presumption of innocence and shall not be deprived of  
7 their rights except by due process, and that that allows for if  
8 you are accused whether it is the plane, whether it is the wall,  
9 whether it is the Sea Cows Bay have a project, whether it is the  
10 Neighborhood Partnership Project, you must allow for due  
11 process.

12 So the Ministries, whichever one is being accused, it  
13 would be forwarded to them because the Auditor has to do her  
14 work, but it cannot be done in the absence of allowing due  
15 process. The Auditor General may very well, upon furnishing the  
16 Ministry with the draft report, decide that the--what you are  
17 responding is not something that I can accept. But one of the  
18 things we will note that, is on the file, there should be--there  
19 must be--if due process is being followed, a response that has  
20 been afforded to the Ministries. It should be--it is something  
21 that you cannot have that will allow our Auditor General to be  
22 rogue, to be running loose. I'm not saying our Auditor General  
23 is rogue, but that will allow the Auditor General's actions to  
24 become one of rogue. You have to have balance in natural  
25 justice in everything.



1           And that's what I'm saying. As far as I can recall,  
2 reports were done where the Ministry's input was sought. I  
3 cannot remember which ones, but I'm trying to scrape my memory.

4           Q. That I find from the Auditor General's evidence is  
5 that she will send a draft to the Ministry who can respond, and  
6 she will take those responses into account. If more information  
7 comes in afterwards, she can publish an addendum report, but  
8 what she doesn't do is just take the Ministry's response and  
9 just append it to her own final report.

10           And to give you another example, when you sat on the  
11 Public Accounts Committee investigating the cruise pier port  
12 project and that Committee published two reports, and then a  
13 fuller report.

14           A. Right.

15           Q. There is absolutely no mention in that Report or in  
16 any of the evidence where it shows any Member of that Committee  
17 considering of the Ministry's response.

18           A. No, but you're speaking of two different things.  
19 You're trying to put together PAC now with the Auditor General.

20           Q. No, because what you're investigating--

21           A. Yes.

22           Q. --your starting point, and I can take you to it, if  
23 you want.

24           A. We can go there because I came ready for that today  
25 because we could go to that PAC report because I would be able

1 to tell you a lot about that.

2 Q. But in that Report, Premier--

3 A. Um-hmm.

4 Q. --there is a minute of the examination of the Auditor  
5 General.

6 A. Right.

7 Q. And you lead on that.

8 A. Exactly.

9 Q. You take her through her Report.

10 A. Exactly.

11 Q. Now, that's her final report.

12 A. Right.

13 Q. But neither you nor any Member of the Committee as you  
14 go through your investigation do, is ever refer to the  
15 Ministry's response. That's the point. It's another example,  
16 Premier, of where there doesn't seem to be what you were  
17 suggesting to the Commissioner at the beginning that you have a  
18 report from the Auditor General in final form. And as an  
19 appendix, you have either interview notes or investigation notes  
20 plus the Ministry's response.

21 A. Well, Mr Rawat, are you trying to justify that, but I  
22 cannot do that with you.

23 Q. With respect, Premier, I'm not trying to justify--

24 A. I respect--I listened to you. Allow me to explain the  
25 answer. I listened for quite a while.

1           Back in section 109, the Auditor General, in the  
2 Constitution that governs the country, I read, there shall be an  
3 Auditor General whose office shall be a public office. The  
4 counsel of the House of Assembly and all government departments  
5 and offices included in the Public Service Commission, the  
6 Teaching Service Commission, the Police Service Commission, and  
7 such other body as may be designated by law shall be audited and  
8 reported on annually by the Auditor General for that purpose.  
9 The Auditor General or any person authorized by him or her shall  
10 lead access to all books, records, returns and other documents  
11 relating to such accounts. The Auditor General has submitted  
12 his or her Reports made under subsection (2) to the Minister who  
13 shall within three months of the receipt of the Reports cause  
14 them to be laid before the House of Assembly. In the exercise  
15 of his or her function under this section, the Auditor General  
16 shall not be subjected to the direction or control of any  
17 authority. Auditor General is independent.

18           COMMISSIONER HICKINBOTTOM: We dealt with this  
19 yesterday.

20           THE WITNESS: We will deal with it today again.

21           COMMISSIONER HICKINBOTTOM: I don't really want to go  
22 backwards over matters that we've already dealt with.

23           Section 109 concerns Annual Reports.

24           THE WITNESS: It concerns Annual Reports.

25           COMMISSIONER HICKINBOTTOM: None of the Reports we've

1 mentioned today are Annual Reports.

2 THE WITNESS: Those are special reports.

3 COMMISSIONER HICKINBOTTOM: Well, they're not because  
4 there haven't been Annual Reports for a number of years.

5 But these are--I'm going to hear submissions, I  
6 understood, from Sir Geoffrey in due course about the nature of  
7 these reports because there are a number of provisions under the  
8 Audit Act which the Auditor General can produce reports.

9 But what is the substantive point you're trying to  
10 make rather than a legal submission, which Mr Olympitis will  
11 make--

12 THE WITNESS: Yes.

13 COMMISSIONER HICKINBOTTOM: --if it's required?

14 THE WITNESS: The legal argument?

15 COMMISSIONER HICKINBOTTOM: What's the substantive  
16 points you're trying to make?

17 THE WITNESS: The point I'm trying to make is that,  
18 under natural justice, the Auditor General does a report,  
19 whether special or annual, whoever it is being accused, natural  
20 justice must have them to be able to give at least some kind of  
21 input into it. I have known this to be the case for some audits  
22 over the years.

23 COMMISSIONER HICKINBOTTOM: But with respect,  
24 Premier--

25 THE WITNESS: Um-hmm.

1           COMMISSIONER HICKINBOTTOM: --the Auditor General  
2 audits projects. That's her job. She audits. She looks at the  
3 papers, she looks at the accounts, and she audits them. Whether  
4 natural justice comes into an audit is something which, if  
5 necessary, I will hear legal submissions on, but with respect to  
6 the Auditor General, that's what she does. She simply audits  
7 the documents.

8           After that, she often makes recommendations as to how  
9 matters could be improved but I don't understand what you say by  
10 natural justice.

11           THE WITNESS: Commissioner--

12           COMMISSIONER HICKINBOTTOM: She sends a draft of the  
13 Report to the relevant Ministry, not really by as a result of  
14 the rules of natural justice, but because she wants the Report  
15 to be as accurate as possible, and if the Ministry have any  
16 further input, then she wants to receive it.

17           THE WITNESS: Exactly.

18           COMMISSIONER HICKINBOTTOM: That's what happens in her  
19 Reports.

20           THE WITNESS: And they would send information about  
21 the draft report back to the Auditor General.

22           COMMISSIONER HICKINBOTTOM: Well, sometimes they do,  
23 but as you know, Premier, often they don't. Often the Ministry  
24 doesn't bother to respond.

25           THE WITNESS: I agree, but if the Ministry doesn't

1 respond and there is not correspondence that they want to  
2 respond, that's something different. But the ability to respond  
3 is there, so that's what I'm saying, if they don't want to  
4 respond, that is or they don't have any correspondence with the  
5 Auditor General or they tell the Plaintiff I'm not responding,  
6 that's the fault of the Ministry, but you said it correctly.  
7 The opportunity to respond is there.

8 COMMISSIONER HICKINBOTTOM: Yes.

9 THE WITNESS: And that's what I'm saying, so that's  
10 what will be on file, so if something comes into question with  
11 the Auditor General's Report, then you can pick up the  
12 Ministry's response and say, well, all right, the Ministry did  
13 respond, let's look it over and see. Because if the Auditor  
14 General's Report causes something to be coming into the legal  
15 domain in the courts, then what is telling me that a person  
16 being accused cannot bring anything from the Ministry or  
17 anywhere else in their defence of their name?

18 COMMISSIONER HICKINBOTTOM: We've moved into a highly  
19 hypothetical set of circumstances. As I've said, the  
20 Auditor--Auditors do a very important but very focused and  
21 humble job.

22 THE WITNESS: Correct.

23 COMMISSIONER HICKINBOTTOM: They audit. The Auditor  
24 General audits the papers she has. She sends a draft to the  
25 relevant Ministry, they add in any further information that they

1 have, which you may not have seen, and she audits that as well,  
2 and she produces an audit report.

3 THE WITNESS: Well, Commissioner--

4 COMMISSIONER HICKINBOTTOM: She has no obligation to  
5 publish any analysis. She does the analysis, and she produces  
6 the Report.

7 THE WITNESS: Commissioner, nobody is doubting that or  
8 disputing that at all.

9 COMMISSIONER HICKINBOTTOM: Yes.

10 THE WITNESS: What I'm saying is that once the draft  
11 report is done and it goes to whoever is being accused--

12 COMMISSIONER HICKINBOTTOM: But the draft report, I'm  
13 afraid, Premier, doesn't accuse anybody. The draft reports  
14 audits the Project or whatever it is that is being audited,  
15 normally a project.

16 THE WITNESS: Yeah, but what I'm saying is--when I say  
17 "accuse", I mean whatever the information is, if it's an  
18 accusation, if it is an inference, if it is a conclusion derived  
19 from the Audit, it goes--whatever it goes to the Ministry that's  
20 in question, and they would get a chance to do their response,  
21 whether the Auditor General wants to use it or not, fine.

22 But one must also say that while we must protect the  
23 sanctity of the Auditor General Office, is an important  
24 constitutional tool, you cannot tell me that they must be above  
25 any person who may deem that something about it needs to be

1 reviewed.

2 COMMISSIONER HICKINBOTTOM: Well--

3 THE WITNESS: Even when it's made public.

4 COMMISSIONER HICKINBOTTOM: No.

5 THE WITNESS: Because that is what I mean by natural  
6 justice.

7 COMMISSIONER HICKINBOTTOM: I don't say that. But the  
8 Auditor General occupies an important independent check and  
9 balance on the executive.

10 THE WITNESS: I agree.

11 COMMISSIONER HICKINBOTTOM: She audits projects, she  
12 audits accounts, and she produces an audit report. She makes  
13 recommendations in that Report in the VINPP. Her recommendation  
14 was that, given the apparent lack of reporting and lack of any  
15 ability to find out where the money had gone, she made a number  
16 of recommendations in relation to that.

17 THE WITNESS: But I cannot rely on that, too,  
18 Commissioner, because that was an incomplete report, we went  
19 through that yesterday. That was an incomplete report, and also  
20 it was never made public, so no one knows if there is  
21 information to show otherwise. Persons are allowed due process.  
22 That is one thing I know about law. The Auditor General's rule  
23 is important, but if something is put on paper where there may  
24 be evidence to show otherwise--the Beacon wrote in here this  
25 morning after we deliberated yesterday, to clear their name with



1 something.

2 COMMISSIONER HICKINBOTTOM: Just to correct a factual  
3 inaccuracy.

4 THE WITNESS: They corrected part of it, but the  
5 part--the section that still is clear is that they did mention  
6 about the Auditor General's Report but it shows that it was  
7 never made public also. It did clear that up also.

8 COMMISSIONER HICKINBOTTOM: What it suggests, if you  
9 take it at its face, which you appear to be doing, Premier, is  
10 that, in the usual way, the draft report was sent to the  
11 Ministry for any input that the Ministry had. Perfect and  
12 proper.

13 THE WITNESS: That's what this says?

14 COMMISSIONER HICKINBOTTOM: Yes.

15 THE WITNESS: Yes, but at the end of the day, where's  
16 that Report?

17 COMMISSIONER HICKINBOTTOM: What report?

18 THE WITNESS: The Report for the Ministry, from the  
19 Ministry. If that was the case that would have been brought to  
20 the House. Where is the Report from the Ministry? We relied on  
21 what the Beacon says?

22 COMMISSIONER HICKINBOTTOM: No.

23 THE WITNESS: No, no, no.

24 COMMISSIONER HICKINBOTTOM: With respect, Premier, we  
25 have been through this many times before, and further evidence

1 will be gathered in respect of what happened to this Report.

2 THE WITNESS: Yeah.

3 COMMISSIONER HICKINBOTTOM: But I'm not sure that we  
4 can take this any further. We have what the Beacon says. We  
5 have the Auditor General's Report. I will have evidence of how  
6 that was produced, how it was published, if at all, and I will  
7 make of all of that what I can.

8 If there are any legal submissions to be made upon the  
9 rule of law on Audit Reports, then I will hear them. I've made  
10 that perfectly clear to Sir Geoffrey yesterday.

11 THE WITNESS: You can do those through the lawyer.

12 COMMISSIONER HICKINBOTTOM: Now, what I would--is  
13 there anything else on VINPP?

14 MR RAWAT: No. I would like to move on, if I may, to  
15 COVID-19 stimulus package.

16 COMMISSIONER HICKINBOTTOM: Now, we're going to deal  
17 with two things today, Premier, and I hope by all of us being  
18 focused, we will be able to get through these by lunchtime.  
19 We've read your Written Response, and therefore, we know where  
20 you had input into these matters and where you didn't because  
21 you left it public offices.

22 Mr Rawat.

23 BY MR RAWAT:

24 Q. Premier, do you have a copy of your--

25 A. Which one are you dealing with first?

1 Q. COVID Stimulus Grants Programme, please.

2 A. Okay.

3 Q. Do you have a copy of the Warning Letter and do you  
4 have a copy of the Written Response, please?

5 A. Yes, I do.

6 Q. Just to give the context, the Commissioner has heard  
7 evidence, as you'll be aware particularly from the Internal  
8 Auditor, the Auditor General, and the current Permanent  
9 Secretary in your office, Dr Carolyn O'Neal-Morton about the  
10 operation of the Stimulus Grants Programmes, and he's also  
11 received reports of--a Preliminary Report which was issued by  
12 your office and more recently a response which responds to the  
13 Internal Auditor and Auditor General's Reports.

14 So, against the background of evidence you were sent  
15 on the 24th of September a Warning Letter setting out potential  
16 criticism that arises from the evidence that the Commission has  
17 gathered. I won't explain to you, as I've done, just the  
18 context of that because you will be familiar with it, but you  
19 have also provided a Written Response. Can I take you to that,  
20 please, and ask you just to confirm that, on page 3 it carries  
21 your signature and the date, the 4th of October 2021.

22 A. Yes.

23 Q. And confirm, please, that you're content that that  
24 Written Response stands as part of your evidence before the  
25 Commission?

1 A. Yes, I believe so.

2 Q. Now, as the Commissioner just pointed out, he has read  
3 this, and one other--one point you do make in paragraph 1 of  
4 your Written Response is that you say that the office has  
5 already set out its response to potential criticisms in a  
6 document entitled "Response of the Office of the Premier to the  
7 Evidence of the Auditor General and the Internal Auditor  
8 Concerning the Farmers and Fishers and Schools and Churches  
9 Grant Programmes", which--it's an undated report, but it was  
10 submitted to the Commission on the 7th of September 2021.  
11 You've called that the PO Response. You say to the best of my  
12 knowledge and belief, the facts and matter stated in that  
13 document are true and correct, and I adopt them.

14 Did you have any involvement at all in preparing that  
15 document?

16 A. Is that document--may I ask, the Auditor General's  
17 document has been made public by the COI on your website?

18 Q. Which?

19 A. Just a second, the Auditor General's under stimuluses.  
20 That was made public on your website?

21 Q. So, is your answer to--  
22 (Overlapping speakers.)

23 A. I need to clarify it.

24 COMMISSIONER HICKINBOTTOM: There are so many  
25 documents.

1 THE WITNESS: The Auditor General's audit on the  
2 stimulus, fishers, farmers, et cetera, was that make public on  
3 the--

4 COMMISSIONER HICKINBOTTOM: Her final Audit Report?

5 THE WITNESS: Yes, if it's final. Was it on your  
6 website?

7 COMMISSIONER HICKINBOTTOM: Yes.

8 THE WITNESS: Okay. Is the Premier's Office Response  
9 published--public on your website?

10 BY MR RAWAT:

11 Q. No.

12 A. Could I ask how come?

13 Q. Because it's a Preliminary Report that was submitted  
14 in response to the Auditor General's Report, and at the moment  
15 Dr Carolyn O'Neal-Morton has to come back to the Commissioner to  
16 point out where that Report addresses the errors that were  
17 identified in the Auditor General's Report.

18 COMMISSIONER HICKINBOTTOM: It doesn't appear to  
19 respond to any of them directly.

20 THE WITNESS: At the same time, the Report doesn't  
21 respond to some of the allegations?

22 COMMISSIONER HICKINBOTTOM: Correct. No, no, it  
23 doesn't respond to any of the allegations directly.

24 THE WITNESS: But I don't see it that way,  
25 Commissioner. I mean, I may have read it wrong but the Auditor

1 General--that's what I mean with natural justice--

2 COMMISSIONER HICKINBOTTOM: Premier, I will let you  
3 say what you want to say, but can I just remind you of what your  
4 Permanent Secretary said.

5 THE WITNESS: Um-hmm.

6 COMMISSIONER HICKINBOTTOM: Because I  
7 know--understandably that, you rely upon your Senior Public  
8 Officers in terms of administration. We raised this with her.  
9 She was unable to identify anywhere in the Response, that  
10 responded directly to the Auditor General's Report. We have  
11 written to her asking for her to identify where, if at all,  
12 there is any direct response. That's where the position  
13 currently lies. If you say that it does directly respond, then  
14 could you please identify where it directly responds to the  
15 Auditor General's Report.

16 THE WITNESS: Commissioner, the Auditor General's  
17 Report was submitted in the first six months of the Terms of  
18 Reference, and the Premier's Office Response was submitted, as  
19 far as my understanding, within the first six months also. The  
20 Permanent Secretary, if I am correct, gave evidence six months  
21 after that Response was done.

22 Right now in the public domain, the only thing that  
23 has been made public is the Auditor General's response, which  
24 was done within the first six months, and the Premier's Office  
25 Response was received within the same time. Now, I see it would

1 have been more than balanced to ensure that the Response was  
2 made public at the same time.

3           Because now, the Auditor General's response, with all  
4 due report, because respect the law office, so that's what's not  
5 in question, is the only at stake that this Government is being  
6 measured by, and the Response done by the Premier's Office has  
7 not seen the light of the day in the public domain because of  
8 what you had stated here, and that is my concern. The Permanent  
9 Secretary's testimony was only lately, and I see that the  
10 Ministry and the Government has been left to be naked in the  
11 public's domain for many inferences which I don't see how come  
12 the Response by the Premier's Office could not have been  
13 published at the same time, called out for balance, because the  
14 Auditor General now would obviously be asked from my  
15 understanding to respond to that Response. And given ample time  
16 whereas the Ministry would not have been given the same time to  
17 respond to the first response by the Auditor General.

18           So, what I'm asking for is for that Response to be  
19 published because if the extension did not come for the other  
20 six months, those two reports were already in, so I cannot  
21 understand why the Premier's Office one was not response to the  
22 Auditor General's Report was not published. Was that not  
23 received in the first six months?

24           BY MR RAWAT:

25           Q.   If you turn up bundle 1, COVID bundle 1. And go to

1 page 90.

2 A. Page what?

3 Q. Nine-zero.

4 A. Yes.

5 Q. You have that?

6 A. Yes.

7 Q. It's headed "Preliminary Report on the Expenditure of  
8 COVID-19 Stimulus Funds by the Premier's Office,  
9 July 2020-May 2021." It's dated 28 June 2021.

10 A. Um-hmm.

11 Q. This was a report, which if you see at page 92--

12 A. Yes.

13 Q. --when it says "Purpose of Report", it includes that:  
14 "This Preliminary Report also serves as an addendum to the  
15 Special Audit Reports prepared and published by the Auditor  
16 General on 21 June 2021", so this is the Response that you are  
17 speaking of. That's the Response that your office when it  
18 received the draft report, and I went through the chain of  
19 correspondence with Dr O'Neal-Morton. She signaled in that  
20 correspondence to the Auditor General that there were errors in  
21 the Auditor General's Report, and she--and that a response was  
22 being prepared. This was the Response. The Auditor General  
23 published a report or sent them to the Governor on the 21st of  
24 June. This Report was on the 28th of June, so I think the  
25 Premier's Office had had a number of weeks to prepare this and



1 wanted this to be the addendum to the Report of the Auditor  
2 General.

3           When Dr O'Neal-Morton came to give evidence on Friday,  
4 I asked her how this report was prepared, and she was only able  
5 to say that it was prepared by Officers within the Premier's  
6 Office. I asked her to identify where in this Report it engaged  
7 with the Auditor General's Report, and specifically where the  
8 significant errors that she had highlighted in  
9 correspondence--in correspondence where she said there are  
10 errors in your draft. So, what I asked her to do was to point  
11 out to the Commissioner which parts of this Report identify  
12 those errors. Dr O'Neal-Morton couldn't assist immediately, and  
13 that's where we are, we are waiting for a response from  
14 Dr O'Neal-Morton to tell the Commissioner which parts of this  
15 Report which are some 90 pages long or--I think it's 60 plus  
16 with appendices--but just which bits actually address the  
17 Auditor General's Reports. So, that's the Response I was taking  
18 you to.

19           But can I take you back to the question that I put,  
20 which is that the Response that was submitted to the  
21 Commissioner on the 7th of September 2021, so it wasn't  
22 published and it wasn't part of the Auditor General's process.

23           A.     September?

24           Q.     It was 7th of September 2021.

25           A.     The latest response?

1 Q. No, that is a Response, as we understand it, has been  
2 prepared for the purpose of this Commission.

3 A. Premier.

4 Q. So, it's been submitted to the Commissioner.

5 A. Separate--all went to this?

6 Q. Yes.

7 A. Right. Go ahead.

8 Q. The point of that report is it's undated, it's  
9 unsigned, it's unclear who prepared it, and it's unclear what it  
10 is because it appears to be a mix of legal submissions and  
11 factual submissions.

12 So, my question is to you: Were you involved in the  
13 preparation of that Response at all?

14 A. The office would have been preparing whatever sections  
15 they needed to find out from me, they would have asked me.

16 Q. So, did you have input into it?

17 A. The office would have prepared it whatever they need  
18 to know from me because I wasn't involved in it other than at  
19 the higher level. So, if they had a question, they asked me,  
20 but that's all.

21 Q. So, the answer is yes?

22 A. I can't tell you this "yes" and "no", and I would  
23 please ask you to stop going into "yes" or "no" answers with me.  
24 I said the office prepared the Report, did whatever it needed to  
25 know from me, I let them know, and they worked with the IRU as

1 usual to get the Report in. I cannot say anymore to this  
2 because that's all I know.

3 Q. Do you know who actually prepared it?

4 A. I can't go into that with you. You ask the PS when  
5 she comes. I would say the Premier's Office.

6 Q. I did.

7 A. Well, she will have to say when she comes. It's the  
8 Premier's Office Response, so I guess she and the technical team  
9 and the IRU and all of them would have done it like everything  
10 else is done: I really don't see any other way that it would be  
11 done.

12 COMMISSIONER HICKINBOTTOM: But it's not a response,  
13 Premier, where you say that that's my response and I adopt that  
14 whole response.

15 THE WITNESS: Well, what happened there was the whole  
16 Premier's Office who are dealing with it because it was  
17 information, as far as I can recall, setting out how the  
18 whole--the gamut of how everything happened.

19 COMMISSIONER HICKINBOTTOM: So, do you adopt the whole  
20 of that Response?

21 THE WITNESS: That last Report submitted, what I read,  
22 I would adopt that one.

23 COMMISSIONER HICKINBOTTOM: Thank you.

24 BY MR RAWAT:

25 Q. If you look at paragraph 4 of your Written Response,

1 please.

2 COMMISSIONER HICKINBOTTOM: Can we just look at  
3 paragraph 3, Mr Rawat, very briefly because I just want to--this  
4 just to be on the record and no doubt that Premier will confirm  
5 it.

6 What you say, Premier, is, save as mentioned below,  
7 and you mentioned a couple of things, not very many, I was not  
8 involved in the process of design or administration of the  
9 schemes which are left and tied to the Public Officers which I  
10 am informed and believe is set out in the Response we have just  
11 been referred to. And we've heard Dr O'Neal-Morton's evidence,  
12 but you were not involved, as you say, with the process of  
13 design and administration. You were only involved, as it were,  
14 at a policy level; is that correct?

15 THE WITNESS: Could I read what I read--what I  
16 submitted so that I could also refresh my mind on the records?  
17 If I may, Commissioner?

18 My office has already settled this Response to the  
19 potential criticism, which is the one we are talking about now,  
20 in the document entitled "Response of the Office of the Premier  
21 to the Evidence of the Auditor General and the Internal Auditor  
22 Concerning the Farmers and Fishers and Schools and Churches and  
23 Grant Programmes" submitted to the Commission on 7 September,  
24 2021, Premier's Office Response. To the best of my knowledge  
25 and beliefs, the facts and matters stated in that document are

1 true and correct and I adopt them, which I just stated earlier.

2           The schemes to which the Auditor General referred were  
3 developed by Public Officers in great haste in the face of a  
4 sudden and unprecedented economic and potential humanitarian  
5 emergency which they were in good faith intended to alleviate.  
6 The Premier's Office Response sets out why ordinarily applicable  
7 value for money principles could not be fully applied in such  
8 circumstances as they were not--as they were not around the  
9 world, as no Government in the world was able to do that. And  
10 why my office takes issue with some of the reasoning and  
11 conclusions of the Auditor General, save as mentioned below, I  
12 was not involved in the process of design and administration of  
13 the schemes, which I left entirely to the Public Officers and  
14 which I am informed and believe is set out in the Premier's  
15 Response.

16           As far as--Premier's Office response, sorry. As far  
17 as I recall, I was asked to make decisions in connection with  
18 the design and implementation only as follows, and it says I  
19 believe in September--

20           COMMISSIONER HICKINBOTTOM: I don't think you need to  
21 read out the whole of your response, Premier, because I've read  
22 it.

23           THE WITNESS: Well, I wanted to make sure that it's  
24 also known.

25           COMMISSIONER HICKINBOTTOM: All I wanted to confirm

1 is--

2 THE WITNESS: Um-hmm.

3 COMMISSIONER HICKINBOTTOM: --simply what is said in  
4 paragraph 3.

5 THE WITNESS: Yes.

6 COMMISSIONER HICKINBOTTOM: And that is that subject  
7 to the one or two points you make--and we will come on to them  
8 in the rest of your response which concerned design and  
9 implementation--you were not concerned with that because that  
10 was left, as you say, and tied to Public Officers, but you were  
11 involved, I assume, in the policy behind these schemes.

12 THE WITNESS: As far as I recall, I was asked--this  
13 was in connection--I was--I was--you were asking me this was in  
14 connection with the design and implementation only as follows,  
15 and I stated in the areas which is going to be the Policy at the  
16 higher level, I don't want to be involved in the intricacies of  
17 how the scheme is done and whatever.

18 COMMISSIONER HICKINBOTTOM: But you were involved in  
19 the Policy?

20 THE WITNESS: Well, the Policy direction, they would  
21 have asked me, for sure. That's the Ministers are involved  
22 based on the Constitution.

23 COMMISSIONER HICKINBOTTOM: That's all I was trying to  
24 establish, Premier. Thank you.

25 BY MR RAWAT:

1 Q. And in terms of the references to 2019 in paragraphs 4  
2 and 5, are those typos?

3 A. I believe in September I was asked by the Permanent  
4 Secretary whether the Premier should be made directly to the  
5 applicants of grants rather than to suppliers, it was explained  
6 to me that there would be inevitable and lengthy delay if we  
7 were to continue with the original requirements to pay  
8 suppliers. For the reasons given in the Premier's Office, I  
9 agree the proposal to pay the applicants directly. I was also  
10 asked to approve the paper to be put before the Cabinet on  
11 28 September 2019 which proposed to increase the amounts to be  
12 paid to churches and religious organisations within the amount  
13 allocated for COVID relief. I agreed to that proposal being put  
14 to the Cabinet, and the Cabinet subsequently agreed to the  
15 proposal. Again, the Premier's Office Responses set out why the  
16 Public Officers felt it necessary to make this change. I cannot  
17 recall the extent to which the details was explained to me, but  
18 I agreed with the request and would have seen it simply as means  
19 of getting money urgently into the hands of those who would use  
20 it well for the benefit of others. For these reasons, I was  
21 aware that some of the aspects of the scheme as originally  
22 proposed could not be met. Other than these occasions, I was  
23 neither aware of, nor was consulted, as to the technical detail  
24 of how the Public Officers are decided to administer the schemes  
25 and implement the Cabinet's decision. However, the purpose of

1 the Immediate Relief Package was to get the allocated monies as  
2 quickly as possible to as many of the targeted sectors and  
3 individuals as possible. I gave general directions to Public  
4 Officers in my office that the overriding policy priority was to  
5 distribute the Immediate Relief Package immediately and to get  
6 the money to the people without delay. I do not believe that  
7 there was any other intention or motive in what the Public  
8 Officers then did but that one.

9 And I stated that the Premier's Office Response also  
10 sets out the position of my office in respect of the Audit  
11 investigation of the Auditor General and the Internal Auditor.

12 So, I was able to do those areas, and it was just  
13 general policy, general policy directions.

14 COMMISSIONER HICKINBOTTOM: Can we just go back to  
15 Mr Rawat's questions, please, Premier. That's read out your  
16 response, so.

17 BY MR RAWAT:

18 Q. Four and five are a typo when you refer to 2019?

19 A. Oh, you mean in terms of 2019? Be put before Cabinet  
20 on 28 September 2020. That's one you mean, in terms of that  
21 error? That had to be 2020.

22 Q. Premier, let's get it on the record right.  
23 Paragraph 4 you say I believe in about September 2019. Should  
24 that be I believe in about September 2020?

25 A. I most definitely think so because I was not in office



1 in 2019, so that's a typo.

2 COMMISSIONER HICKINBOTTOM: Premier, I want to make  
3 the progress as efficiently as possible. Mr Rawat's question  
4 was very narrow, very specific, and frankly very modest, and the  
5 answer to it was yes, but if we can focus on the questions and  
6 modest answers, we will make quicker progress, Premier.

7 THE WITNESS: Commissioner, may I? I need to respond  
8 in this way: I'm in here today as a Premier of this country and  
9 also as a government where some very serious allegations have  
10 been laid.

11 COMMISSIONER HICKINBOTTOM: But--

12 THE WITNESS: Commissioner, may I--

13 COMMISSIONER HICKINBOTTOM: But Premier, not with  
14 respect to the date in these two paragraphs?

15 THE WITNESS: But may I, because it's a trend I keep  
16 seeing when I come in here. Yes, I read it out, and I said  
17 that's the case. I'm being asked questions, but I can't be told  
18 also how to answer, and we have seen where this has generated  
19 where there are allegations that have come to light where  
20 Dominic Raab, former Secretary of State, went to the House of  
21 Commons and stated with almost certainty \$40 millions or  
22 millions of dollars to be precise given out to cronies that  
23 could have been given to needy families. And also the former  
24 Governor who believed it and called this Commission of Inquiry.

25 I want to state, Commissioner, that I must be allowed

1 to give context when I speak because that was done without our  
2 knowledge, we saw it on the news and I might say, Commissioner,  
3 you don't have to worry about this part, but I do. It is etched  
4 in my mind and whenever I respond I'm going to respond to every  
5 context because that catapulted certain media frenzy on this  
6 that has some irrevocable damage to person's character and also  
7 etched in some person's minds that this Government went without  
8 money for--that was given out in grants. And if I come here  
9 today, it's going to be to clear that up. It went as far as  
10 organising a blitz by the same entities to have my wife and me  
11 picture up by drugs, which we have never done drugs, stating  
12 that we are cash cattle and all kind of different things with  
13 subliminal message, which have put all elected officials in  
14 danger and their children being abroad in danger. That I cannot  
15 forget, and I come here today, Commissioner, with due respect to  
16 you and Mr Rawat, and I am going to find how to put in context  
17 what happened with these grants, even if I have a take a little  
18 longer than you all would want. I come to clear this Government  
19 and this country's name because none of it went to our pockets,  
20 none of it went to any family and friends as been told, and we  
21 must be allowed to clear that record today.

22 COMMISSIONER HICKINBOTTOM: And you will be, Premier,  
23 but in response to a question about a simple typographical  
24 error, which is a simple typographical error, the answer was  
25 very, very straightforward. And if the answer to

1 straightforward and modest questions takes 10 or 15 minutes, we  
2 will have less time to deal with these important issues that you  
3 have now raised. They will be dealt with but they will be dealt  
4 with in proper course, Premier.

5 Mr Rawat.

6 BY MR RAWAT:

7 Q. If you turn up page 562 in the bundle, please. If we  
8 looks first, please, Premier, at 559.

9 A. 559?

10 Q. 559, please.

11 A. Um-hmm.

12 Q. This is a letter dated the 25th of May 2020 from the  
13 then-Financial Secretary Glenroy Forbes, and you can see that on  
14 561, and he's writing to the Director of the Social Security  
15 Board in relation to a COVID-19 grant from the Board. He says  
16 at the bottom of this page: "The Premier has further directed  
17 that I, as Financial Secretary, work with your Board to ensure  
18 that proper accountability, transparency, and good governance  
19 for all funds that are so granted, to ensure the proper  
20 accountability, transparency and good governance for all funds  
21 that are so granted". And then he goes on to outline the  
22 proposed purpose for the grant. We then see, if you go to 562,  
23 that on the same day, you have written to the Chairman of the  
24 Social Security Board, and this is in relation to an offer of a  
25 grant to the Government of the Virgin Islands to offer--to

1 support the Territory's Economic Relief and Stimulus Initiatives  
2 you write.

3 Page 563, you say, "Additionally, accountability,  
4 transparency, and good governance are of utmost importance", and  
5 you say, "further, the Government has set an overall objective  
6 that funds applied in the Territory's COVID-19 response  
7 strategy, regardless of the source, must reach the core of our  
8 people and businesses in the BVI who are in need and should, as  
9 far as possible, have a meaningful impact on the economy. The  
10 Ministry of Finance is also charged with ensuring that the  
11 funding received is properly managed based on all financial  
12 regulations and laws that apply to public funds.

13 "And also to ensure accountable and transparent  
14 application of these funds, the policy position is that, except  
15 in the case of the business grants, all cheques must be paid  
16 directly to the providers of the relevant goods or services, and  
17 not to recipients of the grant".

18 And then you say--you go on to discuss the position of  
19 business grants where you say on the other side, "there must be  
20 clear guidelines for due diligence and monitoring to ensure that  
21 these businesses make reasonable efforts to sustain employment  
22 in this COVID-19 era. The Financial Secretary who is copied  
23 here, will ensure that the aforementioned approach is adhered  
24 to".

25 So, that's the context on the 25th of May.

1           What measures were in place or were put in place at  
2 that time to ensure accountability, transparency, and good  
3 governance for all funds granted by the Social Security Board?

4           A.    Mr Commissioner, those were being worked on because a  
5 Committee was put up to work on this, but Commissioner, again,  
6 you have said the peace, and I didn't really come here to upset  
7 anyone. But I have to ask, just a minute to allow me to bring  
8 some context to this because we have gone straight into a letter  
9 that is in 25th of May, and the other letter, whatever it is,  
10 28th or whatever the case may be.

11          Q.    Twenty-fifth as well, Premier.

12           COMMISSIONER HICKINBOTTOM: But in terms of context,  
13 Premier, we have had a lot of evidence about the context.

14           THE WITNESS: None from me. Not from me.

15           COMMISSIONER HICKINBOTTOM: Is this something that  
16 you've written out?

17           THE WITNESS: I have made some bullet points that I  
18 think I want to bring this whole thing into context because  
19 whenever I hear this COVID grant being discussed, it reminds me,  
20 Commissioner, of a good friend of mine, Minister of Health,  
21 where he states that a car was driving and swerved from a cow in  
22 the road and it ended up in a ditch, and the cow was damaged and  
23 the person was damaged and couldn't get out. And when people  
24 came they asked how he got there because the cow was not present  
25 anymore, and he said he swerved from a cow, and they said where

1 is the cow, and they said, well, you just couldn't drive or it's  
2 your fault. But the cow had already moved when people came to  
3 rescue him. Here, we had some heavy, heavy things to do during  
4 the worst pandemic in the last 100 years, and now I'm coming to  
5 be questioned on these letters before I get to explain that  
6 there was a cow in the road named COVID, and there were persons  
7 in the country who could not support themselves whose businesses  
8 were shut down. I can even go through, which I'm going to start  
9 with today, and I'm going to take any questions but I intend to  
10 get certain things down on the record, Commissioner, because  
11 this is not a prosecution. This is an Inquiry where evidence  
12 will be given, and I have come to give my evidence.

13           If I look--before I go into depth with that, if I look  
14 into the lockdowns and curfews, what precipitated all of this in  
15 the 11th of March 2020, it was declared--WHO declared this  
16 pandemic--it declared it as a pandemic, the worst pandemic in  
17 the last 100 years. May I add that that is the date that the  
18 now Permanent Secretary in the Premier's Office came to the  
19 office on that date.

20           Q. She's given that evidence.

21           A. I thank you.

22           Q. Premier, just to assist you?

23           A. Yeah.

24           Q. The reference that you made to the World Health  
25 Organization is indexed.

1 MR RAWAT: Commissioner, it's your page 258 of the  
2 bundle.

3 COMMISSIONER HICKINBOTTOM: Right.

4 BY MR RAWAT

5 Q. Just to assist you, this is referenced in the  
6 Premier's Office Response which you have adopted.

7 A. Right.

8 Q. It is that the document is cited in the index, the  
9 bundle. The Commissioner has considered all of this.

10 A. Yes.

11 Q. Would it be possible--the reason I'm just trying to  
12 focus on some detail that adds to what you have already said  
13 because what you have already said is in that document. It's a  
14 34-page document. It has over 900 pages annexed to it. The  
15 question--my question is really just to ask you, Mr Forbes has  
16 given evidence about that correspondence, so he was involved in  
17 correspondence with the Social Security Board, you were involved  
18 in correspondence with the Social Security Board. If one reads  
19 those letters, assurances were given about accountability,  
20 transparency, and good governance to the Social Security Board.  
21 All I'm asking you is just for an explanation of what measures  
22 were in place to ensure or to support that assurance.

23 COMMISSIONER HICKINBOTTOM: Because, Premier, I  
24 understand the background. I've heard an enormous amount of  
25 evidence about it. What I'm focused on now is process and good

1 governance, and I don't want to be deflected from that narrow  
2 focus.

3 THE WITNESS: Commissioner, it's obvious that the way  
4 I'm going to give my evidence has already been pre-determined  
5 because I do not see how I cannot go through the sections I want  
6 to go through.

7 Eventually, you're going to tell me turn to bundle  
8 this, turn to bundle that, turn to number this, turn to number  
9 that. And I'm going to turn to it because I'm going to be  
10 respectful and help the Commission. But at the same time, too,  
11 I have some things I want to say.

12 COMMISSIONER HICKINBOTTOM: On process?

13 THE WITNESS: Not only on process but what caused the  
14 process to continue to shift because I'm being asked what put in  
15 place here, but that wasn't me. A lot of things shifted since  
16 May that caused the process to be shifted--the processes to be  
17 adjusted, and context have to be brought here because it would  
18 seem that you're just doing it willy-nilly and there was nothing  
19 that was happening that causing that to happen.

20 So, I am trying to bring context to it. So, if I'm  
21 going to be asked to turn to this and turn to that, and I can't  
22 come in and--now and give my evidence, I am going to ask, well,  
23 what is this? This will not be an evidence given. This is  
24 going to be a prosecution. I have to be able to bring my  
25 evidence to the Commission of Inquiry of how I see this, and the



1 parallel of it. Because, if we're just going to stick just on  
2 the governance of it, I could end this by saying that all the  
3 things that were put in were shifted over a period of time  
4 because the needs of the people continue to grow. On the 27th  
5 of March, 24-hour lockdown, 8:00 p.m. on 27 March 2020 was  
6 extended to 6:00 a.m. on 2nd April 2020; 2nd of April 2020, 26  
7 April--to the 26th of April, 24-hour lockdown again extended for  
8 two weeks in the first instance, then an additional seven days.  
9 Ultimately, the 24-hour curfew lasted for a total of 30 days.

10           You want context I have to bring context. Why were  
11 some of the rules shifted? 26--7th of April 2017 our curfew  
12 took effect 1 p.m. to 6 p.m. 10th of May to the--2020 onwards,  
13 more moderate curfew took effect overnight until sometime in  
14 August 2020. The duration of the curfews were gradually  
15 reduced.

16           The 21st of July 2020 to the 28th of July 2020,  
17 24-hour curfew on the island of Jost Van Dyke for a period of  
18 one week eventually lifted before the one week.

19           2nd of September 2020 to the 16th of September 2020,  
20 curfew from 1 p.m.--1:01 p.m. to 4:59 p.m.

21           16 of September 2020 to the 29th of September 2020,  
22 curfew from 5:00 p.m. to 5:00 a.m. nightly. Thereafter, the  
23 incremental relaxed until it was completely removed around  
24 May 2021.

25           And from 6 July 2020 and 11 p.m. to 5 a.m. curfew was

1 implemented, that's been scaled back but still ending at around  
2 5:00 a.m.

3           Why am I bringing these into evidence? I'm bringing  
4 them into evidence to say, Commissioner, that the processes and  
5 procedures were fluid. They had to be changed because  
6 businesses were shut down; employees, some have not worked since  
7 COVID started, and when they shut down, they weren't able to  
8 feed their families. Fishermen were having difficulty because  
9 when they go by night because of the curfew, they couldn't go.  
10 All these areas saw the economy coming towards a full shutdown.

11           We requested of the Governor for monies from the UK.  
12 We requested of him even for a boat to come to take anyone that  
13 would need to be quarantined, you are young and if you didn't  
14 understand what was happening. The Governor, Augustus Jaspert,  
15 laughed at us in Cabinet, and he said flat out there is no such  
16 boat. And we were told that there will be no help by the UK.

17           We also have the internal help by the UK in terms of  
18 the monies; I want to make it clear, because we realised there  
19 was going to be a social problem, but I must give Baroness Sugg,  
20 she did state that vaccines and whatever, as they come out we  
21 will help, but that's one you'll have to use your local  
22 resources.

23           Added pressure to looking for the finances to help the  
24 people of the Territory, the then-Governor went out and gave a  
25 speech that we had robust reserves, robust Social Security

1 money, and the Premier should be asked for the plan. All of  
2 that pressure coming down on the Minister of Finance is what  
3 caused us to now say it all right, before we go into a loan  
4 which would put us in violation of the Protocols for Effective  
5 Financial Management with the UK, let us see how we can get a  
6 grant to help our people out at this time.

7           So, now when we started first, we started with the  
8 Committee that did the original report of what all we needed to  
9 bounce back, which started in the Premier's Office, and it was  
10 turned over in the Ministry of Finance because it needed  
11 financial help. But this whole thing started in the Premier's  
12 Office with the then-Permanent Secretary that started that  
13 Committee. The Committee brought together--

14           Q.    What was the Committee called?

15           A.    I will get you the name of the Committee. I think  
16 it's in the Premier's Office Response, if I'm not mistaken.

17           Q.    Well, could you help us with that, Premier.

18           A.    I will help you with that most certainly. Give me  
19 just one quick minute, and I'll get that to you.

20           Q.    There seemed to be--

21           A.    It was the--

22           Q.    --a number of different (unclear)--

23                   (Overlapping speakers.)

24           A.    The BVI Government's Policy Response to Coronavirus  
25 Crisis.

1 Q. The Task Force?

2 A. The Task Force.

3 Q. Is that the one that was chaired by Glenroy Forbes?

4 A. It was chaired by Glenroy Forbes, but it originated by  
5 the Premier's Office.

6 Q. And was it different? Mr Forbes has given evidence of  
7 an Implementation Committee which he said sat within the Task  
8 Force. Do you agree with that?

9 A. There was an implementation unit that the Committee  
10 set up inside of the Task Force.

11 Q. Right. Okay.

12 (Overlapping speakers.)

13 A. But the Government didn't sit on that Implementation  
14 Committee.

15 Q. But I'm--at the moment, different people use different  
16 terms. Sometimes they call something a "committee" and then  
17 others--

18 A. Yeah.

19 Q. --will the same thing a "working group".

20 A. Right.

21 Q. So let's just break it down.

22 We've got a Task Force which you've also called a  
23 committee, so there's a Task Force. Within that Task Force, the  
24 Task Force estab--so Government estab--or the Premier's Office  
25 established the Task Force, then within the Task--the Task

1 Force, itself--

2 A. The Premier's Office.

3 Q. Premier's Office establishes the Task Force.

4 A. Right.

5 Q. Within the Task Force, the Task Force itself then  
6 establishes the Implementation Committee.

7 A. They established some other Committees.

8 Q. Yeah.

9 A. But it was the Premier's Office who started it.

10 Q. Accept that. Premier's Office starts the Task Force.  
11 The Task Force sets up Implementation Committee. Now,  
12 subsequent to that--and this is where there may be some  
13 confusion that you may be able to assist the Commissioner  
14 with--there are Cabinet Decisions that say that the approved  
15 different strands of the stimulus package, so for example, the  
16 Cabinet Decision approves the fish--farmers and fishermen  
17 package and says that Cabinet decides that there should be a  
18 committee to oversee and administer that package and to be  
19 prepared by, usually, it says, the Permanent Secretary of the  
20 Premier's Office.

21 Now, this is where the confusion is. Now, those  
22 committees, am I right to say this, were distinct from the  
23 Implementation Committee?

24 A. This--those came after.

25 Q. Yes. But can you tell, Premier, this--the

1 Commissioner this because Mr Forbes' evidence was that the  
2 Implementation Committee tended to fade away as these other  
3 committees came onstream? Is that right? Is that your  
4 recollection?

5 A. Well, I always have difficulty just answering like  
6 that because there was a lot involved here in the short time.  
7 When that Committee was put together, which I must admit  
8 they--by the--there was a brainchild of the then-Permanent  
9 Secretary Mr Kedrick Malone.

10 Q. Can we call it the "Task Force"?

11 A. The Task Force.

12 Q. Because otherwise we're just going to be talking  
13 about--

14 A. Okay.

15 Q. --endless committees. So it's the Task Force.

16 A. You have that correct. Now you see what I was going  
17 through with all these committees.

18 And might I add, Cabinet didn't form most of them.  
19 They formed within themselves, within themselves, within  
20 themselves. The issue that we were having with--is that the  
21 Task Force when it was formed did a beautiful job of doing a  
22 full outlay of what it would take to rebound the country with  
23 the economy. I do not remember the figure, but the figure was  
24 not \$40 million. I am sure that you would of probably had that  
25 in your bundle. It was way more than that. Way more. I think

1 it was way past a hundred million or probably up to 200 million  
2 or somewhere up yonder.

3           When that came to the attention of the Cabinet, it was  
4 clear that Cabinet--there's no way the country could look for  
5 that kind of money.

6           Q.    Can I ask you--

7           A.    Yes.

8           Q.    --just a few moments ago, you made a reference to the  
9 former Governor--

10          A.    Yes.

11          Q.    --for financial support.  Could you turn up page 222,  
12 please.

13          A.    222.

14          A.    Yes.

15          Q.    If you look at paragraph 16 (reading):  It was  
16 subsequently made clear the elected Governor who has expected  
17 that the Virgin Islands Government would manage the economic  
18 effects of COVID-19 by itself, and no financial support would be  
19 forthcoming from the United Kingdom.

20                Is that what you're referring to?

21          A.    Yes.

22          Q.    So, and just again for the timeline, we see that;  
23 that's at page 22, but we see that the--it refers to Annex 10,  
24 and you can see Annex 10 is at page 552 in the bundle--

25          A.    Um-hmm.

1 Q. --and it's a press release from the former Governor  
2 headed "Catch-up with the press".

3 A. Right.

4 Q. So, this indication as to the absence of financial  
5 support using either March 2020 or May 20--

6 A. Five what?

7 Q. 552.

8 A. 552, oh, sorry. Okay.

9 Q. It's more for the Commissioner's note rather than  
10 needing to ask any question about it.

11 A. No problem.

12 Q. But in terms of when the Governor made this  
13 statement--

14 A. Yes.

15 Q. --using March 2020 as the example of a benchmark--

16 A. Right.

17 Q. --because in March 2020, the evidence shows  
18 that--well, the Task Force was formed, so the Task Force formed  
19 11th of March 2020.

20 A. Um-hmm.

21 Q. According to your response.

22 A. Right.

23 This would have been in February, I think?

24 Q. February 2020.

25 A. Right.



1 Q. Right.

2 Can you explain, though, why it's then dated the 2nd  
3 of July 2021?

4 A. The Task Force?

5 Q. No, no, the Governor's speech.

6 A. Second of--

7 Q. July 2021.

8 A. Because the Governor, we were still--we weren't sure  
9 where we were going to get funds from. We were not sure.

10 Q. But no. You see this is just to clear up because--

11 A. Right.

12 Q. --what the--your Premier's Office Response says is  
13 that that indication was given. You've just said that he gave  
14 that indication in February 2020. The evidence that is given of  
15 that indication dates from July 2021.

16 A. Right, but we were having discussions in Cabinet all  
17 the time.

18 Q. So, what's the evidence of him doing it in  
19 February 2020?

20 A. No, I just asked you who was in February 2020. I  
21 didn't--I--

22 Q. I think your answer was, Premier, was that it happened  
23 in February 2020 that the Governor, the--

24 (Overlapping speakers.)

25 A. No, I was asking if it was February 2020 from these

1 here, but I look at it's 2021 that says so it was the wrong  
2 thing. I was looking at the number down here, so I was asking  
3 if it was February 2nd or 7, so it wasn't that I was saying  
4 that, so I--

5 Q. Ah, so you thought it was an American.

6 A. Yeah, yeah, yeah, so it confused me.

7 Q. All right.

8 A. So what date was his--

9 Q. It confuses me as well.

10 A. Yeah, so--

11 Q. But the point is--

12 A. But were you saying it was then?

13 Q. So, you're saying--your recollection is February,  
14 February 2020, was when it was done because--

15 A. No, I didn't say February at all.

16 Q. I see.

17 A. I just saw here and I thought a second, seven, I  
18 thought it was February. I don't know the date that--I don't  
19 recall the date it was done. I know it was done earlier before  
20 the grant was announced, before I made a public speech.

21 Q. I mean, the reason is, the index to this response  
22 gives the date of this process statement as 2nd of July 2021.  
23 That's why I raised it.

24 But your--irrespective of what that is, but in terms  
25 of March--11th of March 2020 is when you set up the Task Force.

1           A.    Right.

2           Q.    Prior to that, had the former Governor given you that  
3 you indication that there would be no financial support  
4 forthcoming from the UK?

5           A.    He was saying that he would check but he doubts it.

6           Q.    And in what context did it happen? Was this in a  
7 Cabinet Meeting or was it in a--

8           A.    Discussions in Cabinet. Just regular discussions.

9           Q.    Okay. So, at a regular Cabinet Meeting it arose.

10          A.    And we would ask about that, and we even asked about a  
11 boat too--if the UK would have a boat--we were young, as like  
12 everyone else, dealing with COVID and we were asking if persons  
13 have to quarantine if they could furnish us with a boat to allow  
14 that. That's when he laughed at us, and then he said there's no  
15 boat like that, and basically he would say he would check--he  
16 would check, but he would doubt it, and then he did give his  
17 speech.

18                   Well, it took us a long time before we got the money,  
19 so I need to explain that.

20          Q.    Yeah. But what we see and what we originally starting  
21 from was May 2020.

22          A.    Mm-hmm.

23          Q.    You are then in discussions, and it's the culmination  
24 of the discussions between yourself and the Financial Secretary  
25 with the Social Security Board.

1           A.    Right.

2           Q.    I can take you to the letter where the Social Security  
3 Board responded and confirmed their position.

4                    But it's this:  You set out here--if we go back to  
5 that letter 562, you set out, just a few moments ago, the  
6 different--

7           A.    Five what?

8           Q.    If you go to 562.  It's your letter to the Chairman.

9           A.    Yes.

10          Q.    You set out to the Commissioner, the--and this is  
11 between the 11th of March 2020 and May 20--that there were a  
12 number of lockdowns--

13          A.    Right.

14          Q.    --of different hours.  There were curfews.  There were  
15 lockdowns, et cetera happening--

16          A.    Yes.

17          Q.    --in the BVI.

18          A.    Yes.

19          Q.    And we can say--we can use those two dates as our time  
20 window.  Given--

21          A.    In May?

22          Q.    Well, yes.

23          A.    Yeah.

24          Q.    You've got--May is the culmination--

25          A.    Yes.

1 Q. --of discussions with the SSB, March is when you set  
2 up your Task Force. In the period in between, April, you've got  
3 lockdown happening in the BVI.

4 A. Right. As a matter of fact, lockdown started from in  
5 27th of March, but yes.

6 Q. No, but happy to take that, happy to take the 27th of  
7 March. But you've got lockdowns happening in March, and in  
8 April you've got curfews happening as well.

9 A. Right.

10 Q. Yeah?

11 A. And may I add--if you, please, at someone--

12 Q. Against that background--

13 A. No, you need one more background.

14 Q. Yes.

15 A. Which resulted in over 90 Cabinet meetings, because  
16 this was so fluid, we met sometime more than once a week because  
17 of how things were going with COVID and also the pressures that  
18 were coming on from the business world, overall, no matter what  
19 business it was, whether fish nor what. And they were crying  
20 out for help. Persons were saying, Look, I'm home, I  
21 can't--there's--I am--I can't go to work because it's lockdown  
22 was--businesses were asking, and some still asking, Who are  
23 going to pay for the employees while they're home? And the  
24 employees asking, who are going to pay us? They couldn't shop.  
25 They couldn't do different things.

1           So the pressure was building up and the pressure was  
2 heavy because there was not normal times. So, even if you write  
3 a memo today, Mr Rawat, I just want to make it clear, and asking  
4 for something with certain conditions, by the time you hear,  
5 there was a--more numbers and you had to lock down, because  
6 every time we heard about a case we used to lock down then, and  
7 that added immense--I don't even know if I could put it in a  
8 legal term but in a mathematical term, it caused immense  
9 pressure to the nth degree, financially and socially, so that  
10 caused us to continue to shift, continue to shift to meet these  
11 needs.

12           Q.    But given that you were shifting--

13           A.    Mm-hmm.

14           Q.    --in these unprecedented circumstances--

15           A.    Yeah.

16           Q.    --how were you still able to give the assurance that  
17 you did give to the Chairman of the Virgin Islands  
18 Security--Social Security Board?

19           A.    That we're going to have those...

20           Q.    You said--you basic--what you said is that  
21 accountability, transparency, and good governance are of utmost  
22 importance. You didn't say that it shifted. You said that it  
23 would be--the Ministry of Finance is charged with ensuring  
24 funding received is properly managed. You said specifically  
25 that the Financial Secretary will ensure that the aforementioned

1 approach is adhered to.

2           And despite all that had been happening in the  
3 Territory, how were you still able to give those assurances to  
4 the Social Security Board?

5           A.   Well, whenever you take money from Social Security,  
6 anyway, you give assurances that you're going to make sure the  
7 money is accounted for. The systems are going to put in to make  
8 sure that's accounted for. That will be something that was  
9 being worked on. That's common in any government.

10          Q.   And again, in terms of the--when you say "the system",  
11 that's the divide, isn't it, between the role of the Minister  
12 who is focused on policy--

13          A.   Um-hmm.

14          Q.   --and then the different Ministers and former  
15 Ministers have used the terms like "technical folk,  
16 "technocrats"--

17          A.   Yes.

18          Q.   --but it's the Public Officers that deal with the fine  
19 detail.

20          A.   They would deal with the fine detail.

21          Q.   So, did you--were you--was it your expectation when  
22 you wrote this letter then that the Ministry of Finance will put  
23 in the mechanisms to ensure that, you know, public funds or  
24 funds coming from Security--Social Security Board would be  
25 managed properly?

1           A.     With the help of the Premier's Office, because at that  
2 time the Premier's Office is the one that started the entire  
3 process, so the Ministry of Finance came in because you're  
4 dealing with money.

5                     So, when--I must explain this at least I see from what  
6 has been given to me as Minister of Finance and Premier because  
7 I wear both hats.

8                     So, with that now, when we brought in the Financial  
9 Secretary, who would be the only person that now can negotiate  
10 with the Social Security Board, the Premier's Office cannot do  
11 that. So, the Committee now, being that finances were going to  
12 be a major section, had to bring in the Financial Secretary so  
13 the then-Permanent Secretary, in his wisdom, said, Well, let the  
14 FS Chair the management of the finances of how we're going to  
15 deal with it, what all money we're going to need. At that time  
16 we did not know we were going by Social Security. At that time  
17 we did not know at the time where we were going to get the  
18 money, when the Committee was from/formed.

19           Q.     So, that's the Task Force.

20           A.     That's the Task Force.

21           Q.     Right.

22           A.     We--

23           Q.     There's far too many committees.

24           A.     There's a lot, and not--well, I'll get to that part,  
25 but there's a lot.



1           COMMISSIONER HICKINBOTTOM: Can I--I know you don't  
2 like me summarising what you say, Premier, can I--

3           THE WITNESS: No, not that I don't like it. I just  
4 like to be myself, but go ahead.

5           COMMISSIONER HICKINBOTTOM: No, no, but can I just try  
6 and grasp the core of this, as I understand it.

7           THE WITNESS: Yes.

8           COMMISSIONER HICKINBOTTOM: Firstly, the various  
9 assurances that you gave to the Social Security Board in this  
10 letter--

11          THE WITNESS: Yes.

12          COMMISSIONER HICKINBOTTOM: --and I don't say this in  
13 any way pejoratively, but their assurances that you meant, you  
14 meant that accountability, transparency, and good governance are  
15 of the utmost importance and so on.

16                 Secondly, the mechanisms whereby these assurances,  
17 these--the good governance was to be achieved, would be a matter  
18 for--and I may need your assistance here, but a matter for the  
19 Premier's Office, who were driving this, but also to an extent  
20 the Ministry of Finance because although they weren't driving  
21 this, money was involved, both in terms of getting it from the  
22 SSB but also giving away grants. And that was a matter for the  
23 Public Officers, to work out a mechanism whereby good governance  
24 and these assurances were met. Is that a fair summary?

25          THE WITNESS: With a twist. With a twist.

1           COMMISSIONER HICKINBOTTOM: No, no. Twist away,  
2 Premier.

3           THE WITNESS: Yeah. Thank you. I'm too big to dance  
4 on a slippery floor, but I'll try.

5           The--yes, Commissioner, to the extent where the  
6 Financial Secretary, in terms of post, once is speaking about  
7 money and receiving a grant or whatever the case, by law that  
8 has to go through the Financial Secretary.

9           COMMISSIONER HICKINBOTTOM: Understand that.

10          THE WITNESS: But once it reaches the Financial  
11 Secretary, then how it will be disbursed and be accounted for is  
12 now up to the internal organs of Government.

13          But ultimately, the Financial Secretary will have to  
14 still answer for the monies, but in terms of who would shepherd  
15 the disbursement of the funds, that will be something that will  
16 be worked out internally.

17          COMMISSIONER HICKINBOTTOM: So, a perfectly fair  
18 point, Premier, and one that's come out of other evidence, which  
19 means that, in terms of the distribution of the grants--

20          THE WITNESS: Right.

21          COMMISSIONER HICKINBOTTOM: --the Accounting Officer  
22 would be the Permanent Secretary in the Premier's Office, not  
23 the Financial Secretary.

24          THE WITNESS: Exactly.

25          COMMISSIONER HICKINBOTTOM: And that fits in exactly

1 with the other evidence that we've received.

2 THE WITNESS: I see.

3 MR RAWAT: And--

4 COMMISSIONER HICKINBOTTOM: I know you were just about  
5 to ask another question. I'll let you ask it.

6 MR RAWAT: No--

7 COMMISSIONER HICKINBOTTOM: But it's 20 past 11:00.

8 MR RAWAT: Yes.

9 COMMISSIONER HICKINBOTTOM: We need to give the  
10 Stenographer a break at some point, Mr Rawat.

11 BY MR RAWAT:

12 Q. But--and we've seen the Cabinet Decisions on this  
13 because--

14 A. Um-hmm.

15 Q. --because effectively, you get a pot from--you get a  
16 global sum from the Social Security Board. Cabinet, having--and  
17 there are Policy Papers and memoranda prepared and then Cabinet  
18 decides on the allocations between the pots, and this is just to  
19 summarise. So, that's not for the Financial Secretary, it's for  
20 the Cabinet to decide, but then it goes back to the Public  
21 Officers to implement the Programmes.

22 But do you agree with this, that Mr Forbes spoke of  
23 circumstances where Cabinet decided to taking the global sum,  
24 keeping it as it is, the 40 million as it, but to shift between  
25 different packages, so they took some money from pot A to give a

1 bit more to another package, and what he explains is that, when  
2 those situations happened, it was--it fell to him as Financial  
3 Secretary to go back and agree that with the Social Security  
4 Board?

5 A. He did that all the time.

6 COMMISSIONER HICKINBOTTOM: Yes.

7 THE WITNESS: And I might add why I said--you see how  
8 quick we agree? I might add, Attorney Rawat and Commissioner,  
9 why I want to make sure the evidence is clear, we speak about  
10 \$40 million, but if you notice in the beginning, they were  
11 talking about a \$39.3 million, and you may wonder, well, where  
12 does the. 3 come in?

13 BY MR RAWAT:

14 Q. I'm sorry. I'm not trying to stop your flow, but  
15 who's the "they"--is it the Task Force?

16 A. No, no.

17 Q. Or is it the Social Security Board/

18 A. Sorry, the Task Force.

19 And that is because we are looking at the areas that  
20 they had identified in their original submissions of monies that  
21 have been needed to jump-start the economy based on the  
22 free-fall it was in, but that was only a small section out of  
23 the huge different categories that they had which total, as I  
24 said, it was well over a hundred million dollars; I remember  
25 that very good.

1           So, what happened now is that the Financial Secretary  
2 and his team in discussions, we have to decide what areas would  
3 we look at that would be palatable or within our grasp to get  
4 some funding without having to go get the loan to pay for  
5 recurrent expenditures, et cetera, because once you get a loan  
6 to pay recurrent expenditures in any business, you're down a  
7 slippery slope. So we did not want to go there.

8           So, then we identified those areas to be able to take  
9 out and then go and see if we could get monies somewhere, and  
10 Social Security happened to be one. But when we went to Social  
11 Security, we rounded off to the 40 million rather than using the  
12 39.3 million because each section is like--had not exactly, but  
13 as an example, like it would have had 5.1 million for this,  
14 \$3.2 million for this, different sections came out of the Task  
15 Force, and the Task Force was huge, a huge Task Force. It  
16 involved all the heads of departments, statutory bodies, persons  
17 from the private sector. We brought everybody together to give  
18 us the best ideas of how and--how much money would we need to  
19 resurrect the economy, and then we had to make some tough  
20 decisions on how to narrow it down to what we can afford.

21           When we went to Social Security, as you would see, it  
22 took some back and forth. It was not given automatically. It  
23 took a while. When we got the \$40 million, why I'm saying that  
24 it was irresponsible, I must say, for the Foreign Secretary and  
25 even the then-Governor to state \$40 million, 10 million stayed

1 with Social Security to help with unemployment benefits.

2           So, although it came over to us because, in the books  
3 of Government, you have to show that all the 40 million came to  
4 you. But then 10 million went straight back into Social  
5 Security--

6           COMMISSIONER HICKINBOTTOM: Well, it was managed by  
7 the SSB.

8           THE WITNESS: Right, but in terms of procedures  
9 financially, it all had to go into the finance, so there was  
10 also a matter of paperwork because, under the Financial  
11 Management Act, it was a grant of \$40 million, so the books had  
12 to account for a grant of \$40 million. So, then it went back to  
13 the 10 million over to the Social Security Board to manage the  
14 unemployment benefits.

15           But also there was \$7.5 million that went back to  
16 Social Security for National Health Insurance scheme because  
17 that was money that was owed from the time the scheme started  
18 and was not paid. So, in the middle of the crisis, we ended up  
19 having to use 7.5 to pay an outstanding bill.

20           So, really and truly, when you add 10 million and  
21 \$7.5 million, it was now \$17.5 million, so the Government, in  
22 terms of grants, never had \$40 million in grants. It's  
23 important to know that, Commissioner, because in every newscast  
24 that has been put out in the world from the time the Inquiry has  
25 been launched is stating that they squandered \$40 million from

1 the Social Security Board, so I needed to clarify that in my  
2 evidence.

3 COMMISSIONER HICKINBOTTOM: No, no, and that's  
4 perfectly fair, Premier. But leaving a word--leaving aside  
5 entirely the word "squandered", this letter on page 562, which  
6 is your letter, and literally your letter, it's your name and  
7 signature at the bottom, refers to the Social Security Board's  
8 offer of a \$40 million grant to the Government of the BVI.  
9 And--

10 THE WITNESS: Right.

11 COMMISSIONER HICKINBOTTOM: --it was a 40 million  
12 grant. I understand that you say some parts of it went to be  
13 managed in respect of the Unemployment and Business Interruption  
14 Relief scheme which was managed by the SSB. I understand that.

15 Would now be a convenient moment, Mr Rawat?

16 MR RAWAT: Yes.

17 COMMISSIONER HICKINBOTTOM: We'll break for five  
18 minutes, Premier--

19 THE WITNESS: Okay.

20 COMMISSIONER HICKINBOTTOM: --so that the Stenographer  
21 has a break. Thank you very much.

22 (Recess.)

23 COMMISSIONER HICKINBOTTOM: Thank you, Mr Rawat. We  
24 are ready to continue.

25 MR RAWAT: Thank you, Commissioner.

1 BY MR RAWAT:

2 Q. May I just--picking up on the point that we were  
3 discussing before the short break, the distinction between, if  
4 you like, policy and mechanisms, and where their respective  
5 roles lie from a ministerial point of view.

6 You have said out in your response the matters in  
7 which you, yourself, became directly involved in terms of  
8 decisions in connection with design and implementation of the  
9 Programmes, and I think there are two sort of examples that you  
10 give or two instances that you give.

11 Just so that we're clear, were you aware that the  
12 Internal Auditor was unable to get all the information that she  
13 needed for her work?

14 A. I wasn't involved in that part. You have to make sure  
15 that you continue with the PS with that because that wouldn't be  
16 my level.

17 Q. And in terms of one feature of the changes in the  
18 Programme was--and we can take Farmers and Fishermen Programme,  
19 but there was a change from making awards based on need, to a  
20 change to a banded system of standard grants. Was that  
21 something that you were consulted about?

22 A. When there was a major policy shift, this is now  
23 you're coming to the point now where the money is being  
24 disbursed because remember before we were talking about the  
25 Financial Secretary's role, but now you're reaching a point



1 where the money is there, and this is sometime later.

2 I also want to bear in mind something that I should  
3 have put in the record. I remember what helped us to even push  
4 harder as a Territory to move towards getting more money as a  
5 country was that there was a letter that I received on the 2nd  
6 of April 2020 from Baroness Sugg, which she responded to me to a  
7 letter that I wrote on the 24th of March, and it was a very,  
8 very cordial and nice letter, and I must thank her for that.  
9 But she did make it clear in the letter stating that I don't  
10 want to say it exactly, but in terms of paraphrasing that we are  
11 looking to OTs to draw on their financial resources in order to  
12 address the needs of their people just as we are doing here in  
13 the United Kingdom, something to that effect the language was.

14 Q. Turn up 254, please.

15 A. 254, yes.

16 So, with that now, that was the last full--what you  
17 could say full confirmation that we were not going to get any  
18 financial resources to handle COVID from the United Kingdom, so  
19 we were on our own, so that even propelled the need to move  
20 towards finding some kind of funding locally to alleviate the  
21 suffering as much as possible for the people of the Virgin  
22 Islands.

23 And in doing so, I must add that, Commissioner,  
24 although your Terms of Reference has been based on certain  
25 things, the context is always important because that allows us

1 now to have to do the multiplier effect like in matching the  
2 Bible with the two fish and the five loaves to take  
3 \$17.5 million and find how to jump-start the economy in the  
4 middle of the worst pandemic in the last 100 years. Why  
5 17.5--well, 22.5, sorry. \$22.5 million. Because as I stated,  
6 17.5 stayed with Social Security Board, 10 million for  
7 unemployment benefits, 7.5 million to pay NHI.

8           So, the Government's Grant was never \$40 million; it  
9 was only \$22.5 million. And that now is when we had to go into  
10 discussions on how best to see which sectors to help and  
11 multiply this money that we do have to help as much as we can.

12           Please note that this money is separate from the  
13 feeding programmes when we were locked down, and that came from  
14 Central Government, and also that was millions of dollars, and  
15 also we have to pay supermarkets or as many of them that wanted  
16 to get involved because governments anywhere is governments  
17 everywhere. Persons did not want a Purchase Order from  
18 Government especially in a crisis because outside of the crisis  
19 it takes a long time to get paid.

20           So, in the crisis, they preferred it, that is why we  
21 were forced by businesses telling us it's best you give the  
22 money to the people, let them wait on your check and then come  
23 to us. We don't want to have a series of Purchase Orders and  
24 then can't get our money until months down the road and yet  
25 employees are still looking for us to be paid.

1           So, the pressures from businesses is what drove that  
2 policy shift to get it into the person's hands.

3           And even to waive, Commissioner, some of the  
4 Government's obligations, whether they be the Inland Revenue or  
5 others because this was a crisis like never seen. And I just  
6 needed to highlight those areas.

7           COMMISSIONER HICKINBOTTOM: You say there's a policy  
8 shift, and that may be an accurate description, Premier. The  
9 shift from the Government through these funds, by these funds,  
10 paying suppliers, businesses direct, so just to take a  
11 completely random example, if a boat needed an engine to pay the  
12 manufacturers or the suppliers of the engine, whatever the  
13 engine cost, and there was a shift from that to giving the money  
14 to the fishermen who would then purchase the engine. I  
15 understand that.

16           I mean, and as I say, I don't quibble with that being  
17 a policy shift, but it was really a shift in mechanics in this  
18 sense, wasn't it, that the purpose behind the payment of the  
19 money was to buy the engine--the policy was in the example I  
20 have given, the policy was to pay for capital items such as the  
21 engine or for a farmer, fencing or whatever it might be. That  
22 was the Policy. In a sense, as I say, I don't quibble about  
23 your use of policy, but in a sense it was the mechanics of how  
24 to implement that policy, wasn't it? So, to get an engine to a  
25 particular fishermen, instead of paying the supplier, you pay

1 the fisherman, the fisherman paid the supplier, the fisherman  
2 then--this is the evidence from your PS--the fishermen then  
3 would at some stage account for the engine to the accounting  
4 officer.

5 THE WITNESS: And that's ongoing.

6 COMMISSIONER HICKINBOTTOM: Yes, I understand that.

7 THE WITNESS: That's not fishermen and farming.

8 COMMISSIONER HICKINBOTTOM: No, no, that was just an  
9 example.

10 So, in that sense, it was a mechanics issue, wasn't  
11 it?

12 THE WITNESS: Well, Commissioner, I don't mean this in  
13 a negative mood, but have you ever had to run a country in a  
14 pandemic?

15 COMMISSIONER HICKINBOTTOM: No, no--no, firstly, there  
16 is no doubt that the challenge facing the BVI Government, I  
17 suspect the challenge facing most governments around the  
18 world--was the biggest in living memory. That's not an issue.  
19 It's not a criticism. It's just trying to understand the change  
20 in paying--instead of paying suppliers directly because, as you  
21 say, that would take a long time, and businesses weren't happy  
22 about the length of time it might take to pay the  
23 individuals--in the example I gave, the fishermen--the money,  
24 they then pay the supplier, and they then account with an  
25 invoice or whatever to the Accounting Officer.

1           THE WITNESS: At first--at first--before we understood  
2 what we were dealing with with COVID-19, I don't even think that  
3 we understand now any government in the world because there is  
4 no playbook, and it keeps shifting, it's even in the middle of  
5 the Greek alphabet right now, and if you don't know the Greek  
6 alphabet, you will get to know it through COVID.

7           But at first, when we were experiencing this, we in  
8 the Cabinet made decisions based on the regular normal  
9 conventional way of doing business and approaching any situation  
10 dealing with Government funds, which was to approve that these  
11 be paid to the suppliers and all of that sounds fine and well.  
12 But then came these lockdowns, then came many persons out of  
13 work, then came fishermen who couldn't fish, and even those who  
14 could have gone out because of the locked down, if they were  
15 caught out they were taken by the Authorities because the  
16 Authorities with the Joint Task Force really were patrolling the  
17 seas very extensively, and the fishermen were experiencing a lot  
18 of trouble, so there was no food and there was no money, and no  
19 money being circulated, and the economy was going to tank out.

20           To save all of this, the Government had to pivot to  
21 decide to get a direct adrenaline boost, a shot in the arm to  
22 wake back up the economy.

23           So, the pivot came from moving towards giving it to  
24 the businesses who didn't want that at all, most of them, and  
25 start to work with the individuals and give businesses theirs.

1 So, the pivot came on that, and that is how we had to move like  
2 that, to get that money out to get things going.

3 And I must say--and we will get to that, I know, given  
4 that my experience here in the Commission with the extensive  
5 ability to research, no person--fisher, farmer, or  
6 anyone--received funds from Government not knowing that they  
7 have to account for it. You could have front end the  
8 accountability factor which would be good in normal times or you  
9 could have back-end the accountability factor, which is  
10 necessary in the worst pandemic in last 100 years. The  
11 Government decided we have to back-end it. The pressures are  
12 too much.

13 COMMISSIONER HICKINBOTTOM: Premier, first, I think we  
14 will come to that; and secondly, that's entirely consistent with  
15 the evidence of your PS. But I think we will come to that, but  
16 I understand the point. The point is that there was going to be  
17 accountability somewhere, the point of accountability may have  
18 moved but it was accountability somewhere.

19 THE WITNESS: Commissioner, if I may, those are  
20 parity, if you allow because while I understand in terms of the  
21 needed with the claim, the truth, Commissioner, that truth and  
22 the international repetition of the Virgin Islands and every  
23 Virgin Islander and cannot be sacrificed on the altar of the  
24 desired adjustment of time because I came here to clear some  
25 records and while I really know that I myself and very busy and

1 yourself but there are some things that we have to do.

2 If we compare, Commissioner, although you're looking  
3 at procedures and we also have to look at what happened and put  
4 this in context with the world because we cannot be held on a  
5 different standard.

6 COMMISSIONER HICKINBOTTOM: You can't be held on a  
7 different standard, but your position is--was and is unique, and  
8 comparing it with--comparing the process that you adopted--the  
9 process you adopted, with the process is other parts of the  
10 world which we may know little about, may not be of assistance.  
11 What I'm interested in is the process that happened here.

12 THE WITNESS: Well, can I help you, Commissioner, then  
13 because it's very important that I give context then.

14 BY MR RAWAT:

15 Q. Well, before you do, can I just ask you a question so  
16 that we just have it on the Transcript.

17 A. Um-hmm.

18 Q. The reason I took you to page 254, Premier, is because  
19 you referenced some correspondence with Baroness Sugg.

20 A. Yes.

21 Q. I haven't been able to find it in this index.

22 A. I can furnish that for you, very easily.

23 Q. My question was--is it actually dealt with in your  
24 response?

25 A. Well, probably that was, but I can furnish you that.

1 Q. So, there is additional material relevant to your  
2 response that hasn't been provided to the Commission?

3 A. There is a letter from the Baroness Sugg that I have  
4 in my file. Through my notes, I recognized it there last night  
5 because that's why I don't want to say that everything is here.  
6 You never know what things you pop up with, wrote in yesterday  
7 to clarify. So, I can send this tomorrow.

8 Q. I think we're at the stage of the Commission where we  
9 need to be more focused about what additional material we need.  
10 So, you have an exchange of letters with Baroness Sugg?

11 A. Yes.

12 Q. In April 2020?

13 A. Yes. I can give it to you.

14 Q. You can provide it to the Commissioner?

15 A. I wrote to Baroness Sugg, I think on the 24th of  
16 September--24th of March, I think it was, and she sent back to  
17 me on the 2nd of April. It was on some other matters but the  
18 section--yes.

19 Q. Those two letters will be fine.

20 A. I can do that.

21 Q. Can I also ask that you provide to the Commissioner  
22 that the minutes of the Cabinet meetings where there was  
23 discussion of prior to May 2020 where there was discussion of  
24 financial support from the UK and the boat that you were  
25 speaking of.



1           A.    Well, you would have to ask the Cab Sec for that  
2 because I'm not sure what was recorded but I can guarantee that  
3 that conversation was had, but you have to ask the Cab Sec if  
4 that exists. I don't know if it was captured in the minutes  
5 because I even went public I think and made a statement saying  
6 that we did ask for a boat.

7           COMMISSIONER HICKINBOTTOM: Premier, my difficulty is  
8 this. We've asked for documents more than once. We've asked  
9 for them several times.

10          THE WITNESS: Yes.

11          COMMISSIONER HICKINBOTTOM: We had the Response from  
12 your office--

13          THE WITNESS: Yes.

14          COMMISSIONER HICKINBOTTOM: --which is accompanied by  
15 853 pages of documents.

16          THE WITNESS: Right.

17          COMMISSIONER HICKINBOTTOM: And I have to assume--I  
18 have to assume--that the requests that I've made have been fully  
19 and properly responded to. Otherwise, this is going to be an  
20 endless exercise.

21                So, if--and we will write to you--we will write to the  
22 Attorney General and the IRU, but if you could please between  
23 you, furnish the documents which are clearly relevant, you've  
24 raised them as being relevant.

25          THE WITNESS: Yes.

1           COMMISSIONER HICKINBOTTOM: If you could please let us  
2 have that exchange of correspondence with Baroness Sugg and the  
3 Cabinet Minutes and any memoranda that are relevant that go to  
4 this point as soon as possible, please, because, as I say, I've  
5 assumed, as I'm entitled to do, that the documents that we have  
6 been supplied with, the documents that are set out with your  
7 response are complete.

8           THE WITNESS: But, Commissioner, I will get the letter  
9 that I wrote to Baroness Sugg to you. I will get the letter  
10 that Baroness Sugg wrote back to me because it was on other  
11 matters, but it was about a little paragraph that addressed that  
12 little part, and I will highlight the way it is the minutes I  
13 don't know what all was captured, but evidence is not only  
14 what's written, it comes from testimonies, and that I wasn't  
15 there, so I don't know what all was captured.

16           BY MR RAWAT:

17           Q. I appreciate that, Premier--

18           A. Um-hmm.

19           Q. --as you well know, we have used Cabinet Minutes--

20           A. Right.

21           Q. --during the course of the Commission.

22           A. Yeah.

23           Q. The Commissioner has, in fact, heard submissions from  
24 the IRU on the use of Cabinet Minutes.

25           The Commissioner's point is that this Response was not

1 provided at the request of the Commissioner. We've had to write  
2 recently identifying potential errors in it in terms of the  
3 correspondence, missing documents, but the Commissioner is, as  
4 he pointed out, dependent on those who are submitting this, that  
5 they have provided all relevant documents. You're now raising  
6 the existence of new material, which does two things: It adds  
7 to what you are already saying, what you have adopted, but also  
8 it may be relevant, it may be something that in fairness to the  
9 former Governor, he may need to be asked about or see.

10 But what's important is that that material is now  
11 brought to the Commission--provided to the Commissioner as soon  
12 as possible, and I think as soon as possible means immediately,  
13 so whatever efforts you can make, and whatever efforts  
14 Mr Olympitis can make, and I see he's making a note, will be  
15 appreciated.

16 A. I will facilitate, but with due respect, there is a  
17 lot of information, Commissioner, that, as requested in, you  
18 know, very challenging time limits. And if something comes up  
19 like this that you see afterward, that's why yesterday I say  
20 that I prefer to say, as far as I know, because for me now  
21 reviewing last evening, I was going over my notes, and I saw the  
22 note where I had to remind myself about a response, so I have to  
23 look for that letter.

24 But if I find piece of evidence that can clear the  
25 Government of the Virgin Islands before the Inquiry is over,

1 time cannot be effective intentionally to withhold it. I have  
2 to bring it forward because our name is at stake here.

3 COMMISSIONER HICKINBOTTOM: But, Premier, I'm  
4 conducting a Commission of Inquiry.

5 THE WITNESS: Um-hmm.

6 COMMISSIONER HICKINBOTTOM: And I do want any  
7 documents which absolve the Government of the BVI from any blame  
8 in any aspect of the work that they do. But I want all  
9 documents that are relevant that go both ways.

10 THE WITNESS: Yes, Commissioner.

11 COMMISSIONER HICKINBOTTOM: And as I say, we have been  
12 given assurances that we've had complete disclosure, and it's  
13 disappointing that we haven't.

14 But in respect of these particular documents, they  
15 have now been identified, we can now get hold of them.  
16 Mr Olympitis has taken a note of them, and we will no doubt get  
17 them very promptly, given the timetable that we're working to.

18 THE WITNESS: But--thank you, Commissioner, but I  
19 don't want to be disappointed. As we go if something we find to  
20 clear my name I have to submit it.

21 BY MR RAWAT:

22 Q. You're absolutely right, Premier. You're absolutely  
23 right. But the point is, these are not pieces of correspondence  
24 that you keep in your bottom drawer at home. These are official  
25 correspondence between you and the Government of the United

1 Kingdom. That correspondence must sit somewhere in the  
2 Premier's Office, and this document that's provided on the 7th  
3 of September, we're now some way down from that, provided  
4 there--there is not one mention of that correspondence in there.

5 And so, the Commissioner is just dependent upon  
6 chance. What's happened is this is just you working overnight  
7 have spotted this and thought this may be relevant, and that's  
8 not the most helpful way to proceed, but we are where we are.

9 A. If you spot something that you didn't see in the  
10 evidence to come back at me with, you wouldn't do it?

11 Q. No criticism of you, Premier?

12 A. But wouldn't you do that, you wouldn't come back and  
13 say well, I spot something and I think you need to come back?

14 Q. What I'm hoping is that, as you speak, others sort of  
15 behind you, are at this moment obtaining those--that  
16 correspondence and getting ready to e-mail it to the Commission.

17 A. The minutes no, I have to go to the cab site for that.  
18 That letter, yes, I can get that to you, yes, in no time.

19 Q. But if we go back to the COVID stimulus package,  
20 again, it's a point--so, your answer is as--you've explained  
21 that there was a shift?

22 A. Right.

23 Q. You started from one point, and as circumstances  
24 change, so taking the paying suppliers directly as the example,  
25 as that circumstance changed, your evidence is that a different

1 mechanism had to be found.

2 A. Yes.

3 Q. And you've dealt with that in your Written Response,  
4 that you authorised that.

5 But is the position, this was driven by the Premier's  
6 Office, overseen by the Premier's Office, we've heard from  
7 Dr O'Neal-Morton about the different committees that were  
8 overseeing different packages, but where there was a policy  
9 change, was that brought to you for approval?

10 A. Well, no technical person or persons who are the  
11 day-to-day operation of governments, they don't make policy  
12 decisions, so this was such an intense time that the major  
13 decisions like that would come and they will ask if--that we're  
14 experiencing problems with the suppliers, giving the money to  
15 them directly, we will need to shift to give it to them, and you  
16 will give the overarching thing that well, okay, we will  
17 regularise it in Cabinet in due course, because it was an  
18 emergency. People were meeting you everywhere--

19 (Overlapping speakers.)

20 Q. --the example in your Written Response of let's call  
21 it payments to suppliers.

22 A. Yes.

23 Q. But returning to the question about moving to a  
24 shift--a banded system of grants?

25 A. Right.

1 Q. It happened in farmers and fishermen but it also  
2 happened in churches and schools. You've described that as a  
3 policy shift. But those policy shifts were authorized by you?

4 A. But you can't look at it like that. The businesses  
5 got their checks to the business.

6 Q. Let's just deal with farmers and fisherfolk, first?

7 A. No, no, I must answer this because there's not a  
8 shift--there was not a shift in that context.

9 COMMISSIONER HICKINBOTTOM: No. Let me just make the  
10 question clear because I'm not sure that you've understood the  
11 question, Premier.

12 We've dealt with the shift for reasons that you've  
13 explained from giving suppliers cheques to giving money to  
14 individuals who then paid the suppliers, and then as you'd  
15 explained, then account for that money later. I understand  
16 that. We've now moved on to banded grants. This is a change  
17 from, for example, in the case of fishermen and farmers, from  
18 paying them on the basis of actual or anticipated expenditure on  
19 an engine for a boat or on fencing or whatever, and recompensing  
20 that expenditure to a banded system based upon hypothetical  
21 income.

22 The question was: Did you approve that change?

23 THE WITNESS: The overarching of it, yes, but not  
24 the--not the technical thing. The Permanent Secretary will come  
25 and discuss and say that this is what difficulties were being

1 experienced with the suppliers and plus the number of persons  
2 coming and the pressures of trying to get this money into the  
3 economy. So yeah, approve that overall arching, yes.

4 COMMISSIONER HICKINBOTTOM: Can you explain, and I  
5 don't want to summarise this. I want you to put it in your own  
6 words, can you explain exactly what you approved and exactly  
7 what you left to the Public Officers.

8 THE WITNESS: What was clear, if you did it as a means  
9 assessment was going to take too long to get done in terms of  
10 getting to the businesses (1) who were already not of the  
11 mindset to be waiting with a Purchase Order, they needed the  
12 cash; and the means assessment would mean that each application,  
13 late or otherwise, would have to be going through which would  
14 defeat the purpose of what you were trying to do.

15 COMMISSIONER HICKINBOTTOM: I'm sorry to interrupt,  
16 but what do you mean by "means assessment"?

17 THE WITNESS: Means assessment meaning if you go  
18 through each single application or persons who apply or request  
19 the assistance, then you would have to be doing a cheque for  
20 this one for \$500 as an example, a cheque for the other one I  
21 remember a few of them were up there \$400,000-something, a  
22 cheque for this one \$20,000-something, and the demand was so  
23 high to get monies into the economy at the time before we tank  
24 out, and that direct infusion into the economy was needed, and  
25 the businesses were not in any mood for any POs to be waiting



1 around for their money.

2           It was a tough time, so it came and said well, maybe  
3 it's best that we do bands and cover persons in different  
4 categories. I told them if that's the fastest way to help us  
5 get it out to the people and make sure that if you can front-end  
6 the accountability factor and back-end it, then that's the way  
7 it will be done. Everyone who gets money for it would account  
8 for it, and that's the section where I came in.

9           COMMISSIONER HICKINBOTTOM: And this is what I don't  
10 understand, and this is where I want some help, please, Premier.  
11 I understand the original concept of, say, the farmers and  
12 fishermen scheme. That was to provide capital expenditure  
13 needed to get a boat on to the water or whatever--

14           THE WITNESS: Initially.

15           COMMISSIONER HICKINBOTTOM: Initially, initially.

16           --to provide an engine or to provide a fence for a  
17 farmer or whatever it is. I understand that. And that is not  
18 welfare. That is not injecting welfare money into the economy.  
19 It is assisting a particular area of the economy to get on its  
20 feet, to get more than on its feet, to establish it on a sounder  
21 and bigger footing. I understand all of that. Those are not  
22 welfare payments.

23           But the banding was based upon hypothetical income.  
24 That's what banding was. I don't think anybody ever suggested  
25 that it would be anything else.

1           So, I don't understand the step from something based  
2 on expenditure to something based upon hypothetical income,  
3 particularly when after you've provided the banded grant you go  
4 back to expenditure because the people who have been granted the  
5 money then have to produce invoices, receipts for the  
6 expenditure that they claim for originally. I just don't see  
7 the logic in that.

8           THE WITNESS: Well, you see, Commissioner, until  
9 we--until we put in the mindset and put ourselves in that  
10 environment of the pressures involved in jump-starting the  
11 economy, we will continue to look at this through the regular  
12 means and through the regular lens of what would happen in a  
13 regular situation. This was not regular. We were not only  
14 concerned after a while with just an engine. That's where it  
15 started, but after a while the Government realized that (1) we  
16 had situations where there were lingering potential food  
17 shortage coming into the Territory; and, as a result, food  
18 production became a very, very heavy topic, so it shifted now on  
19 how could we help overall to boost persons into food production  
20 to help us? That was crucial.

21           BY MR RAWAT:

22           Q. Can you give a date for when that shift happened?

23           A. I don't know. It's probably in the bundle but I'm  
24 telling you how I remember, but that was when the shift--inside  
25 of it that we, as a government, decided we have to make and

1 regularising Cabinet afterward which we still have some things  
2 to regularise in Cabinet.

3           COMMISSIONER HICKINBOTTOM: Can you just explain the  
4 shift to help me. I would understand--I would understand a  
5 scheme which gave money to a particular sector because that  
6 sector had lost out in some way. For example, income in a  
7 particular sector, the tourism sector or whatever it is. I can  
8 understand that. I can even understand the scheme whereby money  
9 simply given away, pumped into the economy by giving people  
10 money full stop, I could understand that, it would need a  
11 rational basis, but there may well be one.

12           But here, what I don't understand at the moment is the  
13 shift and how it came about from a scheme which, in terms of a  
14 fisherman said, okay, we will buy you an engine if you need an  
15 engine and you've got to account for the engine which would be  
16 \$600 or whatever to a banded scheme based upon a hypothetical  
17 number of employees, the minimum wage and a hypothetical number  
18 of hours worked per week times .75. But then to require the  
19 fishermen to account for the engine which he started off with  
20 which will be a completely different figure, and therefore he  
21 will have to pay some money back or he will get some further  
22 money or something. I just simply don't understand the  
23 rationale behind it.

24           THE WITNESS: Well, I don't see it being any different  
25 from any other business what happened. The emphasis here now

1 came clearly into full production, and even as we sit here  
2 trying to evaluate that, we are seen where the food production  
3 through the wall that there is an amber light that is on.

4           So the projection of having us to boost food  
5 production, which is going to be an ongoing programme that the  
6 department would look at, also was propelled through this  
7 programme eventually, and all of these shifts had to be made  
8 because it was fluid.

9           But the main point about it is, Commissioner, whether  
10 it be the business grants or it be the fish and the farmer  
11 grants, they have to account for their moneys, and there's a  
12 committee set up, a committee set up by Cabinet that is looking  
13 into that.

14           And may I add that I don't think that it would be the  
15 case or it is, but if there is anyone that avoids a conk in,  
16 they will have to make sure that they comply but at the same  
17 time no money was given out of the Government coffers without  
18 any aim of having it being accounted for. It was back-ended,  
19 yes, I would admit to that, but which country didn't back-end  
20 it? And I would bring context to those countries, Commissioner,  
21 if I may, because when I appeared before the COI yesterday, I  
22 made some bullet points since then, I asked for at least parity  
23 of treatment especially against the UK, who would have been  
24 financing the Commission of Inquiry and how BVI and past and  
25 present Governments are judged for how we handle certain issues

1 versus how the UK Government handled certain issues.

2 COMMISSIONER HICKINBOTTOM: Premier, I will let you  
3 read that out in due course, but I just want to understand this.

4 THE WITNESS: Um-hmm.

5 COMMISSIONER HICKINBOTTOM: And before the break, your  
6 evidence was very helpful in understanding how this worked. At  
7 the moment, I don't understand how this works.

8 THE WITNESS: The bands?

9 COMMISSIONER HICKINBOTTOM: I don't understand how  
10 they work because what happened was applications were made--

11 THE WITNESS: Yes.

12 COMMISSIONER HICKINBOTTOM: --on the basis of actual  
13 or future expenditure, and you've referred to a particular  
14 example of somebody who wanted \$500 to build a fence. That's  
15 what he applied for, \$500.

16 And when you moved--when your department--when your  
17 Ministry moved to a banded scheme, he didn't get his \$500. He  
18 got an amount that was based upon a hypothetical number of  
19 employees, hypothetical but the minimum wage, a hypothetical  
20 number of hours that they worked per week, eight hours a day for  
21 a six day week, times the length of the period it was granted  
22 for, times three quarters. In terms of expenditure, a  
23 completely hypothetical sum, which would turn out in his case to  
24 be \$13,500, so he applies for \$500. He gets sent a letter which  
25 says in the first line, congratulations here's \$13,500, and the

1 letter does say you will have to account for the expenditure,  
2 the \$500, but the you go back to him having to account for the  
3 \$500 and pay back the \$13,000?

4 THE WITNESS: Well, first of all, Commissioner, if  
5 once the person invests in the fishing or farming and they can  
6 account for that money to make sure that they invested in it and  
7 whatever auxiliary expenditures like that are attached to it,  
8 those would have been considered, but if you look at it as just  
9 one application as you are doing, it seems rather simple to come  
10 now in hindsight 20/20 and look at it just as one thing, but  
11 you're dealing with hundreds--hundreds, if not when you put them  
12 all together, thousands--of paperwork in a time when you had to  
13 get the economy back up.

14 So, Officers now as far as I was experiencing, I  
15 happened to know by living in the country, the pressure of the  
16 financial and social pressure in the country was and still is  
17 extremely high, and officers now--that's what I'm saying, the  
18 processes cannot be taken without context. Some of the Officers  
19 include the Premier's Office started to be updated in terms of  
20 decreased in terms of numbers because of the lockdowns, schools  
21 close, there were Officers who could not now come in because  
22 they had to be home with their children because on-line learning  
23 was still relatively something that was being tweaked, to be  
24 adjusted, to be accepted and persons to be able to handle it.  
25 And some of our children wasn't handling on-line schooling so

1 their parents were forced to stay home from work. The  
2 Government was no different. You had a brand new Permanent  
3 Secretary who came in on the date it was announced as the World  
4 Health Organization without no training in terms of--from the  
5 Public Service who, as I was saying yesterday, once you come to  
6 work, there is supposed to be a level of training given.

7 But even so in fairness to the Public Service, who  
8 could have trained you for COVID? None of us knew the  
9 complexities that COVID brought, so you're dealing with  
10 decreased staff, even some who were in the Government's Officers  
11 who contracted COVID, and so it was not a regular time to look  
12 and say all right, let me take up this one application. He has  
13 applied for \$500, okay, let us give him five. I have a couple  
14 that are a hundred or thousands application here, we will take  
15 our time and do that.

16 Commissioner, we give a million dollars to the  
17 Ministry of Health to help with the social ills and persons that  
18 applied, so they had more time to deal with a million dollars.  
19 But that now was not the urgent-urgent one to deal with, but  
20 even though they took the time with it, the first payment came  
21 out just this year, and persons are still waiting to hear if  
22 they're going to get any monies out of it. Nothing wrong with  
23 the Public Officers, that's not what I'm getting at.

24 But if you follow the regular procedures, a lot of  
25 people, businesses, families would either be dead or close to

1 dead. During that pandemic, you had to get the money out and  
2 back-end the accountability, which means that whichever bands  
3 Officers came up with, they did their formulas, that's not the  
4 section for me as Minister, but I agree that they need to get  
5 some kind of bands because it was taking too long. That  
6 injection, that economic injection needed to be shot in the  
7 economic arm of this country to help keep it up standard, so  
8 they're different bands.

9 COMMISSIONER HICKINBOTTOM: Now, I understand the shot  
10 in the arm for the economy. I would understand that if it were  
11 in terms of welfare or some form of further scheme, but this  
12 wasn't. This was a scheme for capital expenditure.

13 THE WITNESS: Not only capital expenditure. It  
14 expanded into us agreeing that we wanted to also help with food  
15 production. In the end, because it became--it is easy to  
16 cross-examine me now on how it started for any Officer, but you  
17 want there it became a problem where food getting into the  
18 country was an issue, so it had to shift on the fly.

19 COMMISSIONER HICKINBOTTOM: I understand.

20 THE WITNESS: Just like how we would have through  
21 Monday we would rule one thing in Cabinet, sometimes for the  
22 coronavirus and put measures in place. By Friday you have  
23 another meeting where the cases went up. So, it was not only  
24 the actual health issues that were fluid, all the auxiliaries  
25 that came as a result of the negative effects of corona caused



1 things to continue to shift.

2 COMMISSIONER HICKINBOTTOM: Premier, I absolutely  
3 understand that, and I certainly do not underestimate that the  
4 challenge that this imposed, on both the Policy makers and,  
5 indeed, the Public Officers, but just to take the example of a  
6 grant that's given to a fisherman in respect of an engine, and a  
7 lot of engines were applied for, a lot of fishermen applied for  
8 a new engine. But that is not going to increase food production  
9 in a week. It's going to require somebody purchasing an engine  
10 and getting it fitted, which would no doubt here take a little  
11 time. But what I can't understand is why, when you've got your  
12 application, your suggested application, that somebody asks for  
13 500 pounds, why under the new scheme he's got to be given  
14 £13,500 and account for the money back.

15 THE WITNESS: But you're going to the lowest one. Let  
16 me go to the highest one. I was told by my Officers that there  
17 were requests for \$400,000.

18 COMMISSIONER HICKINBOTTOM: That's fine, because that  
19 can be dealt with by account. It could be worked out by the  
20 Public Officer.

21 THE WITNESS: What I'm saying here is the range was  
22 huge.

23 COMMISSIONER HICKINBOTTOM: Yes.

24 THE WITNESS: So, you cannot expect in a crisis--it's  
25 hard to picture it because it's a story with a car in a ditch

1 where the cow comes back. I'm trying to explain how the car got  
2 down there, the cow is gone, and now no one is knowing that the  
3 swerving from a cow but it left some doo-doo in the road for us  
4 to understand that it was COVID.

5           When you go and you go by a hospital, Commissioner,  
6 with due respect, and let's say there was a riot, and the  
7 persons coming into the Emergency Room, you have one with a  
8 knife, one that got cut in his hand with a knife, another got  
9 cut in his foot with a razor, and another was shot, shot around  
10 his heart. You can't have the one that is shot around his heart  
11 filling out the paper to be attended to, he has to head straight  
12 in there, and they have to now exempt him from all those other  
13 things and while they're working on him, on the back-end have  
14 his family fill out those applications. This is the same thing.

15           When you're talking about the fishers and farmers,  
16 that's our better of our country. Some people think nothing of  
17 fishermen and farmers, so there is some elite person in this  
18 country who never understand why you have to invest in them.  
19 Let me state here. Most of them were down from Hurricane Irma  
20 and Maria, and they were looking for help from them.

21           So, most them now did not have their own boats, they  
22 were teaming up with each other, doing fishing, so they had to  
23 share money, they wanted to get back on their feet for  
24 themselves.

25           And on top of that, you can get an engine if you have

1 a boat and buy that engine today and start fishing and start to  
2 have an impact into it. But what I'm saying is no matter what  
3 you have done with the money to help with the boosting of food  
4 production, whether it's to buy an engine to help you get out  
5 there to fish, whether it's to buy wire, whether it's to cut the  
6 road to get to your farmland, whatever it is, that you do.

7 But the number of applications for businesses, for  
8 fishers, for farmers, for the whole 9 yards, because the Premier  
9 is also doing all those payments, the business ones, yes, the  
10 Department of Trade was helping with that, but the payments were  
11 still being generated by the Premier's Office because they  
12 brought in teams of persons to make the payments. They are not  
13 running the Programmes, to make sure payments get out.

14 So, now the pressure come in there that, yes, you have  
15 a few applications with these, but then there's so many  
16 applications with a wide spectrum of requests so they came up  
17 with the notion of--come up with the bands, I don't know the  
18 formula being used. I really don't know, but what I'm saying  
19 her now, as the Minister of Finance and the leader of the  
20 Territory during a disaster, you have to lead, and I cannot stop  
21 and wait until everything is completely good to say that our  
22 beautiful audit trail and the people don't have any help. We  
23 have to lead them. You could not apply regular circumstances in  
24 the middle of this.

25 So, that's why it is one former politician used to say

1 it irks me when I hear notions that the politician is gone with  
2 the money? The back-end is everybody have to account for that  
3 money. There is nobody can go in any one of our accounts as  
4 elected officials and find any money from fishing and farming  
5 businesses or anything. It doesn't exist. But the way that we  
6 have been allowed, that this thing has hit the international  
7 scene, it makes us look like a set of criminals and thieves, and  
8 there is nothing that you can say that exonerates you. And I'm  
9 trying to put it in perspective for you that something had to be  
10 done.

11           There is no person, Commissioner, if you go on this  
12 road that could meet you and say that they give the Premier any  
13 money for fishing and farming and all these things. We have to  
14 get that injection into the economy, and I am 22 years I don't  
15 have any intention to believing in shackles. I intend to leave  
16 here free, knowing that I did what I did in the public interest.  
17 I agreed to policies in the public interest to put an economic  
18 Booster in.

19           Might I add even some of the persons that got the  
20 money that persons who were saying were not fishers and farmers,  
21 were some of the biggest fishermen and distributors right now.  
22 You don't have to look for fish right not, Commissioner, like  
23 you had before we went with this programme with our people.  
24 Even on Facebook seeing where to get fish now. You even now to  
25 get fish you need more provisions. It brought more people to

1 register. There was a lack of registration by the Department of  
2 Agriculture because a lot of people used to fish on their own  
3 and live on true fishing but they never formally registered, so  
4 they never registered, they never paid Social Security, they  
5 never paid Inland Revenue, they never paid anything because they  
6 would just go out fishing.

7           So, this programme was causing persons to come in and  
8 get yourself regularised because it is a problem we have with  
9 that informal way of persons how they work in our country, so  
10 we're trying to get people also to understand come and register.  
11 I don't know the numbers, whether the technical persons told me  
12 that it's some a hundred and something like that--the Auditor  
13 General probably alluded to that--registered with more still  
14 coming in to be registered, which is good for us for food  
15 production. So much so, Commissioner, that right now with food  
16 production, we're looking at that along with other areas to  
17 implement an Export Tax because there are certain fish that are  
18 caught here in the Virgin Islands, more so than anywhere else in  
19 the world. So, soon will be bringing an Export Tax, nothing  
20 major, but at least we'll be making something on it when it's  
21 leaving to help bring them to another level.

22           If you don't have--any nation that cannot feed itself  
23 is a nation doomed to starvation and death, and we are trying to  
24 bring it back to that level in an accountable manner.

25           You find me, Commissioner, find me one person who have

1 a fishermen or farmers grant who don't know that they have to  
2 account for it. We have had on the radio as we speak saying  
3 bring in all the information--I'm hearing it. I don't be  
4 involved in those but I hear it myself.

5 BY MR RAWAT

6 Q. When was that launched?

7 A. The ads?

8 Q. Yes.

9 A. I can't remember, but it's on the radio.

10 Q. You've said this now, but when was it launched?

11 A. Well, after a while. Sometime this year.

12 Q. Just what--a lot of what you've said, Premier, is  
13 actually in your response.

14 A. Yes, but you asked.

15 Q. Well, what you can make sure of is that the  
16 Commissioner will have read that Response and will read it  
17 again, but the point is that what would assist today is some  
18 details.

19 You've said that in relation to farmers and fishermen  
20 that there was a point in the process when there was a shift  
21 towards food production with an emphasis on the need for food  
22 production. Can you give a date as to when that shift happened?  
23 Because that's a policy shift.

24 A. Whenever they came to me about the bands, the main  
25 point there was also the bands and for us to broaden it to help

1 with the food production because it was crucial.

2 Q. Okay, that's--

3 A. So, whatever the PS came to me with that, that was  
4 part of the conversation. That will have to go back to Cabinet.  
5 I don't think--I know the church is one went back to Cabinet on  
6 the 28th of September.

7 Q. Can I come back to going back to Cabinet in a moment  
8 because it's at page 233, Commissioner, but at paragraph 84.

9 A. Page what?

10 Q. Paragraph 84 on page 233, which is in your Response.  
11 It says (reading) by about mid-September 2020, officials  
12 concluded there had been a need to adopt a banded system. So,  
13 that's the date that's given when officials concluded the need  
14 for a banded system.

15 So, can we take that as mid-September 2020? We know  
16 from this and from other sources that 18th of October 2020 was  
17 when the first payment started being made under this programme,  
18 but mid-September 2020 would be the date when you--around the  
19 time when you would have approved the Policy shift to a banded  
20 system and where there was then this change in emphasis to food  
21 production?

22 A. Food production was a part of the discussion.

23 Q. Yes.

24 But you've made, more than once, the point to the  
25 Commissioner--

1 A. Definitely.

2 Q. --that food production was a driver--

3 A. Right.

4 Q. --for the shift. So, we can take--

5 A. Not it was a driver for the shift. The driver for the  
6 shift was a concern internationally that there was going to be a  
7 food shortage, which, if you check the news now, it's there  
8 again lately.

9 So, in a concern that that became another cow that got  
10 into the road, we now had to swerve that. So, we wanted to be  
11 proactive as a country to see if we could boost our food  
12 production in the country.

13 Q. So, that's mid-September 2020 is the date?

14 A. It would have to be around that time, it sounds like  
15 my memory recollects but most likely.

16 Q. Because what the paper doesn't talk about or the  
17 Response really is when policy decisions are made and who made  
18 them, so you've helped with that in relation to farmers and  
19 fishermen. I'm going to come back to regularising via Cabinet  
20 in a moment, but can I shift to the Religious Organisations and  
21 Schools because that, too, was a banded process.

22 A. Right.

23 Q. Now, there's detail in your response, but again just  
24 so that we're clear, it's just to understand the divide between  
25 Ministers deciding policy, technocrats putting the systems in



1 place. So, as a Minister, as the Minister, the Premier, you  
2 would have authorized that policy shift to a banded system for  
3 Religious Organisations and Schools.

4 A. Definitely. The Permanent Secretary came back and  
5 spoke about that to me.

6 Q. So, we've got that now. You've explained that, I  
7 think you've called it back-ending in terms of accountability.

8 A. Yes.

9 Q. So, what there is now is, as we speak, an ongoing  
10 programme to make clear, as it did in the letters, two people,  
11 they will have to account for the sums that have been given to  
12 them.

13 A. Right. You have the Cabinet approval of that  
14 Committee in here?

15 Q. No, that's another thing we're going to need from you.

16 A. I don't have that, okay.

17 Q. But the point is that some people will, if they  
18 can't--and this is Dr O'Neal-Morton's point to the Commissioner,  
19 but if they can't show that they've spent the money in the way  
20 it was intended, they are going to have to give it back.

21 A. Well, that's what Dr O'Neal-Morton said, I would say  
22 let's cross the bridge when we reached it, because I can't say  
23 that I can't, so--

24 Q. No, if someone spent their 500 on an engine and spent  
25 the rest on non-farming, non-fishing related items, they won't

1 be able to give a proper account and they will have to pay it  
2 back.

3 A. Well, the system will have to be able to deal with  
4 that. That part there is not for--that's not my section at all  
5 because there's already systems in place to deal with that.

6 COMMISSIONER HICKINBOTTOM: It's your responsibility  
7 in this sense, Premier: Accountability.

8 THE WITNESS: Exactly.

9 COMMISSIONER HICKINBOTTOM: You've insisted on  
10 accountability.

11 THE WITNESS: That's why the system will deal with  
12 that.

13 COMMISSIONER HICKINBOTTOM: Yes. And so, there will  
14 be a system to ensure that the money that has been paid by way  
15 of grants is accounted for in the sense that it's been used for  
16 what the grant was for.

17 THE WITNESS: Yes, that's the back end of it.

18 COMMISSIONER HICKINBOTTOM: And I understand how that  
19 applies to farmers and fishermen.

20 THE WITNESS: Um-hmm.

21 COMMISSIONER HICKINBOTTOM: Does that apply to  
22 Religious Organisations, et cetera?

23 THE WITNESS: Well, they didn't apply. Most of them  
24 didn't apply, but what we have to understand something here,  
25 Commissioner, this is not dealing with my evidence but I have to

1 give it to you as a history because there is context.

2           The churches, by nature, in this country, they pray,  
3 they are all spiritual watchmen in the gate for this country  
4 because this country is under attack left, right, and center,  
5 and only God is going to help us, so the prayers of the churches  
6 come through, they help us, and there is nothing political about  
7 it at all.

8           As a matter of fact, some churches disagree with my  
9 policies, and they preach our colleague, but that's their  
10 belief, that's part of democracy, but that doesn't mean that  
11 they can't get help and get the same that all those are getting.

12           But I want to state, Commissioner, the churches are  
13 there to the people of the Virgin Islands' heart. When we  
14 didn't have money as a Government, long before I was born, may I  
15 add, the churches started with the Methodist and then the others  
16 churches have come along, are the ones that did our education  
17 for us of our people. They educated the people of the Virgin  
18 Islands in what you call them again, sixth standard, fifth  
19 standard, fourth standard, and they paid the teachers initially,  
20 so Government didn't have any money, so they were the foundation  
21 of education in our country.

22           So, persons who know the history of churches in our  
23 country, which is most persons, would know that it is a sacred  
24 thing for us. It is not just about helping a church in a time  
25 of need, although that is what has happened. It's sacred.

1           But churches also do something that governments can't  
2 do. They reach a lot of persons in body, mind, and soul, and  
3 physically with their needs, so they run a lot of programmes  
4 that help the needy. And in that time, COVID-19 then and now is  
5 one of need.

6           Commissioner, some of the churches when you speak with  
7 them, you don't want to hear some the needs of our people right  
8 now in the middle of COVID. You would cry. And with having  
9 said all of that, as for me, in my heart--and I'm speaking from  
10 my heart now, not my evidence that I was giving--I'm speaking as  
11 Andrew knowing what the churches have done, the churches, some  
12 of them are on the verge of collapse because they make their  
13 monies by the collection, by the offering. If they're closed,  
14 there is no offering. And if people are not working because of  
15 COVID, they can't give any tithes.

16           So, church now have seen financial challenges like  
17 never before. So now, with that in mind, when the idea of the  
18 bands came to me, I was more than happy to say I agree for us to  
19 go ahead with the bands so that we can keep our churches going.  
20 First, it started out with dealing with getting some of them  
21 reopened, but then that too shift to getting them into helping  
22 them continue their social programmes because COVID was shifting  
23 all the time, so there were a lot of persons in the churches  
24 that churches were contacting saying that we were running  
25 programmes, persons can't pay their rent, because although it's

1 locked down, the landlord still wants his rent. Persons don't  
2 have money to feed their children, a lot of single mothers, and  
3 they were saying, look, we need to see if we could get some help  
4 to go along those lines.

5           So, there were a lot of social needs. So, the more  
6 persons and entities that you could help during that time to  
7 help feed people that were in dire need like never before and  
8 some still are, some still are, Commissioner. There are ladies  
9 who come to me and say, look, I'm glad that you give the help.  
10 Some still come up to me up to today, up to last week, I'm glad  
11 that we were able to get help from some of these programmes  
12 because some of the things that they were thinking about doing  
13 to get money to help feed their children, they didn't even want  
14 to have it as a thought, and you can imagine what I'm saying.

15           So, these were not regular times. Models were looking  
16 at any way possible, sad to say, in some areas to feed  
17 themselves and their families. We had to cut that off from  
18 going into that negative social dimension, which is what I'm  
19 asking, and I'm craving your indulgence and asking your soul and  
20 your heart not to just look at this as raw procedures changing  
21 willy-nilly. The pressures of the day call for us to make-shift  
22 in policy because there was need, the private schools needed.  
23 They were not getting fees coming into the school anymore  
24 because nobody was coming to school, and even if they had  
25 school, the persons weren't working because of lockdown.

1           It was, as we say in our culture, mass, and all of it  
2 fell on the shoulders of the Minister of Finance, despite, I  
3 thank my colleagues, I know I barely got any sleep. The  
4 pressure had to come out of the pipe somehow, and we did it in  
5 the most accountable way.

6           So, yes, I approved the Policy shift for churches to  
7 get the bands and it called for a little more money.

8           Q. Did you approve a Policy shift that payments to  
9 churches should be for social purposes?

10          A. That's what I said when I was speaking, social  
11 purposes they have the--

12          Q. So, you approved that policy?

13          A. You had to because we are dealing with reopening.

14          COMMISSIONER HICKINBOTTOM: No, exactly.

15                 Can I just take this in a couple of stages. The  
16 initial concept of the grants for which you got Cabinet approval  
17 at the outset was for a million dollars to assist with reopening  
18 various institutions, but including the churches and schools,  
19 and that was literally to help them go from being closed to  
20 being open with social distancing and all of the COVID  
21 restrictions and the expenses that are incurred in complying  
22 with COVID restrictions. That was what the original intention  
23 of the grants were for. And applications were made on that  
24 basis, and the applications had in paragraph one, an assurance  
25 by the institution that the funds would only be spent upon

1 re-opening costs.

2 THE WITNESS: Initially.

3 COMMISSIONER HICKINBOTTOM: Initially. I accept  
4 "initially".

5 Now, as I understand your evidence, that was the  
6 subject of a big policy change, I think--but please correct me  
7 if I'm wrong--about the time the bands came in--away from it  
8 being restricted to those costs to being really welfare  
9 benefits, to give the money to the churches for whatever  
10 charitable purposes, because the churches would only use it for  
11 charitable purposes, whatever charitable purposes the churches  
12 wish to use it, was that the Policy shift?

13 THE WITNESS: The Policy shift was to give it to them  
14 to help with whatever they can help with charity and the social  
15 aspect of the country because they touch more people than a  
16 government can ever reach when you look at all the churches in  
17 the matter--

18 COMMISSIONER HICKINBOTTOM: And that policy shift, as  
19 I understand it, took place around about the time of the--when  
20 the banding came in.

21 THE WITNESS: It took around that time, I don't know  
22 the exact date but it was around that time because there were  
23 concerns. As usual, I won't get involved in the weeds of  
24 things. That's not my section, but they were overall arching  
25 policy.

1           COMMISSIONER HICKINBOTTOM: Because this was a big  
2 change in policy?

3           THE WITNESS: It was a big change in policy but a  
4 needed one.

5           COMMISSIONER HICKINBOTTOM: Policy is a matter for  
6 politicians. I'm interested in process. But it was a big  
7 change in policy--

8           THE WITNESS: Right.

9           COMMISSIONER HICKINBOTTOM: --around that time, and it  
10 coincided with the banding.

11          THE WITNESS: Right.

12          COMMISSIONER HICKINBOTTOM: That's very helpful.  
13 Thanks.

14          In explaining how all of this came about?

15          THE WITNESS: Yes. You have to. And the churches  
16 have used--the churches have helped us significantly and I would  
17 do it again. The churches have touched the lives of a lot of  
18 persons. Around that time, Commissioner, a lot of people were  
19 trying to commit suicide, they couldn't deal with this. The  
20 churches dealt with a lot of counseling, the churches dealt with  
21 a lot of prayers, they took away most of what would have ended  
22 up to be social disasters in this country that the Government  
23 could have not addressed. So the money might have seemed like  
24 an increase, but when I see criticisms levied that it is to  
25 dictate or to--in the Report stating something to the effect of



1 us doing that to make the churches subservient to us in terms of  
2 politics or cronyism or certain things. Not at all. That  
3 grieved my spirit because the Holy Spirit cannot be bought. The  
4 Holy Spirit cannot be directed. So that should have never hit  
5 the Auditor General's Report. With due report, that is  
6 irresponsible language, in God's vineyard, the church's--I don't  
7 even see how these parcels--I've never seen see most of them, we  
8 did it to save the social fabric of the country--

9 BY MR RAWAT:

10 Q. What follows, then, whilst you dispute the rationale  
11 behind it or when any criticism of the rationale behind it, you  
12 accept that, in relation to religious organisations and schools,  
13 and religious organisations in particular, the greater majority  
14 of funds went to churches that were--that had not made any kind  
15 of application.

16 A. However they did the scheme, that was there for them,  
17 but I know that we had to help them.

18 Q. Yes. I understand.

19 Now, in terms of schools, the shift in the purpose was  
20 to allow them to be able to again defray costs, whether it be to  
21 pay staff, so that was the Policy shift.

22 A. To pay staff and school fees because a lot of persons  
23 weren't working.

24 Q. To go back to back-ending, so you have questions from  
25 the Commissioner, you have a sort of time in the process where

1 officials are approaching you as Premier/Minister of Finance and  
2 saying, We need to change. You say "yes", agree to this policy  
3 shift. They go away and put the mechanics in place.

4 In terms of the formula that they come up with for  
5 calculating a particular band, matter for them, not for you,  
6 your policy.

7 Now, in terms of back-ending, the back-ending has two  
8 elements to it. The first element is accountability in that  
9 farmers and fisherfolk are going to be asked to account for the  
10 sums that are being paid to them. Churches and religious  
11 org--schools are not going to be asked to account for the sums  
12 paid for them. You have a committee set up, and you're going to  
13 give us the Cabinet Papers in relation to that Committee, but  
14 that Committee has been set up now to take that process of  
15 back-ending accountability forward, but--and the second element  
16 of regularising it is that these matter--these policy matters  
17 that you decided as Premier/Minister of Finance are now going  
18 back through the Cabinet for Cabinet to approve.

19 A. Yes. We have to--

20 Q. And you've already done that--

21 (Overlapping speakers.)

22 A. I didn't do--all of them have not been done up to now  
23 because you would appreciate the pressures of our office and the  
24 magnitude of what has been asked of limited staff because all of  
25 this we're doing with the issue that we recognised in our

1 governance paper which is the lack of the capacity in the  
2 institutional capacity of the Public Service in terms of the  
3 limited amount of persons that you have to work with.

4 We're not--Downing Street in UK probably have about a  
5 hundred or 200-some persons running around in No. 10. We don't  
6 even have in the Premier's Office more than--I don't think  
7 there's more 20 persons, if that much at all, running around  
8 inside the Premier's Office. And may I add that includes no  
9 offense to their level. That includes the messenger, the  
10 clerical staff. That's not a senior staff, that these were  
11 peoples which would be limited.

12 So the answer is yes, we're going back to Cabinet to  
13 regularise them because we have to.

14 (Overlapping speakers.)

15 Q. But you gave, Premier--

16 A. But I must--

17 Q. --you gave a date for--this is what I'm just trying to  
18 just get to.

19 A. Right.

20 Q. But there's one example you were aware of had reached  
21 Cabinet, and I think, and correct me if I'm wrong, but I think  
22 you gave the date of 28th of September 2021.

23 A. That's dealing with the churches because I think, if  
24 my memory serves me correctly, even when I submitted, there was  
25 also an issue of some the monies that it was depleted and not

1 enough to deal with the churches.

2           So, what we did is we adjusted monies inside what you  
3 call the envelope; in Finance, we call it the "envelope". We  
4 had \$17.5 million. So, if we needed more monies in the churches  
5 and preschools than originally had written, we would adjust it  
6 inside that.

7           But extra money, no. We didn't (unclear)--

8           (Overlapping speakers.)

9           Q. No, yeah. The Financial Secretary explained that  
10 because that's taking us back to his role in negotiating with  
11 the Social Security Board.

12          A. Right. Well, I didn't hear his testimony, but I could  
13 come here midnight and tell you the same thing because I don't  
14 have anything to hide. I did it in the public interest, and I'm  
15 gonna answer the questions and also put certain things on the  
16 state--on the record.

17          Q. Hopefully, we won't need you to stay 'til midnight to  
18 do that.

19                 But can I just--one last thing, though, just to  
20 clarify another thing you said. I think we've spoken about  
21 Religious Organisations and Schools in terms of funding going to  
22 people who hadn't applied for it. And you've given your  
23 context. In terms of farmers and fishermen, one of the points  
24 that's raised is that payments were made to farmers and  
25 fishermen who did not appear on the Government Register.

1           Now, the point is made by Dr O'Neal-Morton is made in  
2 your response, and it's made by you today. The effect of  
3 putting this scheme is that you saw an increase in the number of  
4 people registering to be licensed.

5           That's what happened. You had--

6           A. Yes.

7           Q. --more farmers came forward, farmers came forward and  
8 said, I now want to be registered as a farmer. Fishermen came  
9 and got their licence. But do you accept that payments were  
10 made to farmers who were not registered and fishermen who were  
11 not licensed?

12          A. I would--Mr Commissioner, you're looking at processes,  
13 so that's a loaded question, although it seems simple, but I  
14 want to answer it like this. If you check the Department of  
15 Agriculture's registration, I think it's from 2007 to  
16 2020--don't quote me on the exact number because I remember  
17 doing some research on my own, that's why--there was only about  
18 500 persons registered, and also they claim that not much was  
19 done since Irma and Maria in the ways of registration. But in  
20 our country, there is a lot of persons that are known fishermen  
21 and farmers.

22          Q. No. Premier--

23          A. Yeah.

24          Q. --I understand that because that's--

25          A. I will come to that.

1 Q. --that's what--

2 A. Yeah.

3 Q. --Dr O'Neal-Morton explained. But the issue is this,  
4 because what you have is you have--if the Commissioner accepts  
5 the Auditor General's evidence that at the start of this  
6 process--and this accords with the Preliminary Report that I  
7 took you to--

8 A. Um-hmm.

9 Q. --the qual--if we take farmers, for an example,  
10 fishermen, the qualifying criteria was that you had to be  
11 registered with the Department of agriculture or you had to  
12 produce a notarised letter. With fishermen, it's same thing:  
13 Are you licensed or do you have a notarized letter? So, you  
14 could come along with a letter from a fit and proper person  
15 saying, "I have been fishing commercially for the last three  
16 years", and this was targeted at commercial enterprises,  
17 commercial individuals, not--and to quote from your own  
18 Preliminary Report--not backyard farming. So, that's the  
19 situation. Right at the start of the process, these are the  
20 qualifying criteria you've put in.

21 If the Commissioner accepts the Internal Auditor's  
22 evidence on what she found, it's that payments were made to  
23 people who did not meet those criteria.

24 A. Well--

25 Q. Now, accept--

1 A. Um-hmm.

2 Q. --that, you know, as the process comes on, somebody  
3 could come along and go, I would like to be registered.

4 A. Um-hmm.

5 Q. Or somebody could come along and go, I need to be on  
6 your database in the Department of Agriculture and you missed me  
7 out. For whatever--somebody could regularise their position,  
8 but the reasons you've explained, but it's taking you back to  
9 that beginning point. Do you accept that payments were made to  
10 people who did not appear--did not meet those qualifying  
11 criteria?

12 A. I can't say that, Commissioner, not saying whether  
13 "yes" or "no". I cannot answer because I didn't deal with  
14 payments.

15 Q. That's fair enough, Premier, but can I ask you this--

16 A. Um-hmm.

17 Q. --then: In one respect in relation to the back-ending  
18 element of it--

19 A. Um-hmm.

20 Q. --you explained how there is now this Committee which  
21 is going to check accountability.

22 A. Um-hmm.

23 Q. But is it--is part of its check of accountability  
24 going to see whether a recipient of a payment was qualified for  
25 it?

1           A.    If they were qualified?

2           Q.    Let's assume that part of the process, a farmer gets,  
3 let's say, \$10,000, whatever sum you want to pick. That person  
4 had been given it under the scheme. He or she will now have to  
5 account to the Premier's Office for how they've expended that  
6 money. That's the back-ending of accountability. They will  
7 have to explain to you--

8           A.    Um-hmm.

9           Q.    --and you will have to be satisfied that they've done  
10 it.

11          A.    Right.

12          Q.    But does part of your satisfaction involve confirming  
13 that they are, in fact, a commercial farmer?

14          A.    Well, I'll put it this way: I can't say exactly what  
15 all is in it, but I would hope if it is somebody that was not  
16 captured as a registered farmer that the exercise will also help  
17 us to boost our numbers to have them regularised because, in  
18 this exercise, can--because they're going to account for the  
19 money, that's one thing. But we have to make sure that more of  
20 our people who are doing it who may not--if that is the case,  
21 who are not on it get on the Register because one of the things  
22 that we found, even though I was in the Opposition in Irma and  
23 Maria and now as Premier with the COVID, we have a lot of our  
24 people that we know in certain industries but they  
25 weren't--didn't regularise themselves properly.



1           So, when the time came especially for COVID, they went  
2 to apply, for example, unemployment benefits, et cetera, but  
3 they weren't paying any Social Security, so they thought that  
4 the answer that was whether it's fishing or whatever they were  
5 doing that they could just go and collect that money, but  
6 because they were not captured in the system, there was no money  
7 to come out.

8           So, this is something that we're experienced with a  
9 lot of our people, and it's not unique to the BVI, but the  
10 pandemic has brought it to light more.

11           So, this now allowed from the time the Programme was  
12 announced before money ever come into the coffers of Government  
13 to do the grants, persons started to try to get to register, and  
14 we saw a 25 percent increase in persons--I think it's 25--it was  
15 more than 20 but it was around 25--increase in the  
16 amount--number of persons who registered as fishers and farmers  
17 that didn't register, and still, I would suspect, Mr Rawat, I  
18 would suspect that there is some more; and if they got funding,  
19 I would suspect that a country in the middle of a crisis would  
20 say, Listen, I thank you for accounting for the money that you  
21 have, but we want to get you regularised so that if anything  
22 happen again, that you will be already paying into the system so  
23 you can get what is yours, because these things bring up  
24 anomalies when you have the worst crisis in a hundred years, and  
25 you're going to find some anomalies.

1 Q. You've given the other side of the coin.

2 A. Yes.

3 Q. And I understand the explanation and--

4 A. But I never talk on all of that as you said until you  
5 said it, you know. So I have to check the paper to see what's  
6 in there to see how you account for that.

7 Q. But the--I'm asking my questions on the basis that  
8 it's policy for you.

9 A. Yeah.

10 Q. And you may not know the fine detail, but it's just a  
11 suggestion that if you are going back to people--

12 A. Yeah.

13 Q. --and saying you now have to account for the funds--

14 A. Yeah.

15 Q. --does not part of that process involve asking them,  
16 Are you, in fact, a commercial farmer or a confirmed fisherman?

17 A. Well, if it's not one, I don't remember what's there.  
18 But if it's not one, is one that we have to consider because  
19 it's going to help us, because what you said there is good  
20 because it's going to help them and it's going to help the  
21 country because they could get further benefits.

22 But there's something, Commissioner, if you may, that  
23 you said you were going to allow me to--

24 COMMISSIONER HICKINBOTTOM: Can I--

25 THE WITNESS: It's going to be very short.

1 COMMISSIONER HICKINBOTTOM: No, I'm sure it's very  
2 short, Premier, and I'll listen to it.

3 THE WITNESS: Um-hmm.

4 COMMISSIONER HICKINBOTTOM: Could I just ask you one  
5 last question?

6 THE WITNESS: No problem for you, Commissioner.

7 COMMISSIONER HICKINBOTTOM: It's a very similar  
8 question--

9 THE WITNESS: Um-hmm.

10 COMMISSIONER HICKINBOTTOM: --to the one Mr Rawat's  
11 asked you, but it's in the context of the churches and schools  
12 programme.

13 THE WITNESS: Yes.

14 COMMISSIONER HICKINBOTTOM: You've put in a robust  
15 response to the Auditor General--

16 THE WITNESS: Yes.

17 COMMISSIONER HICKINBOTTOM: --which is with appendices  
18 something like 900 pages long.

19 THE WITNESS: Yes.

20 COMMISSIONER HICKINBOTTOM: And you've been severely  
21 critical of the Auditor General.

22 THE WITNESS: Not critical. I'll put a difference of  
23 opinion. Yeah.

24 COMMISSIONER HICKINBOTTOM: Yes.

25 THE WITNESS: That's my layman language.

1 COMMISSIONER HICKINBOTTOM: Yes. Okay. I think I'll  
2 stick to "critical" but--

3 THE WITNESS: Okay.

4 COMMISSIONER HICKINBOTTOM: --I hear your version.

5 But the Auditor General, as I said before, is--and  
6 this is with great respect to what she does, which is both  
7 important, it's constitutionally important, and it's also not a  
8 straightforward job, but it is a job simply of auditing.

9 So, in relation to Religious Organisations and  
10 Schools, she will have looked at the policy, which is the policy  
11 set out in the Cabinet Decision, and that policy is to assist  
12 religious organisations and schools with re-opening costs. She  
13 will have looked at how the money was distributed and seen a  
14 complete mismatch between the policy--the Authority under which  
15 the money was paid out, and how the money was paid out.

16 She did not know of the Policy change which was, as I  
17 understand it, entirely oral between you and the Permanent  
18 Secretary, and was many, many months away of even appearing in a  
19 Cabinet Paper to be approved by Cabinet.

20 So, in terms of an audit function, don't you have some  
21 sympathy with her Report?

22 THE WITNESS: For saying that we give the money to the  
23 churches? You have that part, Mr Rawat? Read what the Auditor  
24 General said we did it? That's a heavy criticism, is it not?

25 COMMISSIONER HICKINBOTTOM: Well, I'll come to that,

1 and Mr Rawat will find it but--

2 (Overlapping speakers.)

3 THE WITNESS: (Unclear.)

4 COMMISSIONER HICKINBOTTOM: No, no, he--

5 THE WITNESS: --find it for me and tell me where in  
6 the bundle so I could read it, so I could refresh my memory with  
7 the exact words.

8 COMMISSIONER HICKINBOTTOM: He will find it and he'll  
9 read it out.

10 THE WITNESS: Yes.

11 COMMISSIONER HICKINBOTTOM: But just before we get to  
12 that, which is right at the end of her Report in--as a result of  
13 her conclusions and her recommendations--

14 THE WITNESS: Um-hmm.

15 COMMISSIONER HICKINBOTTOM: Given the Authority, which  
16 is in the Cabinet minute, given how the money was distributed  
17 and the lack of transparency and accountability and authority  
18 for the payments, don't you have some sympathy generally with  
19 the Auditor General's Report?

20 THE WITNESS: Commissioner, who has sympathy for when  
21 this whole Inquiry was launched on me, when my wife and my  
22 picture in front of marijuana drugs and have the world thinking  
23 that the BVI has a Premier that's a drug lord and a drug cartel?  
24 Who have sympathy on me?

25 BY MR RAWAT:

1 Q. How was that the responsibility of the Auditor  
2 General?

3 A. No, no. I want to state that every time I'm asking  
4 it's about somebody else. But there's a lot I went through, and  
5 I'm gonna tell you what it states with Auditor General. What  
6 was the rush? What was the rush with the Report, Commissioner?  
7 I did not know the rush was that she was coming to the  
8 Commission of Inquiry.

9 (Overlapping speakers.)

10 A. I didn't know about the Report. What was the rush  
11 with the Auditor General's Report trying to do a report in the  
12 middle of the worst pandemic in the last 100 years and speeding  
13 it up. Nobody understand the acceleration 'til afterward. Now,  
14 when I realise that we have a report in front of the Commission  
15 of Inquiry, it didn't come to Cabinet, it didn't come to the  
16 House of Assembly, but it come to the Commission of Inquiry and  
17 before that the same things it is trying to allude to and what  
18 Dominic Raab said he went to the House of Commons. It's all  
19 related.

20 So I have to come here to clear my Government and my  
21 name. We have to clear the people of the Virgin Islands' name.  
22 We take no money. We don't have any money in account. It  
23 didn't went to friends and special political allies, and--it did  
24 not happen. We didn't give it to churches so that the churches  
25 could be politically beholden to the Government. How these

1 things are made irrational and irresponsible statements because  
2 it seemed like we are not without shell. I have to come here  
3 today to bring clarity, to bring context to these texts to clear  
4 the name of the people, and even the Public Officers.

5 If you tell me that, Commissioner that, things might  
6 have been done differently, that's for our Government's  
7 COVID-19, but to say that monies are missing and that we are  
8 trying to bribe--basically what you're being told, you're trying  
9 to bribe the churches, and that I must have--I must--let me put  
10 it this way, Commissioner, let me put this way because you  
11 structured the question in such a way that--you play chess?  
12 Okay, good. So I can't bring you the chess example. You  
13 structured it is a kind of funny move.

14 I respect the Office of the Auditor General. I will  
15 never disrespect the Office of the Auditor General. The Office  
16 of the Auditor General will always come being critiqued, but so  
17 will the Premier. But at the same time, though, when you make  
18 certain inferences that are not based on allowing the truth to  
19 come forward, because I don't know what happened with the  
20 Auditor General saying this and saying the PS said that. That's  
21 not where I was involved.

22 But I would know and I would take it, Mr Rawat, just  
23 like you came here today and say, Premier, and let us at least  
24 get this done. When you deal with people's name, take your time  
25 and come and say, Listen to me, Permanent Secretary. Based on

1 what I've seen, this is what I'm going to write. I know it's  
2 the worst pandemic in 100 years, but allow me to sit with you,  
3 whatever it is, get on the phone and like two reasonable,  
4 rational professionals and say, Let us look at it.

5           If what you're giving me still doesn't add up, I have  
6 to go ahead. But I don't want to do this just like so because  
7 this is not a regular time. This is not normal time. This is  
8 in the middle of the worst pandemic. Our people are suffering.  
9 And we have a lot of political talk on this COVID-19. Some  
10 Members of the Opposition stating what's happened, what they  
11 have a lot of political talk. But then when you come down to  
12 it, where can you find anybody who received that funds who don't  
13 have account for it? None. Where could you find anybody that  
14 said I give a politician a kickback and it's true? I can't stop  
15 persons from talking. None. But there are people who believe  
16 it, and there are people who are tarnishing our names, and,  
17 Commissioner, I feel we need an apology from the Foreign  
18 Secretary because they put all children and abroad at risk,  
19 because we have one where persons telling one about children  
20 that you father down there with the money, they put our family  
21 at risk and nobody is studying that for us because we're  
22 studying processes.

23           And the way this was done, Commissioner, lends itself  
24 towards destabilizing our country because persons are going to  
25 form opinions which they already have. The Premier and his



1 Government, gone with the money. Some may be saying, no, they  
2 ran through the money. But now is when I could come here and  
3 get out the truth, and I thank you, Commissioner, because you  
4 didn't have to put up with me today saying all of this, but at  
5 least you were able to hear my side.

6 Now, Commissioner, "sympathy" is a word.

7 COMMISSIONER HICKINBOTTOM: But, Premier, I want to  
8 hear your side.

9 THE WITNESS: But I have given it to you.

10 COMMISSIONER HICKINBOTTOM: But no, and it's been  
11 helpful.

12 THE WITNESS: Yes.

13 COMMISSIONER HICKINBOTTOM: Because--

14 THE WITNESS: But it's hurtful. It's helpful for you  
15 but hurtful for me--

16 COMMISSIONER HICKINBOTTOM: Well--

17 THE WITNESS: --to know that I have to live a life  
18 where internationally gone over the BVI's name has been  
19 tarnished. I am like a duck on the pond, Commissioner. Looking  
20 good on top but paddling hard underneath to get back our  
21 reputation.

22 COMMISSIONER HICKINBOTTOM: But with the benefit of  
23 hindsight--

24 THE WITNESS: Which is 20/20.

25 COMMISSIONER HICKINBOTTOM: Which is 20/20.

1 THE WITNESS: Um-hmm.

2 COMMISSIONER HICKINBOTTOM: --with the benefit of  
3 hindsight, Premier--

4 THE WITNESS: Um-hmm.

5 COMMISSIONER HICKINBOTTOM: --just taking the churches  
6 as an example, but the farmers and fishermen would be an equal  
7 example, with the churches, as I think we've established, the  
8 authority of the Cabinet to spend money was in respect of  
9 re-opening costs. At some point during the Programme, for  
10 reasons which you've set out--we don't have to go over them  
11 again--the Policy changed. It changed as a result of a  
12 conversation between you and the Permanent Secretary. It has  
13 not yet been ratified by--

14 THE WITNESS: Adjusted, policy adjusted.

15 COMMISSIONER HICKINBOTTOM: Well--

16 THE WITNESS: Some are still going to be reopening,  
17 and some re-opened and social, so "adjusted" would be a better  
18 word.

19 COMMISSIONER HICKINBOTTOM: Well, it's certainly  
20 different.

21 THE WITNESS: Yes.

22 COMMISSIONER HICKINBOTTOM: The Policy changed--

23 THE WITNESS: Mm-hmm.

24 COMMISSIONER HICKINBOTTOM: --and it changed as a  
25 result of a verbal conversation between and you the Permanent

1 Secretary, which resulted in the expenditure of a lot more money  
2 on churches, as you say, that meant a change in the envelope.  
3 It took money from other possible recipients and gave it to the  
4 churches because the envelope was limited. The whole envelope  
5 was limited.

6 THE WITNESS: Took money from other?

7 COMMISSIONER HICKINBOTTOM: You had a limited fund of  
8 \$40 million.

9 THE WITNESS: Um-hmm. Right.

10 COMMISSIONER HICKINBOTTOM: As a result of this change  
11 of policy, more money was spent--a lot more money was spent on  
12 churches--

13 THE WITNESS: Right.

14 COMMISSIONER HICKINBOTTOM: --than was expected and  
15 was presented to Cabinet at the outset. That is, as you say,  
16 can be changed by moving money within the \$40 million.

17 THE WITNESS: 17.5.

18 COMMISSIONER HICKINBOTTOM: From--whatever it is.

19 THE WITNESS: No but--

20 COMMISSIONER HICKINBOTTOM: 17.5--

21 THE WITNESS: Thank you.

22 COMMISSIONER HICKINBOTTOM: --but the point is even  
23 more pointed.

24 THE WITNESS: Um-hmm.

25 COMMISSIONER HICKINBOTTOM: So, as a result of this

1 change of policy--

2 THE WITNESS: Sorry, 22.5, sorry.

3 COMMISSIONER HICKINBOTTOM: But as a result of the  
4 change of policy, money was moved from one pot to another pot.  
5 It was moved to the churches, but it was moved out of another  
6 pot.

7 THE WITNESS: Adjusted, yes.

8 COMMISSIONER HICKINBOTTOM: It was moved out of one  
9 pot and put in another pot.

10 THE WITNESS: And that was a policy adjusted.

11 COMMISSIONER HICKINBOTTOM: And that was a policy  
12 decision but not one at the moment that's been ratified by  
13 Cabinet.

14 THE WITNESS: Right.

15 COMMISSIONER HICKINBOTTOM: It was done--

16 THE WITNESS: But I must add this didn't come in.  
17 Remember, though, as--who Cabinet is. Cabinet is the five  
18 Ministers making decision, so I would not have done this in  
19 isolation of my Government and also--all discussing all the  
20 time. All of us have been in discussion, so you would have one  
21 where you know when get Cab--go to Cabinet you have basically  
22 from now the tacit approval because it's ongoing.

23 COMMISSIONER HICKINBOTTOM: Premier--

24 THE WITNESS: Um-hmm.

25 COMMISSIONER HICKINBOTTOM: I accept that you have

1 confidence that when the matter is brought back to Cabinet they  
2 will approve retrospectively the Policy.

3 THE WITNESS: Um-hmm. Right.

4 COMMISSIONER HICKINBOTTOM: I'm not questioning that.

5 But with the benefit of hindsight, do you not think  
6 that a greater amount of transparency, a greater amounts of good  
7 governance would have assisted?

8 THE WITNESS: I can't agree with that at all. I would  
9 say in hindsight that a greater amount of professionalism by all  
10 involved in the middle of the worst pandemic in last 100 years  
11 would not even have us here discussing this. I do not see where  
12 the urgency of the Audit was. It was nothing--Chicken Little  
13 wasn't burning up. The hospital wasn't burning up. What is the  
14 urgency with that Audit Report and why didn't it go to Cabinet?  
15 Why didn't it go to the House of Assembly? How come it was  
16 rushed to get here at the Commission of Inquiry as a first stop?

17 If the truth was the intention to come out, then  
18 cooler heads would have prevailed and persons would have sit  
19 together, and then even if you don't agree, then you could have  
20 come and say, Well, thank you for letting me know the policy was  
21 changed with the discussion that didn't go to Cabinet yet. I  
22 would still be writing that this is not something that I would  
23 approve but please make sure it goes to Cabinet.

24 Cooler heads in the middle of the worst pandemic in  
25 the last 100 years would cause us not to be here. I'm not,

1 Commissioner, with due respect, could conclude what you have  
2 concluded because we're in charge of policy, and you can't audit  
3 policies like that. That's outside of the domain even of the  
4 Auditor General, and we were in the middle of a crisis that  
5 cannot be exempted from this report. Somebody had to lead,  
6 Commissioner. The tail couldn't wag the dog in this thing. The  
7 dog had to wag the tail.

8           And with that in mind, we still have issues,  
9 Commissioner, with persons who cannot pay their rent. We still  
10 have major social issues that we're trying to look at because  
11 COVID is not over.

12           So, for that kind of audit to be rushed--I call it  
13 "rushed"--and reach in without all sides' professionals sitting  
14 down and saying, Look, I know that whatever happened in the  
15 past, let us sit down together as professionals and come and let  
16 me hear exactly what happened.

17           What is wrong with picking up a phone, our  
18 professionals and whatever? That's not something for me as  
19 Premier now to be here answering. Cooler heads was to prevail.  
20 What are you doing now, Commissioner, is correct. You come in  
21 and ask my side. You bring in the other side. You bring in  
22 whatever. Whatever that issue was, I don't know what the issue  
23 was. But I feel now as Andrew Fahie, speaking Andrew T Fahie,  
24 if cooler heads had prevailed and professionalism was the  
25 ordeal, was the order of the day, we would be here under

1 different premises. Because of all of what has happened, some  
2 persons' reputation has been damaged internationally, and  
3 irreparable damage, might I add, in some quarters.

4 So, you have people now who elected will be walking  
5 probably down the road in England or somewhere and they spot him  
6 and say, Where is he from? BVI? Oh, look at that. That's the  
7 one with now \$40 million in a grant.

8 And it wouldn't be so.

9 So, irreparable damages have been caused to people's  
10 reputation, thinking that this money has been stolen. That is  
11 why it is, because the Terms of Reference says what you're  
12 operating from, Commissioner, that is what your Terms of  
13 Reference is saying. And there's no proof that exists that  
14 money is missing, and Andrew T Fahie and his Government don't  
15 have it. When they go to the people, the people that account  
16 for it, and if they want to go to the church after this, a  
17 church ceremony, they will account for it, or the business, they  
18 will account for it. The transportation people, they will  
19 account for it. The supermarkets that got the money, they'll  
20 account for it. The hotels that got the money, they will  
21 account for it. I have none, and I come to clear my name and  
22 the country's name.

23 And while at it, Commissioner, I thank you so much.  
24 Commissioner, I really admire the patience you have with me but  
25 I have to get this out because I was burning. I did some

1 research there because you said you're looking at the BVI. But,  
2 Commissioner, when I appeared before this Commission of Inquiry  
3 yesterday, if I may 'cause you promised me I could elucidate the  
4 end of this part. I ask for at least parity of treatment  
5 against the UK and how the BVI and past, present BVI Government  
6 are judged for how we handle certain issues versus how the UK  
7 Government handle certain issues and I'm glad that it was--that  
8 you brought it up in terms of anywhere else.

9           When it comes to how this extraordinary situation of  
10 COVID-19, the worst pandemic to hit the world in over 100 years,  
11 come in without a playbook, killing millions of people,  
12 crippling healthcare systems and economies and continuing to be  
13 unprecedented, forced us, as it did with all other governments,  
14 to adopt extraordinary measures and procedures, similar parity  
15 must be afforded to us.

16           And I say that parity and equity are essential. Even  
17 though when you look at the track record of the UK Government,  
18 who called this Commission of Inquiry, and how it has handled  
19 its economic stimulus and social support programmes, how it has  
20 failed to have accountability, transparency, and value for money  
21 and other governance issues surrounding COVID-19, I think you  
22 will find that the BVI with our imperfections do not fail or  
23 fall into that same barrel as the UK. Have we faced similar  
24 challenges as the UK? Yes. Have we been forced to employ  
25 extraordinary and innovative measures as the UK? Yes. Have we



1 been forced to leave certain administrative steps which would  
2 normally have been done at the front end to be dealt with in the  
3 back end as the UK did it? Yes.

4 But was there blatant corruption or any corruption  
5 that BVI's COVID-19 economic Stimulus Programme as we have seen  
6 revealed occurring in the UK with a Conservative Government's  
7 VIP lane fast-track, where party supporters and financiers have  
8 gotten preferred access to billions of dollars in Government  
9 contracts in the areas where they have zero background  
10 experience? The answer is no. And I'm appealing to you,  
11 Commissioner, in the context of whom is the BVI supposed to  
12 pattern and set up good governance back bench--benchmarks and  
13 standards, and against whose standards and benchmarks is the  
14 BVI's governance going to be measured? If it is the UK's, then  
15 I can tell you that we have no VIP lane fast track for party  
16 supporters in our governance system as any official policy.

17 So, therefore, if it is the UK standard, then the BVI  
18 would have exceeded those standards by several thousand  
19 percentage points.

20 And you may ask yourself, Commissioner, Why is this  
21 relevant? Well, I'm glad you asked, and I'll tell you why. It  
22 is because for the past 19-odd months, I've been leading a  
23 Government in a Territory through the worst pandemic in over 100  
24 years, and this is on the heels of two back-to-back hurricanes  
25 that devastated our homes, businesses, infrastructure, and our

1 economy. When I speak with other world leaders and country  
2 leaders, we understand each other's experiences because we have  
3 been there in that position. Someone who has not led a country,  
4 far less through a crisis, can never know what it is to do that.

5 And, Commissioner, in trying to figure out what I have  
6 done wrong, I've tried to look at UK, which many at home and  
7 abroad feel is a superior standard, and my research directed me  
8 last night to House of Commons Public Accounts Committee report  
9 titled "COVID-19 Government Procurement and Supply of Personal  
10 Protective Equipment 42nd Report of Session 2019-2021",  
11 published in February 2021. The background, Commissioner, was  
12 that, in light of the COVID-19 pandemic on 31 July 2020 the UK  
13 Government awarded 8,000 contracts for goods and services worth  
14 \$18 billion--£18 billion, sorry. They wanted to build up a four  
15 months' stockpile of personal protective equipment, PPE, so that  
16 6,900 work for PE--PPE total, total value of £12 billion.

17 The purpose: To identify suppliers which could  
18 provide this PPE to support new UK manufacturers that had not  
19 previously made PPE. And to distribute the PPE to care  
20 providers, the Department created a parallel supply chain, and  
21 that's on page 5 if you want to check.

22 In terms of transparency, it was quoted (reading):  
23 Transparency also helps to ensure accountability for procurement  
24 decisions, particularly when no competition is involved.  
25 However, the details are fewer than half of the contracts

1 awarded before the end of July with a value of £25,000 had been  
2 published by 10th November and only 25 percent were published on  
3 contracts found within the Government's target of 90 days".

4 That's on page 5, also. End of quote.

5           Fast lane, the Ministers refers: Government PPE  
6 buying team within the parallel supply chain received over  
7 15,000 offers to supply PPE. This cross-government PPE buying  
8 team set up a high priority lane to separately assess and  
9 process high priority lanes that if--that it considered more  
10 credible would set alongside ordinary lane to process other  
11 leads, leads that were considered more credible were those from  
12 Government Officials, Ministers, Officers, MPs and Members of  
13 the House of Lords, but it is not clear why this assumption was  
14 made. The priority lane did not include organisations with  
15 expertise in the health and social care sector that had existing  
16 relationships with suppliers through their Members or directly  
17 and were well-placed to assess the credibility of potential PPE  
18 suppliers such as the British Medical Association.

19           A Round 1 in ten suppliers that came through the  
20 high-priority lane were awarded a contract compared with one in  
21 a 100 for the ordinary lane. There were no written rules to  
22 support those making referrals in deciding which leads to put  
23 forth. The same eight-stage process for assessing and  
24 processing offers were supplied to both lanes by the Cabinet  
25 Office, and the Department accepted that leads that went through

1 the high-priority lane were held better, and that's on page 7.

2 In terms of systemic racial discrimination, and I'm  
3 quoting from the Report (reading): Black, Asian, and minority  
4 ethnic name staff are more likely to report experiencing PPE  
5 shortages, feeling pressure to work without adequate protection,  
6 and not being fit, tested for respiratory mask. A third of BAME  
7 doctors reported experiencing PPE shortages compared with  
8 14 percent of white doctors. Similarly, almost half of BAME  
9 nurses said that they have not been fit tested for respiratory  
10 masks compared with 74 percent of white nurses. That's on page  
11 8, if you want to refer.

12 Feeding frenzy. The Department ordered 32 billion  
13 items of PPE. It intended to build a stockpile that could last  
14 four months. Based on the rate PPE was used between March and  
15 July 2020, the amount of PPE that the Department had ordered  
16 could last five years. That's on page 9, if you want, the  
17 reference.

18 Unusable PPE. Hundreds of millions of dollars wasted  
19 and I quote (reading): The Department has wasted hundreds of  
20 millions of pounds on PPE which is a poor quality and cannot be  
21 used for the intended purpose. That's on page 9.

22 At the time of our evidence session, some 195 million  
23 items of PPE had been identified by the Department as being  
24 potentially unsuitable for the intended purpose. That's on  
25 page 10.

1 Failures to address procurement risk, and I quote  
2 (reading), Government awarded contracts worth more than  
3 £10 billion without competition and made extensive use of  
4 emergency procurement regulations the very quickly make direct  
5 awards of contracts. The NAO found--the National Audit Office  
6 found that this opened up significant procurement risk including  
7 increased risk of unequal treatment of suppliers and poor  
8 procurement processes. On page 11.

9 Nepotism. Around 1 in 10 suppliers which came through  
10 the high-priority lane were awarded a contract compared with 1  
11 in 100 for the ordinary lane. The Cabinet Office told us that  
12 the total value of contracts awarded to suppliers through the  
13 high-priority lane was £1.7 billion, and that's page 3.

14 I commit to you, Commissioner, because you say what  
15 are we compared to. Access the high-priority lane was based on  
16 recommendations coming from the Government Officials,  
17 Ministers', Officers, MPs, and Members of the House of Lords.  
18 That's page 3.

19 The process did not clearly record information or  
20 referrals. Page 13.

21 The Cabinet office confirmed that of the 47 suppliers  
22 which came through the high-priority lane and were awarded  
23 contracts, 12 were introduced from MPs, 7 from Peers, and 18  
24 from officials. In five cases, the source of the referral was  
25 not known, and one referral was put in the lane in error.

1 Page 13.

2 In closing, this is a standard that we in the Virgin  
3 Islands are supposed to look up to as role models given that  
4 they are the ones who have called and are paying for the  
5 Commission of Inquiry on our actions during COVID-19. This is a  
6 standard that is looking to keep us in check. This is a  
7 standard that went into the House of Commons, to the British and  
8 international media and said: "It is extremely concerned about  
9 the state of good governance in the British Virgin Islands".

10 These are the words of the then-Foreign Secretary  
11 Mr Dominic Raab, 18 January 2021, when he made, quote,  
12 "allegations that funds set aside for struggling families during  
13 the pandemic may have been reallocated to political allies, and  
14 concerns around spending and government contracts without any  
15 proper procurement process".

16 But against that backdrop, when called upon to issue  
17 COI on that, Commissioner, Prime Minister Boris Johnson told the  
18 UK Parliament on 12 May 2021 that it was not the appropriate  
19 time for a Commission of Inquiry in the UK because his  
20 Government needed to focus on the pandemic. The UK economy was  
21 hit. UK people were out of jobs. People were dying, and loved  
22 ones were in grief.

23 Look at the duplicity. Does the Government of the  
24 Virgin Islands and its Public Officers not also have a pandemic  
25 to manage? Does the Virgin Islands economy not need attention?

1 Are Virgin Islands' landowners not also in need of jobs? Do  
2 Virgin Islanders not also know about death and grief?  
3 \$1.7 billion for 47 associates of UK Ministers, MPs, Peers, and  
4 UK Government Officials with no background or expertise in a  
5 particular product. 15 times more supplies purchased than  
6 needed. 195 million items of PPE identified as being  
7 potentially unsuitable for their intended purposes. The UK's  
8 bounce-back loan programme is another policy where the UK  
9 Government understood that speed was a priority and exceptional  
10 measures posed risks that had to be borne to solve the greater  
11 good.

12           The Chancellor of the Exchequer had told the House of  
13 Commons that the Government would deliberately relinquish  
14 ordinary controls, and I quote (reading): "There will be no  
15 forward-looking test of business viability. No complex  
16 eligibility criteria. Just a simple, quick standard form for  
17 business to fill in".

18           The scheme has been discussed as a giant bonfire of  
19 public money. The Office for Budget, the responsibility  
20 predicts losses to fraud and defaulting loans are between  
21 £22 billion to £40 billion. The National Audit Office noted  
22 that Department had relaxed the controls and checks they would  
23 normal have in place to administer and deliver such schemes.  
24 For the sake of speed, this materially increased the risk of  
25 fraud and error.

1           And as I conclude, but they call a Commission of  
2 Inquiry in the BVI. The same entities and they send your lone  
3 fine self and your high-powered team, Commissioner, with due  
4 respect, to grill and perceived as embarrass in some quarters,  
5 deflate and distract our humble hard-working Public Officers,  
6 whose deficiencies to the extent they emanate from the UK's  
7 failure to help with their professional development and  
8 therefore the BVI Public Service, as they agreed to do in the  
9 White Paper in 2012.

10           Commissioner, when the pandemic struck, I wrote to the  
11 then-Governor Jaspert what we went through. A number of  
12 letters, some of which were copied to the then-Minister Baroness  
13 Sugg and I'm going to supply that letter for you. And Prime  
14 Minister Johnson appealed for responds on the system. And this  
15 is--all I'll say is, in other words, the UK money is for the UK  
16 taxpayers and the Virgin Islands people must feed--fend for  
17 themselves. That's the response, although the rest of the  
18 letter was very courteous.

19           And now that we have successfully taken care of the  
20 Virgin Islands people as best as humanly possible with the  
21 limited resources we have given the high demands and still more  
22 to do and protected our economy as best as we could without  
23 having to get loans thus far, and we have seen for ourselves the  
24 strength, ability and resilience of the Virgin Islands' people  
25 to take care of themselves, even as far back as the last



1 administration under the Dr D Orlando Smith when he took care of  
2 the hurricanes and brought us this far for the baton to pass on  
3 myself. The UK and see also from before that with Ralph T  
4 O'Neal, the UK comes to undermine the self-confidence of the  
5 Virgin Islands' people in their own by poking holes in what we  
6 have done through a couple of small projects that have helped to  
7 keep our people out of destitution while turning a blind eye to  
8 the UK's own rampant, institutionalized and systematic  
9 corruption.

10 But my Government and I continue to cooperate with the  
11 UK COI on the BVI because I firmly feel, Commissioner, while  
12 you're only working on your Terms of Reference, and this is  
13 nothing towards you and your team because you have been  
14 assigned, but I formally feel that a transparent Commission of  
15 Inquiry will yield a just outcome, but we ask to work against  
16 our accusers when doing so.

17 Commissioner, I sat last night and I made these bullet  
18 points because I do not take the allegations of my country and  
19 myself lightly. They are serious allegations, and knowing that  
20 not a dime is in our accounts but yet the stain is on our  
21 reputation, we only can pray to the God above, Commissioner.  
22 Respectfully, I put to you, pray to God above to get us to be  
23 vindicated from this.

24 So, Commissioner, that's why I say, when I come in  
25 here most people who work with me, I'm to work from 7:00 in the

1 morning. I take my responsibilities very seriously, and I  
2 realize not to be content to start with every wind that blows,  
3 and that's why I, with this whole thing, I've stayed quiet for a  
4 little while and allow you to do your work, but I cannot sit  
5 idly by and see the reputation of our country be tarnished  
6 without coming to give evidence and putting things into context,  
7 and to give you all the information that I have.

8           Now, you may say, and some of your team that we have  
9 heard also say that, they are not to be guilty before. But,  
10 Commissioner, I don't think you could find a hair. There's not  
11 a dime that will not be accounted for in those grants. And if  
12 someone is caught that has--cannot account, the system will have  
13 to deal with those persons, but I pray God that it never  
14 happened to our people in the Virgin Islands.

15           So, Mr Commissioner, I thank you because you did not  
16 have to allow me to say those words, but I needed to say them to  
17 form part of the record, and also to crave your indulgence to be  
18 etched in the walls of your conscience and your soul and your  
19 legal mind so that we all be married when you are writing your  
20 Report, knowing some of this information.

21           I rest my case.

22           COMMISSIONER HICKINBOTTOM: Premier, you've misled me  
23 because, although shortness is a relative term--

24           THE WITNESS: For a politician.

25           COMMISSIONER HICKINBOTTOM: --that was not short.

1 THE WITNESS: I'm a politician.

2 COMMISSIONER HICKINBOTTOM: Nor, I'm afraid, Premier,  
3 was it relevant to my Terms of Reference.

4 THE WITNESS: It very much is.

5 COMMISSIONER HICKINBOTTOM: There are platforms for  
6 political rhetoric--many of them--but, Premier, this is not one  
7 of them.

8 THE WITNESS: It is.

9 COMMISSIONER HICKINBOTTOM: This is not a platform for  
10 political rhetoric. This is a Commission of Inquiry for me to  
11 investigate those matters that fall within my Terms of  
12 Reference.

13 The manner in which the United Kingdom has dealt with  
14 COVID-19--the COVID-19 crisis is not within my Terms of  
15 Reference. I have enough to do to hear the evidence, come to  
16 conclusions, and make recommendations on those Terms of  
17 Reference. That is, in itself, a challenge enough. And I will  
18 continue to focus on governance. I'll continue to focus on  
19 information which may disclose serious dishonesty in public  
20 office in the BVI. And if I find that information, that will  
21 then appear in my Report. I will not be deflected by political  
22 rhetoric. I will not be deflected by inappropriate comparisons  
23 with other places. I will stick to my brief, and I am wholly  
24 focused on meeting my Terms of Reference.

25 And, Premier, with respect, I have been patient, but

1 my patience is not infinite. That was a prepared speech. It  
2 was not in response to any questions, and it was a speech of a  
3 political nature which I did not find helpful in considering the  
4 Terms of Reference which I have to do.

5 If you feel moved to read such a speech out again,  
6 then I would ask you, through the Attorney General, to let me  
7 have a copy of it so I know what is going to be said.

8 And I'd also ask, Mr Olympitis, did you know that the  
9 Premier was going to make this political speech?

10 MR OLYMPITIS: No, Commissioner.

11 COMMISSIONER HICKINBOTTOM: Well, could, through you,  
12 I ask you to provide a copy of that, let's say, over luncheon  
13 adjournment in the next 30 minutes. I would like to see a  
14 printed copy. There is no reason why I could not have been  
15 provided with a printed copy beforehand. It may have shortened  
16 matters.

17 What I'll do otherwise now is I'll break for lunch and  
18 we'll back at five past 2:00.

19 Thank you, Premier.

20 THE WITNESS: Thank you so much, Commissioner,  
21 although I defer what I think.

22 (Recess.)

23 COMMISSIONER HICKINBOTTOM: Mr Rawat?

24 MR RAWAT: Thank you.

25 BY MR RAWAT:

1 Q. Premier, if I may, I would like to just move on to a  
2 different topic.

3 A. Okay.

4 (Pause.)

5 Q. And that is the contracts that were awarded to a  
6 consultancy operated by Claude Skelton-Cline between 2019 and  
7 2021.

8 Once again, this is another topic where you have been  
9 sent, as Premier and Minister of Finance, a Warning Letter.

10 And if I could just have a moment.

11 (Pause.)

12 Q. Yes, the Warning Letter dated 23rd of September 2021.  
13 Do you have a copy of that letter, Premier?

14 A. Yes, I was provided a copy.

15 Q. Thank you. And do you have a copy of the Written  
16 Response that you have provided as well?

17 A. Yes, I have that, and my own that was given to me on  
18 my own.

19 Q. When you say you have your own, is that your own copy  
20 of the Written Response?

21 A. Of the same thing that you have, I printed a copy for  
22 myself.

23 Q. Thank you.

24 Can we confirm for the purposes of the record that  
25 that Written Response carries your signature and is dated the

1 4th of October 2021?

2 A. Yes, it is.

3 Q. And are you content, Premier, that it stands as your  
4 part of your evidence before the Commissioner?

5 A. Yes, I am. Yes, I am.

6 Q. Thank you. Sorry.

7 MR RAWAT: Commissioner, it's quite a lengthy response  
8 because it runs to some 14 pages.

9 COMMISSIONER HICKINBOTTOM: Yes.

10 MR RAWAT: I don't propose to read it out. What I  
11 might just to give ourselves some context for what's to follow  
12 is just to summarise it very quickly.

13 COMMISSIONER HICKINBOTTOM: Certainly.

14 BY MR RAWAT:

15 Q. In outline in your Written Response, Premier, you saw  
16 the following: First, that the potential criticisms--and if I  
17 should explain that at the heart of the potential criticisms,  
18 that none of the three contracts that were entered into with  
19 Grace Center or Grace Consulting resulted in a benefit to the  
20 public or a best no substantial benefit to the public compared  
21 to the sums expended.

22 The first point you've made in response is that the  
23 potential criticisms are founded on a misunderstanding because  
24 you were engaging Mr Skelton-Cline in effect as a Special  
25 Advisor, and you described that role as an essential tool of

1 modern Government, and you say and this is a point that's been  
2 made by others who have given evidence on this is that his  
3 Contract would not have been one that was appropriate for a  
4 public procurement process.

5           The second point you make is that you were, having  
6 come into office in February 2019, on the lookout for persons  
7 who could help you originate and develop policy initiatives to  
8 fulfill your manifested privileges and one priority for what  
9 your Government was attracting new investment and economic  
10 activity.

11           Third, you explain that Mr Skelton-Cline approached  
12 you with a proposal to be your "Strategy Advisor". He made a  
13 short presentation to you and then suggested he could provide  
14 strategic and policy advice. Amongst the ideas that he  
15 canvassed with you in that short presentation was the return of  
16 the Dolphin Discovery Company, developing cruise ship  
17 capabilities, a sea plane excursion service, and Prospect Reef.

18           Fourth, you then explain that having taken soundings,  
19 considered the matter and satisfied yourself that  
20 Mr Skelton-Cline was in line, if you like, with your goals and  
21 aspirations. You then instructed officials to request him to  
22 submit a written proposal.

23           Now that we know that the first contract was six  
24 months and you then speak in your Written Response as to the  
25 first six months. You say that you met with Mr Skelton-Cline

1 regularly. He came up with the medical marijuana idea. He then  
2 also, you point out, chaired the Special Committee on cruise  
3 tourism, which is something that he has spoken about when he  
4 gave evidence. He acted as intermediary with the Port Authority  
5 and its Managing Director, and that was on your behalf. And he  
6 took responsibility for a programme which is--went by the title  
7 "1,000 Jobs in 1,000 Days".

8           You also explained that from time to time you would  
9 approve other matters for Mr Skelton-Cline to work on and, you  
10 consider that having re-read the Report that he put in at the  
11 end of his six months that it represents a reasonable summary of  
12 his work and that Mr Skelton-Cline had proved useful. You  
13 therefore, decided, you say, to continue on the same basis.

14           Now, when you then went into a second contract with  
15 him and ultimately a third, what you did was to specify that you  
16 wanted regular reports. You also set what you describe as an  
17 ambitious goal of revenue generation of \$5 million. You make  
18 the point in your Written Response that this was not a political  
19 sinecure, it was--and your communication with Mr Skelton-Cline  
20 was business for purposes of performing your work as a Minister  
21 and as Premier.

22           Seventh, you--one of the matters that you specifically  
23 reference as Mr Skelton-Cline developing, was that he organized  
24 a meeting with Sir Richard Branson and others and acted as a  
25 facilitator at that meeting. You say that you consider his 22nd



1 of January 2020 report to be a reasonable summary of his work,  
2 but you always reference work that he did in relation to the  
3 ports which is now, you say, being taken forward with the Ports  
4 Authority Board.

5           You also referred to the impact on lockdown on  
6 Mr Skelton-Cline's ability to deliver under the contract. But  
7 you say that reports that he provided in June and December of  
8 2020 were, in your view, reasonable, and you referred to his  
9 role on the Economic Advisory Council.

10           The 9th point that you say was that you considered  
11 that Mr Skelton-Cline was a valuable support to you and that it  
12 wasn't fair. This is at the point when you came to the end of  
13 the second contract. Your conclusion was that he had provided  
14 valuable support. It wasn't fair to hold him to the targets  
15 that had been set in that contract, and you renewed his contract  
16 for another 12 months.

17           And I think by the date of the actual Written  
18 Response, Mr Skelton-Cline's third and last contract had  
19 finished and you say that you are at present considering whether  
20 his appointment should be renewed again. But if it is, it's  
21 likely, you say, to take the form now allowed for under  
22 Cabinet's recent decision which is to recognize and provide for  
23 a special post which is as Special Advisors to Ministers.

24           The evidence that others have given, and by others I  
25 mean in particular Ms Elvia Smith-Maduro, she said that in the

1 past there wasn't this post within Government, Special Advisor,  
2 and such advisors were paid under the Consultant budget.

3 So, against that background, is it right that it was  
4 your decision to engage Mr Skelton-Cline?

5 A. There is a rule that Mr Skelton-Cline plead which was  
6 always clear to me from the time he came in, recognising that,  
7 as I said in my statement, that I was--capacity issues in the  
8 Public Service, and there was the need to diversify the economy.  
9 There was the need to even stimulate the economy more and the  
10 role was similar to what is now the Ministerial Political  
11 Advisor. At that time I wouldn't have had the name. That idea  
12 is what was the sole intention.

13 The main intention, advising on policy based on the  
14 Government's agenda and what advisors in a Policy Unit would do,  
15 similar to what is done again, as I stated, because my reference  
16 is the UK, I asked them to let it be similar to that.

17 The issue at that time before taking office, the only  
18 thing that the service in terms of Public Officers was just to  
19 do a consultancy contract, but it was clear that I wanted him to  
20 be an advisor, and that was always the intent of the Contract,  
21 when the intent of me with him with the Contracts, with--to make  
22 it parallel because the UK, well, in my resource has Ministerial  
23 Advisors that do political advice and political policy  
24 development. But truly, those are more politically involved in  
25 the Minister's constituency which is not the case that I wanted,

1 and it's not the case on what eventually was approved by the  
2 Cabinet with the advisors in the BVI.

3           So, the BVI system did not formally recognize the role  
4 of ministerial advisors, but the system does recognise this role  
5 and the need by Ministers. So, because the system recognises  
6 that Public Officers are not allowed to make political  
7 calculations and policy development, this came to be clear that  
8 this would have to be where this Contract would go.

9           So, that was the whole impetus behind of it, and the  
10 Officers said that there was not a template that they have for  
11 Special Advisors but they would try to craft it as best they  
12 could, but would include some--would need to include  
13 deliverables, but as far as I know, ministerial advisers that's  
14 not the case but for their edification they wanted to structure  
15 it along those lines, so I guess that's why they made this  
16 proposal to include that. But in my mind it was always clear  
17 that he would be a Ministerial Advisor.

18           COMMISSIONER HICKINBOTTOM: Just to summarise,  
19 Political Advisor, within your mind, no express deliverables?

20           THE WITNESS: Well, just whatever the advisor does.

21           You know, as you would rightfully  
22 know Commissioner and can see, I do a lot of research, not just  
23 because Premier, I just believe in researching, and you would  
24 know that the UK has over, right now as we speak, has over 80  
25 Ministerial Advisors, none of which was advertised, none was

1 tendered, but we do, sir, have some good success stories among  
2 some of them because you do have Miss Kate Bingham, I think it  
3 is, who actually was appointed as an advisor to help with the  
4 vaccines and did an excellent job, turned out to do one of the  
5 best jobs as a matter of fact, saved the UK significantly, Lord  
6 Frost who negotiated the Brexit, and you have also I think it's  
7 Dominic Cummings, all those advisors to the now-Prime Minister  
8 Boris Johnson.

9           So I also wanted it to run along that being although  
10 some of those weren't around at that time, but that's being a  
11 longer one.

12           COMMISSIONER HICKINBOTTOM: So, just to go back to the  
13 question. Political Advisor, in your mind, although your  
14 technical people put some deliverables into the Contract, I  
15 think, in your mind, no deliverables were necessary. He was  
16 simply an advisor.

17           THE WITNESS: Right. But whatever they wanted to feel  
18 comfortable with, but in my mind, he was always an advisor, to  
19 avoid any doubt, but they say there was no template for that.

20           So, later on, if I may, within recent times, we were  
21 able to do the research and actually craft.

22           COMMISSIONER HICKINBOTTOM: I understand that because  
23 we've got evidence of that. But not during the course of these  
24 three contracts?

1 THE WITNESS: No, no. That came--

2 COMMISSIONER HICKINBOTTOM: More recently.

3 THE WITNESS: Yes.

4 COMMISSIONER HICKINBOTTOM: Yes.

5 BY MR RAWAT:

6 Q. What you present in your--if you pick up bundle 4,  
7 please, you will see a low shelf next to you, Premier. If you  
8 pick up bundle 4.

9 A. Bundle 4.

10 Q. Page 3529, please, Mr Premier.

11 A. This one first? Page what?

12 Q. 3529, please, Premier.

13 A. Yes.

14 Q. This is part of the oral evidence you gave on the 18th  
15 of May 2021, and in the course of that--

16 A. Yeah, yeah.

17 Q. --I asked you questions about these contracts and how  
18 Mr Skelton-Cline came to be engaged, and you say, and it's at  
19 line 9, if we pick it up, you say that "I would say that  
20 Mr Skelton-Cline came after the 2019 Elections, like everyone  
21 else I said earlier does. And said that he can help with  
22 finding different ways for new investments to come to the BVI,  
23 just like he stated that he's been able to get something like  
24 this done and I told him, just like I tell everyone else, please  
25 make sure that you send in your documents. I was very careful

1 with that because Mr Skelton-Cline was known to be around all  
2 political parties during the campaign so I asked him to present  
3 your documents and your detail of what all--what you can offer  
4 to the Premier's Office for consideration. And once it is  
5 submitted and the CV and we have all of that and we do agree to  
6 move in that direction because nothing is wrong with anyone try  
7 to help with the economy, one of the things I must state for the  
8 record that is clear is that anyone working with me would say, I  
9 never interfere with the technical aspect of anything that  
10 anyone does. If it is an annual that the Government is going,  
11 the technical personnel can justify these action and make sure  
12 that the Reports like you alluded to earlier are coming in, and  
13 the results are coming based on the deliverables, well, then  
14 that is fine because our job is to try and jump-start, is to try  
15 to jump-start the system".

16           You then speak about institutional capacity issue in  
17 the BVI Government.

18           The Commissioner--

19           COMMISSIONER HICKINBOTTOM: I'm sorry, Mr Rawat, just  
20 to break there, in this particular circumstance, though, this  
21 wasn't anything to do with the capacity of what we would call  
22 the "Civil Servants" elsewhere but you call "Public Officers"  
23 because the role you had in mind was a political role which a  
24 Public Officer couldn't do.

25           THE WITNESS: Couldn't do, but I need to state that in

1 our mindset and even now is to jump-start and to ignite certain  
2 things so that it could be packaged quicker to reach the Public  
3 Service because they get bound down in meetings all day and  
4 they're looking ahead at their projection of looking ahead and  
5 bringing new things to help the economy. It's difficult for  
6 them to do because of what their remit is as Public Officers.

7 COMMISSIONER HICKINBOTTOM: So, the role you had in  
8 mind for Mr Skelton-Cline was not a role that a Public Officer  
9 could do.

10 THE WITNESS: Exactly.

11 COMMISSIONER HICKINBOTTOM: But you hoped that further  
12 down the line some time might be saved, some time that the  
13 Public Officers might be saved.

14 THE WITNESS: Might be?

15 COMMISSIONER HICKINBOTTOM: Saved.

16 THE WITNESS: Sometime, explain that to me.

17 COMMISSIONER HICKINBOTTOM: Well, you mentioned Public  
18 Officers.

19 THE WITNESS: Right.

20 COMMISSIONER HICKINBOTTOM: The role you had in mind  
21 could not have been done by Public Officer.

22 THE WITNESS: Right.

23 No, no, definitely not.

24 COMMISSIONER HICKINBOTTOM: Okay.

25 THE WITNESS: It's not that it could not be done

1 alone. It's not in their remit.

2 COMMISSIONER HICKINBOTTOM: Exactly. That's what I  
3 meant, could not be done.

4 THE WITNESS: Okay.

5 COMMISSIONER HICKINBOTTOM: It's Public Officers  
6 cannot have a political role, and this you told us was intended  
7 to be a Political Advisor.

8 THE WITNESS: Well, the Ministerial Advisor, as we get  
9 going, the word "political" came in as a result of the Governor,  
10 Deputy Governor, wanted that word in, and we needed it to pass,  
11 I wasn't going to let that be a showstopper.

12 COMMISSIONER HICKINBOTTOM: No, no, but in any event  
13 you've given evidence already about Mr Skelton-Cline.

14 THE WITNESS: Yes.

15 COMMISSIONER HICKINBOTTOM: You had a political  
16 policy, political role for him.

17 THE WITNESS: Right, Ministerial Political Advisor.

18 COMMISSIONER HICKINBOTTOM: Yes, thank you.

19 BY MR RAWAT:

20 Q. And then just to pick it up at 3530, the Commissioner  
21 then asks you a question, takes you back to the question, and he  
22 says "Premier, I think the answer was that Mr Skelton-Cline came  
23 to you", and you say "yes".

24 The Commissioner then says "not the other way around",  
25 and you say "yes".



1           And you told him to send in effectively a proposal.

2           You acknowledged that.

3           The Commissioner then says, "together with documents  
4 showing to show that he was an appropriate person to deal with  
5 the Government in respect of the proposal", and you then said,  
6 "like I do for every single person that comes to me with a  
7 proposal because many do".

8           Now, that's what you were saying to us in May 2021,  
9 and what we didn't get into there was this idea of a  
10 presentation to you, and I just wanted to give you an  
11 opportunity to make it clear because if one reads this in  
12 isolation, what it is, is Mr Skelton-Cline bumps into you, says  
13 "I could be helpful" you say send in a proposal. That's the  
14 proper way to do it, and it will be considered. Whereas I think  
15 in your Written Response what you're saying is there is an  
16 approach to you, there is a presentation, and then you tell your  
17 staff tell him--I've considered it, tell him to send in a  
18 proposal.

19           A.    What I read is what it really was. That day was just  
20 asking me about him in general but if you're asking about the  
21 Contract for him, that I would have to be--stick to what I said  
22 in my statement.

23           Q.    So, when the Commissioner goes back and rereads this,  
24 he needs to read it in light of what you say in your statement?

25           A.    For sure.

1 Q. Thank you. You say at paragraph 14 that one of  
2 matters that you took in hand--

3 COMMISSIONER HICKINBOTTOM: Sorry, Mr Rawat, just  
4 reading on in respect of your evidence on this, you want to come  
5 back to this, Mr Rawat?

6 MR RAWAT: No.

7 COMMISSIONER HICKINBOTTOM: Reading on, in May, you  
8 told us how Mr Skelton-Cline came to be appointed. He sent in  
9 his proposal, as you said, like anybody else because you get a  
10 lot of proposals. That proposal was then--it says by your  
11 Permanent Secretary, who made a recommendation. You gave  
12 instructions that the assessment of him by your PS should be a  
13 thorough and good one, and you confirmed that, and that's how it  
14 happened.

15 THE WITNESS: Right. But in all the discussions, it  
16 was always for them to be a Ministerial Advisor. It wasn't  
17 about political then. But the issue was that that template--

18 COMMISSIONER HICKINBOTTOM: We will come to the form  
19 of the contract.

20 THE WITNESS: Well, that's what I'm saying, they keep  
21 telling me that they don't have that kind of contract in the  
22 Public Service. That is exactly what they wanted, but they  
23 wanted to do it in a way where they can look at the deliverables  
24 area, but I knew that that would be--it would be difficult if  
25 you're a political advisor to hold you to deliverables, but

1 that's--that's what the Officers were sticking on.

2 COMMISSIONER HICKINBOTTOM: Yes, thank you.

3 BY MR RAWAT:

4 Q. You also--and this is at paragraph 14 of your Written  
5 Response, Premier--this is where you speak of sounding and  
6 speaking to others who were aware of Mr Skelton-Cline's  
7 background because I think one of the points you make is that  
8 you hadn't interacted with him that much.

9 A. Let me clear up when I said things like that, or when  
10 I said, everyone knows Mr Skelton-Cline overall, and the one  
11 part or two parts they know about him, they know that he's a  
12 nationalist, and no one controls what he says, does, or feels  
13 when it comes to the BVI. Even if he has to say towards me who  
14 he was working he would say. He said it numerous times with  
15 just immediate past Governor, which was not well-received many  
16 times by the Governor. But as part of about being in the top  
17 office, I'm not surprised that he would have been the (unclear)  
18 in a process like this.

19 But what I would say is that if he's someone that  
20 comes with the House of Tea, no, or someone that they'll call  
21 and say let's go out with, no, I don't lead like that. I just  
22 hired a Ministerial Political Advisor who is known to the  
23 majority of people in this Territory as being with the other  
24 political party. I hire persons or look for persons, whether in  
25 the private or in the Public Sector, by my life as persons who

1 have the skill to produce for the people of the Virgin Islands  
2 in the best interest of the people of the Virgin Islands. I  
3 don't hire them because of closeness to them because, in  
4 politics we try not to have any enemies, they will have you but  
5 you don't have them as enemies, and you try to get the skills.

6 And one of the skills that Mr Claude Skelton-Cline has  
7 that is not something that you can argue about is that he gets  
8 things done, and he is able to get things that most persons  
9 would say impossible to make them possible.

10 So, that skill was a skill that the country needed at  
11 that time. But do I know of him? Yes, of course. Were we  
12 friends that we're going to the same church, we wouldn't go to a  
13 disco, not me, but the answer is no. I was dealing with the  
14 skill. He was in the ports. He was there, and he ran what was  
15 a successful project despite that I, myself, looked into it in  
16 the PAC, and we will talk more about that because I do have a  
17 history on that but he was sure that he would be successful,  
18 aggressive but successful in what he does. He gets things done.

19 Q. But to take you to paragraph--before I do that,  
20 actually, just picking on a point you just said, and this is at  
21 page 3533 in the bundle that we're in. If you look at line 19,  
22 I asked whether you would describe Mr Skelton-Cline as a  
23 political associate, and you said, "that's a tough one because  
24 he moved from party to party. There were people in my party  
25 that would concluded that he was--I wouldn't say he was a

1 political affiliate", and the Commissioner then suggested a  
2 supporter", and you then say "I would say he was a supporter,  
3 that would be a better word", and we then moved on to other  
4 matters. So, I think you mentioned that some would think him as  
5 involved with another party, but certainly in May 2021, you were  
6 happy to describe him as a supporter.

7 A. For sure. I would describe him as that.

8 Q. And if you turn to paragraph 14 of your Written  
9 Response where you deal with the soundings and the due diligence  
10 you undertook, one of the things you say about  
11 Mr Skelton-Cline's background is that you understood he played a  
12 senior role in the management of the Skelton Group, which is a  
13 major company in the Virgin Islands with interests in property  
14 development, quarrying and concrete manufacture and supply.  
15 What was Mr Skelton-Cline's role in that group?

16 A. He was the one that manages it and it is a very  
17 successful company. I won't go into depth into that because  
18 that's not my place for the company, but he was one of the  
19 senior persons in it, and it's a successful business that the  
20 whole family runs.

21 Q. And you've spoken of the Public Accounts Committee,  
22 and so you were aware of Mr Skelton-Cline in his role as  
23 consultant initially to The Honourable Mark Vanterpool when he  
24 was a Minister, and you've mentioned that in other Written  
25 Responses. And you've also mentioned his role subsequently as

1 Managing Director in relation to the ports, so you would have  
2 had those matters in mind when you were considering whether to  
3 appoint Mr Skelton-Cline.

4 A. That and others. That and other parts of it, not  
5 probably only what you have, but the results of some of those is  
6 what I had in mind.

7 Q. Right.

8 What about consideration of his performance on the  
9 Virgin Islands Neighborhood Partnership Project?

10 A. Like I said, they were never a complete one and he was  
11 never given due process, nobody was given due process in that,  
12 so if you go back into that, you're going to hear the same  
13 things. There he was given money, here he's not. So, it was  
14 two different roles also, and in addition, the Report was one in  
15 which due process wasn't given to--it could have not been  
16 Skelton-Cline.

17 Q. But you didn't let me finish the question.

18 A. Um-hmm.

19 Q. On the 12th of February, as you've explained to the  
20 Commissioner, there was an article published which referred to  
21 the Report as being leaked.

22 A. Um-hmm.

23 Q. On the 25th of February, you were the head of an  
24 incoming administration. Did you take an opportunity to say I  
25 would like to see a copy of that report because I would like to

1 find out whether what's said in this newspaper article was  
2 actually true?

3 A. I didn't went into that at all, because I don't know  
4 the Report, it didn't know it was that.

5 Q. I'm sorry?

6 A. I did not ask for the Report because I don't know  
7 anything about the Report. At that time I did my finance to see  
8 if the Report was public, and it was never public, so I never  
9 went any further.

10 Q. Thank you.

11 So, that didn't factor in your consideration?

12 A. I--it was never a public report, so I'm not going to  
13 look for something that's not a public report.

14 If you're going to accuse someone like that, it has to  
15 be a public report.

16 And plus, from what I've read, I know that the  
17 information was not complete.

18 Q. If you take up bundle 3, please. You can put bundle 4  
19 away.

20 A. You mean you're going to bundle 3? What's the point  
21 of going from 3 to 4? Because you asked me about Public  
22 Accounts. Are you finished with that?

23 Q. Yes.

24 A. Well, I'm not finished with Public Accounts. I want  
25 to go there.

1 Q. Well, I would like to stick to the Grace Consulting  
2 Contract?

3 A. That's what I'm talking about. You asked me earlier  
4 if I considered the Public Accounts report on him with the post  
5 project.

6 Q. No, I didn't ask you that.

7 A. What did you ask me about?

8 Q. I said you would have had in mind. So, let's go to  
9 page 28--

10 A. I stick a fork in that, pin in that. Which one?

11 Q. Bundle 4, 2841.

12 A. Bundle 4. What number, bundle 4?

13 Q. Bundle 4, and then written on the side, and then if  
14 you turn up page 2841, Premier. If it's easier, I can take it  
15 to you in a different bundle.

16 A. Bundle 4, starts with 381, there is another one?

17 COMMISSIONER HICKINBOTTOM: It's bundle 3.

18 MR RAWAT: Sorry. That was me. It's bundle three. I  
19 apologize.

20 THE WITNESS: Bundle 3.

21 BY MR RAWAT

22 Q. 2841.

23 A. Okay.

24 Um-hmm.

25 Q. This is the first contract that was entered into with



1 Mr Skelton-Cline.

2 A. Um-hmm.

3 Q. You will see that it's signed, if you look at 2842,  
4 it's signed on the 27th of March 2019, and it's set to run for  
5 six months from the 25th of March 2019 to the 17th of  
6 September 2019. That's at page 2842.

7 Now, a number of Public Officers have given evidence  
8 about this Contract, that's Ms Elvia Smith-Maduro, Mr Jeremiah  
9 Frett and Dr Carolyn O'Neal-Morton. And there evidence that is  
10 the appointment of Mr Skelton-Cline was a personal appointment  
11 where which you had to be content. Because that's something you  
12 would accept and agree with?

13 A. Because I always had it to be a Ministerial Advisor.

14 Q. Mrs Smith-Maduro described it as a trial run?

15 A. And she's correct, the first six months, but that's  
16 different than what I do now. The current Ministerial Advisor  
17 that we hired, that is a very good young man. He has the skills  
18 that are needed but he was not on our political side, and I  
19 wanted to make sure that we were getting through so the first  
20 contract that he has now is for three months. I usually give  
21 people short contracts. The system takes long to eliminate  
22 contracts so I try to make the first one a little shorter and  
23 then see how it goes from there.

24 Q. That's consistent with your practice?

25 A. With my practice.

1 Q. In March 2019, consistent with the idea of a short  
2 contract, it was then a trial run, as Mrs Smith-Maduro said?

3 A. Yes.

4 Q. Now, Mr Skelton-Cline, had, in his negotiations with  
5 Mrs. Smith-Maduro, wanted \$196,000 a year and a four-year  
6 contract. He was given obviously six months but he got the  
7 equivalent of \$196,000 for six months.

8 What was the basis for agreeing that kind of fee?

9 A. For--

10 Q. Which comes out to \$16,300 a month?

11 A. For his six-months' run, you said?

12 Q. Yes.

13 A. He would send in his Report--proposal, and based on  
14 what he think that his value is, I can't price on someone's  
15 value.

16 Q. This is your contract, you have to be content with it?

17 A. Hm-umm.

18 Q. This is your appointment. So, what was your rationale  
19 for agreeing that he should be paid \$16,330 a month?

20 A. Well, I can't--I don't know how else to say it. If  
21 you have a template, which we didn't have at the time, to  
22 measure what would be a Ministerial Advisors amongst since they  
23 didn't have permanent Public Servant could be terminated  
24 anytime, then you could measure it by, but there was none, so he  
25 stated that this was his value at that time.

1 Q. So, you were happy to accept his assessment of his own  
2 value?

3 A. I had nothing else to measure it by, from my idea of  
4 our Ministerial Advisor.

5 Q. Did you appreciate that because Mr Skelton-Cline was  
6 entitled to a tax-free gratuity of 5 percent that that would  
7 take the Contract over the Petty Contract threshold?

8 A. That wouldn't be me. I wouldn't know those things, I  
9 don't deal with those things. I wouldn't know that.

10 Q. And why were you content to just have one report at  
11 the end of six months?

12 A. Well, that's someone in a new Government that's going  
13 to have to look at a lot of things, other than that. That would  
14 be a tall talk, there's a lot of areas that you would discuss  
15 and you want him to look at. That would be a very heavy job to  
16 do a report. Otherwise, given if you should have done--this is  
17 why it should have been a Ministerial Advisor contract, because  
18 Minister Advisors nowhere in the UK or anywhere that you measure  
19 this by is responsible for those kind of things, so the template  
20 would have allowed to eliminate that. That's not something that  
21 the Ministerial Advisors do. That is required because at the  
22 end of the day that was a Public Officer stating, Okay, I will  
23 want at least a report to satisfy me, so...

24 COMMISSIONER HICKINBOTTOM: But you would have been  
25 content with that Report?

1 THE WITNESS: I was content with it, so it wasn't--the  
2 officer explained that, and I said I'm content with that. But  
3 as advisor, that's not--that's a role that it plays, but he  
4 didn't have a template for that involvement at that time, so we  
5 had to go along.

6 BY MR RAWAT:

7 Q. So, if you--if you had had a template, then there  
8 wouldn't have been any need for him to provide reports on what  
9 he was doing?

10 A. Well, it would be how it is now with the structure  
11 differently.

12 COMMISSIONER HICKINBOTTOM: So, he would simply have  
13 been an advisor probably subject to a short period of Notice of  
14 Termination by you.

15 THE WITNESS: Exactly.

16 COMMISSIONER HICKINBOTTOM: But otherwise no  
17 assessment, no reporting.

18 THE WITNESS: Well, he would have to do something for  
19 the money. I mean, you can't just give people money and they're  
20 not doing nothing, so according to the terms--

21 COMMISSIONER HICKINBOTTOM: No assessment in terms of  
22 reporting.

23 THE WITNESS: Well, he had to be assessed. I don't  
24 know if it will be a report, but he would have to be assessed in  
25 some kind of report at some time because Public Officers are the

1 ones who do the technical work, so you have to let him know, he  
2 is reporting to meet this and terms and conditions, advisors  
3 contract if he was one of those, and how it's laid out now. We  
4 just passed that in Cabinet. I don't remember all the details,  
5 but this detail what all has to be done for advisor, so we  
6 solved that problem once and for all for any government to come.

7 BY MR RAWAT:

8 Q. If you're--if the reality of what your point was--I  
9 mean, I don't want to mix the two issues because we're looking  
10 at events in 2019, and it's later in time that you're bringing  
11 in the Cabinet Decision to have a proper title, Special Advisor  
12 or Ministerial Advisor or whatever the term is, that's much  
13 further down the line, but if in 2019 your concept is on what Mr  
14 Skelton-Cline to be a Political Advisor, that's the reality of  
15 what I want, you can't find the shoe that fits so you do the  
16 best that you can, but that's what you want. And, you know, he  
17 has to give his report at the end of six months.

18 Why are the--you seem to be suggesting that it's the  
19 Public Officers that carry out that assessment.

20 A. Not the--what I'm saying is that at the end, even  
21 though they would read the Report, they still would have to find  
22 out from the Premier how was his performance. So, based on what  
23 you expect from a Political Advisor, I would give also my input  
24 on it. That's why if you interviewed the Officers, that's what  
25 I'm going to say.

1                   COMMISSIONER HICKINBOTTOM: And that would be done  
2 orally, would it?

3                   THE WITNESS: Yeah, when I meet with him, it's always  
4 oral.

5                   BY MR RAWAT:

6                   Q. How is it possible for officers to make an appraisal  
7 of someone that--whatever he's actually doing--whatever his  
8 contract says he's doing he's actually playing a political role?

9                   A. Well, that's why I'm saying they didn't have a  
10 template for it before, so the template used for the contract is  
11 the one which they're saying doesn't exist in the Public  
12 Service. You can't divorce the two because that caused resource  
13 to be had so that you could find out how to get an approved  
14 template to make sure in the future that when you have someone  
15 to do these things that the Contract would directly reflect what  
16 is really they're being hired to do.

17                   We took quite a while to get that narrowed down, and  
18 now that's approved by Cabinet, so that has been solved for  
19 Governments to come now so no one would have to be here to  
20 answer questions like this for someone who was advisor because  
21 it's more structured, it is one now that is clear. Clear. This  
22 was not existing in 2019. The template did not exist, no matter  
23 what Public Officer spoke of didn't exist. So, how to manage  
24 something that didn't exist was their concern.

25                   BY MR RAWAT:

1 Q. What--the position you have now, with respect,  
2 Premier, is not relevant to what you were doing in 2019. What  
3 you did in 2019--

4 A. It is.

5 Q. --no, what you did in 20--my question is about 2019.

6 A. Um-hmm.

7 Q. What you did in 2019 was to put in a contract which  
8 had Mr Skelton-Cline, and you say, signed the Contract but he  
9 had to put a report in at the end of six months. Now, he's a  
10 Political Advisor.

11 A. Yeah.

12 Q. How can Public Officers who are not expected to be  
13 politically neutral make any kind of assessment of his value as  
14 a Political Advisor?

15 A. That--I'm saying the same thing over and over. The  
16 sections that they wanted to feel comfortable with for payment  
17 was added in some--some deliverables in terms of what they would  
18 say, All right, let's stick to these deliverables, at least that  
19 would be one in which I would be able to be answerable. For the  
20 rest, I would get from you in terms of the progress. That's how  
21 the--that's all I'm saying.

22 COMMISSIONER HICKINBOTTOM: So, this was a contract  
23 which, for the reasons you have given because there was no  
24 template. I'm not sure whether somebody asked the Attorney to  
25 produce a template, but there was no template, so this Contract

1 did not reflect the obligations that Mr Skelton-Cline had, the  
2 reporting lines, the fact that he would be assessed against  
3 deliverables, which you had no interest in.

4 THE WITNESS: I can't say I didn't have interest in  
5 deliverables.

6 COMMISSIONER HICKINBOTTOM: I thought you said that  
7 you were focused on him being a Political Advisor.

8 THE WITNESS: Yes.

9 COMMISSIONER HICKINBOTTOM: You were focused on him  
10 being a Political Advisor.

11 THE WITNESS: Yes, he had some areas that he had to  
12 work on, and he worked on, so you can't give people Government  
13 money without having some kind of deliverable. But how would  
14 they be assessed because he's advisor but some of the  
15 deliverables are clear.

16 COMMISSIONER HICKINBOTTOM: So, he had deliverables,  
17 but there was nowhere an assessment against the deliverables  
18 except, of course, by you because he's your Political Advisor.

19 THE WITNESS: And the Officers would assess it based  
20 on how far they could assess it on the technical side of  
21 government because they wanted to be able to have something to  
22 access--to assess--to be able to assess for them along speaking  
23 with me in terms of how he was progressing so that they could be  
24 able to say, All right, this is why they're paying him. This is  
25 what he has done. There were plenty of things he worked on, and



1 the record will show because he kept the Ministry and myself in  
2 the loop with numerous e-mails with things that he was working  
3 on for the economy such as I think some of them had inside  
4 Prospect Reef, to start to see to get that going, the medical  
5 marijuana, the sea plane tour, started initiative of 1,000 Jobs  
6 in 1,000 Days, I think someone has written out, cruise ship pier  
7 to look at that, the medical school and how to get into  
8 legislation and get it formalized. We had panel installation,  
9 solar panel installation training program. We had the Necker  
10 Island roundtable, which was crucial with that development of a  
11 second pier, COVID-19 safe haven plan that took a lot,  
12 especially when COVID-19 came in--I mean, but I could go on.  
13 It's a list of things.

14 Q. I want to show you some of those things, but I wanted  
15 it contract by contract.

16 A. Um-hmm.

17 Q. Just to understand where Mr Skelton-Cline stood  
18 because, on one side, you have--and to be fair to you, I take  
19 you back--and I will read it now. You said two things when you  
20 gave evidence back in May because when I put to you a newspaper  
21 report where you had been quoted, if Skelton-Cline doesn't  
22 produce, he will be fired.

23 A. Yes.

24 Q. And I took you through this, and you said that what  
25 your intent was that once it's brought to my attention by our

1 technical people, but it's not producing and yielding what it's  
2 supposed to yield, then I would fire him. I would have no other  
3 choice because you have to defend the public's money.

4 A. That's okay.

5 Q. And what you also said about the Report, because we  
6 were looking at that Report back in May 2021--

7 A. Right.

8 Q. --specially about the Report in relation to the first  
9 contract. What you wanted to say--and you said was, because we  
10 went through it, but I want to state clearly for the record that  
11 even when persons turn in reports to me, I would still route  
12 them through the correct channels with the technical persons  
13 because persons, given it's a small community, always feel that  
14 once they write to the Premier they will get the action that  
15 they want, so it's common practice here. But you have to always  
16 let them know yes, I'm the Premier, but there are technical  
17 channels to go through in order to set policies and guidelines  
18 that I must adhere to. I'm not going to circumvent them for  
19 anyone. So, even though the Report he wrote to me, it went  
20 directly and sat with the technical persons.

21 And that is the sort of root of my question because  
22 what you have is the Political Advisor--

23 A. Right.

24 Q. --that you have chosen to be the Political Advisor,  
25 you can't give him that title yet because Cabinet hasn't made

1 his decision.

2 A. Political Advisor.

3 Q. You can't give him any title other than Strategic  
4 Advisor, which you have given him.

5 A. Right.

6 Q. But his report is as Political Advisor to you.

7 A. Yes.

8 Q. How can the Public Officer who is non-political make  
9 any kind of assessment of it?

10 A. Well, you keep going over the same thing because it  
11 did not have a template to judge this kind of contract by the  
12 Officers wanted to make sure that there was some--some areas at  
13 least for the Contract, at least part of it, that are measurable  
14 so they want to place some of the--what was in the proposal into  
15 measurable means, which is what they did to feel comfortable to  
16 be able to deal with the Contract, but it was always in terms of  
17 being a Special Advisor, a Ministerial Advisor. He could ask me  
18 50 times, and it's the same thing.

19 So, they put in certain areas that they wanted to  
20 document for them that the Report would come in along those  
21 areas, those general areas so they can see all right, they are  
22 satisfied on the technical side based on the template that they  
23 use that's something in and you will report on the rest, if you  
24 feel comfortable with him, Premier.

25 I don't know how else to put it.

1 Q. You ended up with one contract at the end, one report  
2 at the end of a six-month contract.

3 A. Um-hmm.

4 Q. If by the end of that six-month contract  
5 Mr Skelton-Cline had been paid some \$98,000.

6 A. Um-hmm.

7 Q. You had one report.

8 Given your experience of the Neighborhood Partnership  
9 Project--

10 A. Um-hmm.

11 Q. --the action you felt compelled to take then,  
12 shouldn't you have been asking for more reports?

13 A. Well, you see, you go back to what was unsolved from  
14 yesterday. It wasn't as Sir Geoffrey rightly just said that the  
15 reports were filed at that time, they wanted to make sure that  
16 they satisfied them. But at the same time too the Programmes  
17 you were running were successful, I also said that yesterday,  
18 too.

19 Q. Premier, your evidence yesterday--

20 A. Yes.

21 Q. --was that the reason you felt compelled to act was  
22 the reports were not coming, and even though efforts were made,  
23 for several months they never produced, and that was the reason  
24 that you went to The Honourable Ralph T O'Neal and said action  
25 must be taken.

1           So, your one experience directly of Mr Skelton-Cline  
2 is that he didn't produce reports when he had the contract.

3           A. I can't say that because I told you yesterday I don't  
4 know if he was producing to Mr O'Neal because the language there  
5 indicated that there might have been reports, and that was  
6 covered yesterday, so what you're telling me is not the full  
7 picture.

8           Q. So, your evidence is--

9           A. But when I actual reports at the latter part of my  
10 last stage because of the political storm that was brewing, that  
11 was a segment that I specifically state was a concern because I  
12 never used to be the one monitoring the Contract, so you  
13 can't--you can't turn what I say now to something that I didn't  
14 mean.

15          Q. The point, Premier, is you didn't see a report in  
16 relation--

17          A. For the time frame that I asked, let's be very clear  
18 what we're talking about.

19          Q. I will be happy to accept your time frame--

20          A. Not this.

21          Q. --but you didn't see a report.

22          A. Right, but at the same time, too, that was latter part  
23 of me trying to move out of the same Ministry right before  
24 election, but that doesn't mean that reports were not produced  
25 because--

1 Q. 2019--

2 A. Yeah.

3 Q. --you're signing someone up for a trial run--

4 A. Yes.

5 Q. --just short of a hundred thousand dollars.

6 A. Right.

7 Q. And you--it didn't occur to you to think, actually,  
8 "I'm going to be cautious of the public money. I'm going to ask  
9 for reports more than one at the end of the Contract".

10 A. Well, I will put it to you, that's why I wanted to go  
11 to Public Accounts because, you see, I get confused and I get  
12 cross-questions like this based on my history of dealing with  
13 Public Accounts Committee, Auditor General's Report, and  
14 Governor's, and let me explain to you why. When--because you  
15 asked me what made me be able to do a trial run local report.  
16 First of all, it wasn't dealing with any money that was going to  
17 be given to him. That's going to be where he would have to  
18 produce.

19 Second of all, when I was in the Opposition, and we  
20 were concerned about certain projects with the ports and other  
21 entities with the last Government, we expressed concerns to the  
22 then-Governor, and he told us that he cannot move on hearsay.  
23 He said that we must go and do your work, meaning the Public  
24 Accounts Committee, so we went and we did our work. But when we  
25 went back and asked all he could say is we actually asked for

1 Commission of Inquiry on specific things, but he said that  
2 he--the Commission of Inquiry is too expensive and they usually  
3 don't yield much. That's what we were told, so that tells me  
4 they had--the Governorship had no confidence in the COI and they  
5 cannot give justice or cannot get through to them because that's  
6 the impression that I got there.

7           And with that in mind, in our language, we're  
8 basically told go sit down with these things that you're doing.  
9 So, after a while I said, well, if the Governor and the  
10 Governor's Office are content that there are--that what the  
11 Auditor General has written before we did any work that nothing  
12 needs to come out of that and send the PAC to go do work and  
13 then state, you know, the Commission of Inquiry don't yield  
14 anything but yet now we're in one, so after a while I say the  
15 Governor must be content with what is happening. This is my  
16 experience, and nobody could take away from me that I bring to  
17 this Inquiry.

18           Now, when we will finish with all of that, there is no  
19 doubt in anyone's mind that the man has produced and there is no  
20 doubt in anyone's mind that with the following Minister with him  
21 have produced a lovely Tortola Pier Park, they are produced, so  
22 he is--he gets things done wherever he goes.

23           So, here I wanted to make sure that in the first  
24 go-round that he stays within the channels of what you have  
25 confined him to so that persons whoever want to say anything

1 which they still say would know that he's doing his work, and  
2 you try to as much as possible too much you will hear in  
3 answering for some of these areas. But it was not that you had  
4 lack of confidence in him or he was not working for the money.  
5 We named some of the areas, and we could go into them one by  
6 one. The man worked. But if the system does not have a  
7 template to let in, then I can't be blamed for that. I tried my  
8 best to get it in the best template possible.

9 Q. It's not about whether or not Mr Skelton-Cline  
10 delivered. This is the point at which you are considering  
11 entering into the first contract.

12 A. Yeah.

13 Q. And you say you take soundings.

14 All I was asking you was--

15 A. Um-hmm.

16 Q. --from your own ex--did your own experience of what  
17 had happened in the Neighborhood Partnership Project factor in  
18 because it's this: You have--you enter into a situation where  
19 you are prepared to give \$100,000 to an individual without  
20 requiring him to make any kind of report to you at all during  
21 the currency of the Contract. So, what you decided to do was  
22 I'll give him a six-month trial run. If at the end of the six  
23 months I don't like his report, he can keep his \$100,000 or his  
24 \$97,980.

25 A. Um-hmm.



1 Q. And that will be it.

2 A. Um-hmm.

3 Q. And the question goes to this. It's whether, as a  
4 matter of sort of stewardship of public funds, you ought to be  
5 asking for reports during the currency of the Contract.

6 A. But that was not his only job.

7 MR OLYMPITIS: Sorry, Commissioner, we have to look at  
8 Premier's Response and look at paragraphs 19 to 24, where he  
9 does set out what was going on during--for example.

10 MR RAWAT: Mr Olympitis has also misunderstood what  
11 I'm talking about. I'm asking questions about entering into the  
12 Contract.

13 BY MR RAWAT:

14 Q. We will look at with the Premier the Report in due  
15 course, but it's about your decision to enter into this  
16 Contract, Premier.

17 So, what you know is that the soundings that you put  
18 at paragraph 14 of your Written Response, you've summarised  
19 that. You've spoken about what you had learnt about  
20 Mr Skelton-Cline's performance as Managing Director, but what  
21 you decide is that you will only assess performance under the  
22 Contract at the end of six months because the only thing that  
23 will allow to you assess it--it's the Report. You won't ask for  
24 reports during the currency of the six months, so you will have  
25 paid out all of this money, but you won't know whether you got a

1 good deal until the end of the six months.

2 MR OLYMPITIS: I'm sorry to argue with you, about  
3 that, Mr Rawat, but he does state what actually happened during  
4 the six months, and there was in the contract a termination  
5 clause of one month's notice.

6 So, if the Premier had not been happy during that  
7 six-month period, he only had to give one month's notice.

8 MR RAWAT: But I don't want to enter into a side  
9 debate, Commissioner.

10 COMMISSIONER HICKINBOTTOM: No, I don't want any side  
11 debates either.

12 At the moment, Premier, I'm incredibly confused by the  
13 first six-month contract. We know that your intention was not  
14 entirely what the face of the Contract says because the Contract  
15 is for something other than a Political Advisor, and it was your  
16 intention to have a Political Advisor. Why you didn't simply  
17 ask for a template to be provided for a Political Advisor I  
18 don't know. We may come on to that, but the fact is that the  
19 Contract, on its face, did not reflect your intention which was  
20 for a Political Advisor. A political Advisor, you say, is not  
21 the sort of post that requires reporting because reports are  
22 considered by Public Officers as to whether particular  
23 deliverables are met and that would be inappropriate for a  
24 Political Advisor.

25 So, you know, I understand if you intended this to be

1 for a Political Advisor the lack of a requirement for reports,  
2 but running in parallel to this, the political officers did not  
3 appreciate that this was simply a Political Advisor. They  
4 wanted deliverables in. They put some paragraphs in, and I  
5 assume that they wanted a report so they could measure against  
6 those deliverables, but that was not at the forefront of your  
7 mind. That's a--it's a--

8 THE WITNESS: But do you have a report?

9 COMMISSIONER HICKINBOTTOM: No.

10 THE WITNESS: To make some kind of assessment?

11 COMMISSIONER HICKINBOTTOM: They wanted a report  
12 because as Public Officers, they wanted to assess the  
13 performance of Mr Skelton-Cline against the obligations of the  
14 Contract.

15 THE WITNESS: But they didn't get--the Report was  
16 there at the end of the six months.

17 COMMISSIONER HICKINBOTTOM: But, Premier, the--what  
18 was going in the minds of the Public Officers and that the  
19 reporting was to this extent artificial because you regarded him  
20 as a Political Advisor. As a Political Advisor, he advised you  
21 politically, and in that role which was the role you wanted him  
22 for, firstly, I think your evident is that reporting wouldn't be  
23 appropriate. I mean, you either wanted him as a Political  
24 Advisor or you didn't. You didn't want him, you'd get rid of  
25 him, stop having him.

1           So, there is a short of mismatch between what's going  
2 on in your mind and possibly Mr Skelton-Cline's mind for all I  
3 know, and what you think the intention of the Contract is and  
4 the face of the Contract and how the Public Officers are  
5 monitoring the Contract. There's a mismatch.

6           THE WITNESS: Well, as far as I am seeing her,  
7 Commissioner, the Contract, as I stated, from onset didn't have  
8 a template. They didn't even know where to start with something  
9 like this, about Political Advisor, a Ministerial Advisor,  
10 because that was always the intent. So, now what the natural  
11 instinct of anyone to do is to be brought to what they know.

12           So, with that now, they put certain deliverables for  
13 them and for myself to add to what all I would need so that that  
14 could be monitored in the Report brought in.

15           And in the Contract it was said that the Report would  
16 have been in six months, and there is a clear thing from--in my  
17 response that I gave you, what it is Mr Skelton-Cline was  
18 working on, so it wasn't that he was not working. He was  
19 working on all these areas and continued to work on them.

20           So, I really--you have to excuse me but I don't  
21 understand--I understand that there wasn't the best of template  
22 used, but to say that the work hasn't been done even if you  
23 measure some of what was inside the Contract as far as he could  
24 have taken some of these things, the work was being worked on.

25           COMMISSIONER HICKINBOTTOM: I'll try this again,

1 Premier.

2 You had in mind a contract for a Political Advisor.

3 THE WITNESS: Um-hmm.

4 COMMISSIONER HICKINBOTTOM: Such a contract is  
5 effectively a personal one, very much one for the Minister in  
6 this case you, to choose the individual, hence tendering would  
7 not be appropriate, for example.

8 Secondly, reporting in the conventional way would not  
9 be appropriate because reporting is to the senior Public  
10 Officers to monitor whether the contractor is meeting his  
11 obligations under the Contract, but because this is a contract  
12 for political advice, that would be inappropriate. That's what  
13 you were thinking.

14 THE WITNESS: Yeah, as Special Advisor, Political  
15 Advisor or whatever word you want to use.

16 COMMISSIONER HICKINBOTTOM: Exactly.

17 But what you got--

18 THE WITNESS: Um-hmm.

19 COMMISSIONER HICKINBOTTOM: --was a contract which had  
20 deliverables in it.

21 THE WITNESS: Yes.

22 COMMISSIONER HICKINBOTTOM: And had reporting in it,  
23 which the Public Officers could monitor, but that was artificial  
24 because--

25 THE WITNESS: No, it wasn't. It also happened in

1 tandem because he did produce those things, and the only thing  
2 is because he could not bring them to fruition all the way  
3 because there's only a certain level that he can bring the  
4 things that he's doing to.

5 He brings them to the stage where the Public Officers  
6 now would have to take them up from there and have them now  
7 implemented. He cannot implement, for example, 1,000 Jobs in  
8 1,000 Days on his own.

9 COMMISSIONER HICKINBOTTOM: Of course, he's a  
10 Political Advisor.

11 THE WITNESS: Right. So he made sure that he did it  
12 up to the level where the Ministry took it and got the necessary  
13 manpower to get that fully implemented. He could not bring  
14 discipline to make it fly. He made sure he went out and he got  
15 that, and all the Public Officer who had to get involved in  
16 making sure the permits, et cetera, would have been there, was  
17 also--was brought into place at that time.

18 It is where he could only bring things to a certain  
19 stage, and the system of the Public Officers have to take up  
20 from there.

21 So, I cannot sit and say that he did not. He did.  
22 And when those things come, he cannot go no further than the  
23 Public Service system would allow. So, therefore, he was able  
24 to pick those up and run with them up to a certain point, and  
25 they only ran with him up to a certain point, then they get

1 going.

2           When he brought the medical marijuana and tried to  
3 make sure that, well, okay, the issues of this is legislation,  
4 he cannot go and hire a lawyer to do that and to go any further.  
5 That now has to come and go into the creating at the policy  
6 level, and certain things have to be done to hire persons to get  
7 that done.

8           And you're talking about different areas in different  
9 parts of the Contract where, yes, they were measurable because  
10 he produced them to the point, at that brink of point where the  
11 Public Officers would come in. That's how it was.

12           MR RAWAT: If I could move on, please, Commissioner.

13           BY MR RAWAT:

14           Q. Did you see the written proposal that Mr Skelton-Cline  
15 submitted?

16           A. I'm trying to remember. I can't remember that right  
17 now. I don't know about that.

18           Q. Mrs Smith-Maduro was--because she was then Permanent  
19 Secretary at the time--

20           A. Um-hmm.

21           Q. --was asked about this because she had e-mail  
22 discussions with Mr Skelton-Cline about the Contract.

23           A. Um-hmm.

24           Q. And those on the documents occurred between the 8th of  
25 March and the 14th. And I asked her when she gave evidence

1 between those two dates did you have any discussions with anyone  
2 as to what the role would involve?

3           And she said yes. I did advise the Premier that I'd  
4 received his proposal. I would have discussed his proposal with  
5 the Premier, and the Premier would have given me his thoughts on  
6 it in terms of the specific areas that he wanted him to pay  
7 attention to. He did say that he did not agree, so neither did  
8 I, agree to the amount he wanted in terms of he thought it was a  
9 bit too high. But he would try him out for a short period to  
10 determine whether or not it would be a viable working  
11 relationship on a more long-term basis. So, he advised me to  
12 give me a six months' contract in some specific areas where he  
13 thought would be some quick wins and some quick gains, that he  
14 would possibly be able to deliver within six months, and that is  
15 what the draft contract would have reflected. Safe to say that  
16 we inadvertently used the wrong contract template. This is a  
17 side thing about the contract included the reference to a  
18 gratuity which, in fact, Mr Skelton-Cline did claim. And so,  
19 that's what Mrs Smith-Maduro said.

20           Now, if you pick up Volume 8, there is a better copy  
21 of the contract, actually Volume 8, so it's better that we look  
22 there. Still keep it on the desk, Premier, because we are  
23 bouncing around the different bundles.

24           If you turn up, please, Premier, 7542.

25           On Mrs Smith-Maduro's evidence, you identified for her



1 some quick wins and gains that Mr Skelton-Cline would possibly  
2 be able to deliver within six months. Now, this is Appendix A  
3 to the first contract, which actually sets out the  
4 responsibilities and obligations of Mr Skelton-Cline, the  
5 Strategic Advisor. There are five specific areas of focus  
6 included here.

7           Looking at those, what were the quick gains and wins  
8 that you identified before this Contract could be signed?

9           A. Before it could be signed?

10          Q. Yes.

11          A. You can't get quick wins before it has been signed.

12          Q. Well, with respect, that's what you told  
13 Mrs Smith-Maduro.

14          A. I know but he wants to get some quick wins, meaning  
15 that you get some quick wins for the country on the ground.  
16 That's what that language means.

17          Q. Yes.

18                   And these were the ones that went into the Contract as  
19 the--

20          A. Yeah.

21          Q. --quick wins and gains. So which ones were they?

22          A. Were not limited to those. It was always about  
23 the--my mindset that although he's working on these, there's  
24 many other things he would be working on.

25          Q. Yes. But these are the ones that you advised should

1 go into the Contract. So which ones were the quick wins and  
2 gains?

3 A. Well, if you're working for me, you know that I would  
4 say all. I want all of them done. That's the--

5 (Overlapping speakers.)

6 Q. So you expected delivery on all of these five points  
7 within six months.

8 A. But at least as far as he can get going because they  
9 were urgent for the country.

10 Q. Where does it say "take it as far as can you get it"?

11 A. We don't--I don't want to put that in a contract. You  
12 would put it in a contract?

13 Q. I'm not the Premier--

14 A. You know but the system--

15 (Overlapping speakers.)

16 Q. --into a contract.

17 A. --the system of government does not let the word  
18 "consultant"--the consultant--go beyond the boundaries of where  
19 the Public Service would have to click in.

20 So, if he negotiates to, for example, let's take the  
21 sea plane. He can only go and search to see if we can get any  
22 sea plane towards or whoever interested in operating to the BVI.  
23 If someone decides that they're interested in operating in the  
24 BVI, that's a plus for our economy. That's a plus for jobs, et  
25 cetera.

1           So now they'll get tied in also, two in one, you'll  
2 get more jobs in the initiative when it is launched for the  
3 1,000 Jobs in 1,000 Days. You'll be able to get added extra in  
4 your tourism product.

5           So, when he goes out there and brings that--but he  
6 cannot bring that to fruition unless now that goes to the BVI  
7 Airports Authority, the BVI Ports Authority, Virgin Islands  
8 Shipping Registry, you still have to go to Trade to get Trade  
9 licences.

10           So, you can only bring the thing--anyone working for  
11 you, whether they call whatever, once another Public Officer can  
12 only bring the tasks that they're working to a certain level,  
13 but then the Public Officers' sections have to click in.

14           Q.   Why was the sea plane option not included in Appendix  
15 A?

16           A.   I just said let me give you an example. That's what I  
17 said before I started.

18           Q.   But the reason, it's an example that you give--

19           A.   Yeah.

20           Q.   --in your Written Response.

21           A.   Exactly.

22           Q.   It's an example that Mr Skelton-Cline, you recall,  
23 presented to you.

24           A.   Yes.

25           Q.   It's an example you've mentioned twice to the

1 Commissioner. Why was it not included in Appendix A?

2 A. Because that came up afterward.

3 Once you're out there--

4 Q. But with respect, Premier, that's not what you say in  
5 your Written Response.

6 A. No, but are you trying to tie me up for things I don't  
7 understand.

8 In the Written Response, this is something that he was  
9 working on, but it wasn't one of those things that we put down  
10 right away because you didn't know how that would have been even  
11 developing, but it was something that's been mentioned. It's  
12 something that is one of the areas that he ended up having to  
13 face and focus on.

14 Let me read the Response for you so you can  
15 understand.

16 Q. Look at paragraph 10, Premier.

17 A. Clearly what it is you're saying because no matter  
18 what I answer you, you ask me the same thing over and over.

19 I cannot now recall all the details of his short  
20 presentation to me, but I was impressed with his grasp of the  
21 need for new ideas and increased interaction of our cruise  
22 facilities and attractions and with knowledgeable and clear  
23 thinking about the way forward for the port he displayed. For  
24 example, he suggested encouraging the Dolphin Discovery Company  
25 to reinvest in the Virgin Islands and the concept of the Sea

1 Plane Excursion Service, which was later taken forward. See  
2 Appendix, paragraph 19 below.

3 And he showed an informed understanding of the issues  
4 we consider in the vital forthcoming cruise line port agreement  
5 negotiations with the cruise industry.

6 So, what I'm saying here, that is something that was  
7 always discussed, but I saw these here as more of things that he  
8 could get to in that time. But while he was working on these,  
9 he would still shift over and work on these other areas.

10 Q. I understand that, Premier.

11 A. But what is there to not understand?

12 Q. So--no, I understand. You said that he would--he  
13 could shift to other areas.

14 A. Yeah.

15 Q. But--and you've now explained to the Commissioner that  
16 you saw the sea plane possibility as a more long-term thing.

17 So, to return you to Appendix A--

18 A. No, no, no, no, no. I think that something is getting  
19 mixed up when I speak.

20 What I'm saying here is that I'm--I use the sea plane  
21 as an example to say that he can only bring things to a certain  
22 level with Public Officers in terms of the--when you come into  
23 the Public Service system. Those now would have to go to other  
24 agencies in government to bring to fruition. That's what I'm  
25 saying.

1           So, let me get out of sea plane and disembark then.  
2 If you're look at 1,000 Jobs in 1,000 Days, since the sea planes  
3 are issue, if he's going bring the 1,000 Jobs in 1,000 Days, now  
4 that will call for several things to happen. One is he bring in  
5 new industries to the Territory to help increase jobs. Two,  
6 when he comes, so that we have to create a policy where they can  
7 decide if we're going to make sure that we employ more Virgin  
8 Islanders issues and reduce having to import labour, so there  
9 are several factors but those won't be things he can decide on  
10 his own.

11           COMMISSIONER HICKINBOTTOM: But the Contract, this  
12 Contract--this Contract--doesn't require him to do so. This  
13 Contract requires him to leave the Strategic Planning process  
14 and focusing on short- and long-term initiatives, translating  
15 strategies which he's developed into actionable and quantity  
16 plans; that is plans setting out on a timeline what's going to  
17 happen and what the income will be over a particular timeline  
18 and then monitoring the execution of that Strategic Plan.

19           I understand, Premier, that on that timeline that's  
20 produced there will be various points at which he, as merely a  
21 Political Advisor, can't do anything about it because it would  
22 require a Ministerial decision or a Cabinet Decision or  
23 something else, but that will still be in the Strategic Plan.  
24 That's what this requires. This is--this requires--I'm not  
25 quite sure whether this reflects the intention because we know

1 that the intention was not necessarily reflected in what the  
2 Contract says, but what this suggests is that he's going to  
3 produce these plans, not simply advise you generally on blue sky  
4 thinking and policy.

5 THE WITNESS: Well, that, Commissioner, in--when I  
6 look into the wording of it, that's what I mean the templates  
7 have to be current because to ask any consultant to bring  
8 certain things to fruition that needs the Public Officers' area  
9 is where they're saying there are some errors in these templates  
10 that were used. A consultant cannot do some of those things.  
11 It is not possible.

12 COMMISSIONER HICKINBOTTOM: Premier, I understand  
13 that. This part, Appendix A, I'm not sure is part of the  
14 template, but leaving that aside, that's what this--that's what  
15 this, on its face, obliges him to do, create hard copy strategic  
16 plans with hard copy quantitative proposals in terms of income,  
17 et cetera. That's what--and as I say, along the way, there will  
18 be matters which fall outside his control, as I say, for  
19 example, if it requires a Cabinet Decision, but that's still in  
20 the plan. This requires the plan.

21 But was that your intention, or was your intention for  
22 it to be a broader policy role?

23 THE WITNESS: It would also be a broader policy role,  
24 because even what you have said, Commissioner, knowing of how  
25 that the Public Service system operates--I'm not backing down

1 from what you said and not opposing it--that Strategic Plan  
2 cannot fully be formulated through a--through the Consultant.

3 COMMISSIONER HICKINBOTTOM: No, no--I understand that.

4 (Overlapping speakers.)

5 THE WITNESS: So the template is always the issue.  
6 That's what I'm saying.

7 COMMISSIONER HICKINBOTTOM: I understand.

8 THE WITNESS: When I look back, the template is the  
9 issue.

10 COMMISSIONER HICKINBOTTOM: Well, it doesn't matter  
11 whether this is part of the template or not.

12 But so the duties and responsibilities that this  
13 contractual document set out for Mr Skelton-Cline does not  
14 reflect what you intended his duties and responsibilities to be.

15 THE WITNESS: Somewhat, but not totally because it  
16 does have some of the areas that we had viewed would be quick  
17 wins, but in terms of holding to some these duties and  
18 responsibilities based on the Public Service, it would be  
19 difficult to ask a nonpublic officer, especially not in a senior  
20 role, to produce some of this information.

21 COMMISSIONER HICKINBOTTOM: So, leaving aside the  
22 special area of the focus, just leaving those aside for a  
23 moment, just focusing on the duties and responsibilities set out  
24 for Mr Skelton-Cline in this Contract, these do not reflect, as  
25 I understand your evidence, the duties and obligations that you



1 intended him to have in two respects going different directions.

2 Firstly, it doesn't adequately set out the full scope  
3 of those duties and obligations, which included a broader policy  
4 role as a Political Advisor;

5 And secondly, they included some things which--such as  
6 producing actionable and quantitative plans, which you didn't  
7 expect him to produce because you say he probably couldn't  
8 produce them.

9 THE WITNESS: But the system would not allow him to do  
10 so.

11 COMMISSIONER HICKINBOTTOM: No. So, in those two  
12 respect, in one respect, the duties and obligations don't  
13 reflect the full scope of what you intended him to do,  
14 contractually intended him to do; and, on the other hand they  
15 included some duties and responsibilities which you did not  
16 intend him to do.

17 THE WITNESS: Well, duties and responsibilities that  
18 should not be for him to do because legally he cannot do them.

19 COMMISSIONER HICKINBOTTOM: Fine.

20 THE WITNESS: That's all I'm saying.

21 COMMISSIONER HICKINBOTTOM: No, I understand that.

22 THE WITNESS: I don't want to get intricately involved  
23 in the weeds of it them, but it cannot be done by a consultant  
24 because there are certain things that must be done by Public  
25 Officers.

1 COMMISSIONER HICKINBOTTOM: I understand that.

2 THE WITNESS: So actually for it to be done in the  
3 Contract, probably it is just a template that was used.

4 That's why I'm saying. But in reality to have him to  
5 produce some of these things in the template, not being a senior  
6 Public Officer, he can only bring--or she or whoever could only  
7 bring it to a certain level.

8 COMMISSIONER HICKINBOTTOM: I understand that. I  
9 understand the reasons you've given for why the Contract doesn't  
10 reflect your intentions in respect of his duties and  
11 responsibilities.

12 THE WITNESS: All of them. It doesn't reflect all of  
13 them because we were looking at some of the areas, and he did  
14 produce them based on what the Public Service side wanted, so it  
15 isn't that there was one produced. They were produced. But  
16 what I'm saying is the level to which he was being held, now  
17 that I'm seeing it here, to bring it into being would be beyond  
18 that of any body that's not a Public Officer.

19 BY MR RAWAT:

20 Q. Can we take a quick look, then, Premier, at the actual  
21 report that you got at the end of six months, which you'll you  
22 find in the same bundle 8 at 7242.

23 Let me know when you're there.

24 A. Yeah, I'm here.

25 Q. If you turn over please, this is the front cover of

1 the Report which is dated 13th of September 2019. If you turn  
2 over at 7244, Premier--

3 A. Um-hmm.

4 Q. --you will see that there's the index, and at (2)  
5 Mr Skelton-Cline has laid out the various projects that he's  
6 looked at which you can see go beyond those listed in Appendix A  
7 that we were looking at and which I think he explained included  
8 areas that were assigned by you during the course of the  
9 Contract.

10 If we just look at 7250, just one question. In  
11 relation to cli--the first one on the list is climate change.  
12 Overall project deliver--objectives and you--are listed there  
13 and then you'll see deliverables of creation of a climate  
14 resilience and renewable energy unit, advise on projects linked  
15 to climate resilience.

16 Who would have set those deliverables for  
17 Mr Skelton-Cline?

18 A. I don't remember who said those there because he would  
19 be given the topics, as far as I can remember, and most of them  
20 he would be able to walk through them, but some of them we  
21 discussed but I don't remember who said that one.

22 Q. So, would he be given, if you like, headline topics,  
23 and then he'd be able to sort of work underneath that and be  
24 more focused and specific?

25 A. He would use some of them, and some of them we would

1 discuss.

2 Q. I see.

3 MR RAWAT: Commissioner, I know we've been going for  
4 some time. Could I ask if we could just have a five-minute  
5 break for the Stenographer?

6 COMMISSIONER HICKINBOTTOM: Yes, certainly.

7 Premier, again, we'll have a five-minute break for the  
8 Stenographer--

9 THE WITNESS: Okay.

10 COMMISSIONER HICKINBOTTOM: --and then come back and  
11 conclude your evidence. Thank you very much.

12 THE WITNESS: Okay.

13 (Recess.)

14 COMMISSIONER HICKINBOTTOM: Good. Thank you,  
15 Mr Rawat.

16 BY MR RAWAT:

17 Q. Thank you, Premier. We were looking at the status  
18 report that Mr Skelton-Cline submitted at the end of his first  
19 contract.

20 Just in terms of climate change, what he recommended  
21 in 2019 was the creation of--and this is one of the  
22 deliverables, but his recommendation which you will see at 7251  
23 was that in relation to creating a climate change--Climate  
24 Resilience and Renewable Energy Unit. What Government had to do  
25 or the next step was to re-establish the Climate Change Trust

1 Fund Board. Now, obviously, this is something we canvassed with  
2 you, but as--obviously, as of September 2019, that hadn't  
3 occurred, hadn't it? And what is the current position in  
4 relation to the Climate Change Trust Fund Board?

5 A. Just that, to work on it to start to get out--get the  
6 ads finalised. If I could recall correctly, I'm not speaking  
7 out of turn, so they can start to advertise.

8 Q. To recruit members for the Board?

9 A. Um-hmm.

10 Q. I see.

11 One of the--

12 A. That's now. I was informed, I will put it that way.

13 Q. If you go to 7253, one of the other--and it's a point  
14 that you mentioned, which is Prospect Reef, that appears in the  
15 Contract--the deliverable was the Consultant's role is to assist  
16 the Government in developing and implementing a program of  
17 activities required for attracting and selecting a developer for  
18 the Project and liaising with the selected developer during the  
19 project life cycle. Could you--if you can, can you clarify  
20 exactly what was intended behind that deliverable?

21 A. All I'm going to tell you is that everything he  
22 brought, including that, can only go to a certain point. The  
23 Prospect Reef Board was not in place, and when we finally got it  
24 in place, some persons resigned, and we passed it in Cabinet to  
25 put some new Members, and we are waiting on them to start the

1 function, so he was not going to follow with that. The Board  
2 was not in place.

3 Q. That's the point Mr Skelton-Cline makes in his Report  
4 in September 2019--

5 A. The same with the climate change, he couldn't go any  
6 further because the Board was not in place.

7 Q. I see.

8 But in terms of what role he was expected to play, not  
9 the point he could go no further, but what was he as consultant  
10 expected to play in terms of this role with Prospect Reef?

11 A. Well, that would be determined after his time on the  
12 Board, what the Board would want him to because the Board would  
13 have certain statutory powers, so I wouldn't see them doing  
14 anything that is going to conflict with their powers or try to  
15 override their powers, so that would have been based on how the  
16 Board would see whether or not they would have need him to  
17 assist any further based on the statutory provisions given to  
18 them.

19 Q. So, you anticipate--there was a possibility at least  
20 that he could have, if the Board was in place, he could have  
21 continued working with the Board?

22 A. I wasn't can't say that. The Board would have to be  
23 coming based on the law that guide them.

24 Q. One of the other matters was telecommunications. At  
25 that time, what was the status of the Telecommunications

1 Regulation Commission in terms of having a Chair, a Vice Chair,  
2 and Directors?

3 A. I can't remember what they are at that time because  
4 that's 2019, I can't remember exactly at that time what the  
5 state of it was. I really can't, so I can't answer that.

6 Q. One of the points you made, when we were looking at  
7 Statutory Boards, it was about when one is appointing a new  
8 Chair and the Vice Chair of the Telecommunications Regulatory  
9 Commission, the importance of having someone with the right  
10 expertise for those kind of roles, what was Mr Skelton-Cline's  
11 expertise in telecommunications?

12 A. Mr Skelton-Cline, as I said, was more so Special  
13 Advisor because he gets things done. He don't need to be expert  
14 in everything, but if you know to organize and lead people and  
15 to get things done, that is a key and a very rare skill in  
16 Public Service overall advisor or what, and he had that skill,  
17 and we needed that skill to get things jump-start. And the  
18 persons with the experience, once it gets started, would need to  
19 go--would need somebody to get to that level of getting it  
20 jump-started.

21 Q. He described himself, when he gave evidence to the  
22 Commissioner, as a "facilitator". Was that the role you saw for  
23 him?

24 A. Well, he has a skill, as I just answered that, and  
25 that is how he is. He gets things done. His personal life,

1 when he's passionate about his nationalism--I can't control that  
2 part, but he gets things done. He has aggressive needs and gets  
3 things done, and in the public interest we needed that kind of  
4 drive to jump-start some of these things.

5 COMMISSIONER HICKINBOTTOM: In respect of the Climate  
6 Change Trust Fund Board and also the Prospect Reef Board, this  
7 was in September 2019.

8 THE WITNESS: Um-hmm.

9 COMMISSIONER HICKINBOTTOM: You're anxious for early  
10 wins. You mention "jump-starting". What he said was, quite  
11 simply--I mean, he said the precondition is we need a board.  
12 The precondition is we need a board. But the Board's still not  
13 functioning.

14 THE WITNESS: The Board is, like I just answered, the  
15 position of the Board, so what he stated here that would need to  
16 be done still hasn't jumped off because the Board now is going  
17 to start--mobilize to get the Board in place, so he couldn't  
18 carry it any further. He couldn't do anything.

19 COMMISSIONER HICKINBOTTOM: But what he said in  
20 respect of each of these is simply it's a precondition before  
21 anything else happened, Board in place, Board in place. But  
22 we're two years on. This is jump-starting. We're two years on.  
23 The Board isn't in place. All you say is that is not his fault.

24 THE WITNESS: Well, he can't go any further to even  
25 decide that's what he would playing that because the Board--for



1 those two, the Board wasn't formed, but there are other areas  
2 where he produced.

3 COMMISSIONER HICKINBOTTOM: Thank you.

4 BY MR RAWAT:

5 Q. The one project that doesn't feature in this status  
6 report is the sea plane initiative.

7 A. Yeah.

8 Q. Were you concerned that that wasn't there?

9 A. Sea plane can fascinate. I used to ride--I don't  
10 remember the dates and times of--it was always talked about, but  
11 let me explain something for you there. There is so many--I  
12 didn't want to speak much about the sea plane because all had  
13 experiences of a lot of planes around here that didn't fly, so I  
14 didn't really want to hear much about it, the life cycle level,  
15 where to discuss. I know I even said is public.

16 As a matter of fact, certain things seep out into the  
17 public. I just wanted to see the plane fly, so basically I said  
18 keep them on the radar until you could get--if you get that fly,  
19 you we can discuss that and you can put it in the Report and  
20 whatever, and I will say what I have to say, but I want to see  
21 it fly.

22 And up to now, COVID delayed it, but all the paperwork  
23 has been put into place, and until I see the plane fly, I don't  
24 say much about the plane because we didn't have to invest money  
25 into it. Someone who was coming to do it, they got the interest

1 up, and the person have done all that they can do, COVID has  
2 caused that delay, so hopefully it will now get whatever  
3 approvals the plane would need to fly, it would fly. I just  
4 refrain from comment on planes.

5 Q. Turn up 7235, please, Premier.

6 This is the memorandum that goes from the Ministry of  
7 Finance to Cabinet--

8 A. Um-hmm.

9 Q. --which leads up to the decision to award a second  
10 contract.

11 A. Um-hmm.

12 Q. And as you will see, is sets out background  
13 information details about the Contract which we have just been  
14 looking at, Mr Skelton-Cline's areas of focus and duties and  
15 responsibilities. At 7237 at paragraph 9 it gives his monthly  
16 fee.

17 And then at 10 says: "The new administration has  
18 given a mandate for Ministries to only submit revenue-generating  
19 initiatives for consideration of new funding in the upcoming  
20 budget and future budget cycles. As such, it is recommended  
21 that Grace Consulting be retained under new contractual  
22 arrangements to identify and implement new revenue-generating  
23 initiatives over the course of the 12-month period beginning  
24 18th of September 2019 to 17th of August 2020".

25 Now--

1           A.    But it also say in Footnote No. 1, don't let that slip  
2 you.

3           COMMISSIONER HICKINBOTTOM:   Paragraph 1?

4           THE WITNESS:   Paragraph 1.

5           It says, on 25th March 2019, the Premier's Office  
6 entered into consultancy contract with Claude Skelton-Cline of  
7 Grace Consulting firm to provide services of a Strategic  
8 Advisor, thus the Government showed the strategic planning and  
9 execution of the initiative as follows".

10          COMMISSIONER HICKINBOTTOM:   Those are simply set out  
11 from Appendix A of the first contract.

12          THE WITNESS:   Right.

13          COMMISSIONER HICKINBOTTOM:   But what paragraph 10 says  
14 is there is going to be a change.

15          THE WITNESS:   Yes.   The paragraph 10 used the word in  
16 terms of that, but it's still intended in terms of the Strategic  
17 Special Advisor and Ministerial Advisor has always been the  
18 intent of this.

19          COMMISSIONER HICKINBOTTOM:   I'm sorry, Premier, it's  
20 certainly always been your intent because you made that clear.

21          THE WITNESS:   Um-hmm.

22          COMMISSIONER HICKINBOTTOM:   But on the face of this,  
23 in paragraph 10 which Mr Rawat has read out--

24          THE WITNESS:   Yeah.

25          COMMISSIONER HICKINBOTTOM:   --a change of direction.

1 It's your change of direction: "The new administration has  
2 given a mandate to Ministries to only submit revenue-generating  
3 initiatives for consideration of new funding in the upcoming  
4 budget and future budget cycles. As such, it's recommended that  
5 Grace Consulting be retained under new contractual  
6 arrangements", so different from what's gone before, "to  
7 identify and implement new revenue-generating initiatives over  
8 the course of the next 12 months". And it says that Grace  
9 Consulting will be tasked with identifying and implementing a  
10 minimum of three revenue-generating initiatives that bring in at  
11 least \$5 million.

12 So, this is--on the face of this document, there is a  
13 change in respect of the contractual arrangements, but you say  
14 that there wasn't a change in the intent.

15 THE WITNESS: There wasn't a change in intent, and all  
16 of that was still part of the advising.

17 What I came to understand is there is no template for  
18 this for Special Advisors, Strategic Advisors, so the Public  
19 Service part of it kept coming in with we need something to  
20 measure by from our side. So, with that in mind, this is what  
21 was placed there.

22 And some key areas that he did work on in addition to  
23 other areas to bring in the \$5 million, that was clear when it  
24 was signed, but I must state that again that he could only carry  
25 out to a certain level--

1 COMMISSIONER HICKINBOTTOM: We will come on--

2 THE WITNESS: --which is the issue with the template  
3 overall--

4 COMMISSIONER HICKINBOTTOM: Yes.

5 THE WITNESS: --how it was structured is a structural  
6 issue with the Contracts, that not a reflection under the whole  
7 thing was structured issue that I was concerned about, but I was  
8 told not to worry about it, but now it's time that the concern  
9 has come to them roost.

10 COMMISSIONER HICKINBOTTOM: But this has nothing to do  
11 with structure.

12 THE WITNESS: Um-hmm.

13 COMMISSIONER HICKINBOTTOM: This is what you told  
14 Cabinet and what Cabinet approved.

15 THE WITNESS: Right.

16 COMMISSIONER HICKINBOTTOM: But what this paper does  
17 not do, on its face, is say "this is a Political Advisor", full  
18 stop.

19 THE WITNESS: It was nothing like that, then. It  
20 wasn't recognised.

21 COMMISSIONER HICKINBOTTOM: But that's not what this  
22 paper says.

23 THE WITNESS: The paper couldn't say.

24 COMMISSIONER HICKINBOTTOM: This paper says that the  
25 mandate is only for revenue-generating initiatives, and that is

1 not obviously a Political Advisor.

2 THE WITNESS: If you look at a paper like that, I  
3 cannot argue, but the paper could not say otherwise because all  
4 through the system they were saying that's not something  
5 recognised. That is why it took me nearly a year in change to  
6 research this to make sure it does exist right there in the very  
7 UK, and put it into place. That was my issue with this all the  
8 time. There is not a template for this.

9 COMMISSIONER HICKINBOTTOM: But are you saying  
10 paragraphs 10 and 11 do not set out--

11 THE WITNESS: That was part of the task, but still  
12 there was supposed to be the advisor. It was part of the task  
13 because that would have been able to help with some of the  
14 revenue generators that we were looking at, which eventually he  
15 started anyway because, for example, medicinal marijuana, we  
16 ended up where the Ministry of Education was tasked with that  
17 after a while, and the lawyers were done, the legislation was  
18 passed but was not assented to. So, that was looking at  
19 5 million. He could not go any further with that up to the  
20 point where he brought it.

21 So with that now, that did not allow too much room up  
22 to the day. We are still in the talks with the UK because the  
23 first legislation has not been assented to that was referred to  
24 the Foreign Secretary of State, which we're going through that  
25 to see what all can be done to get that approved so we could

1 make that revenue, so that was one of them for sure, along with  
2 some other areas.

3           So, it isn't that he didn't bring them to the level of  
4 bringing the ideas or the initiatives--not the ideas, but the  
5 initiatives, to the level of where it was taken off by Public  
6 Officers but to bring it to fruition. He, himself, could not  
7 get it to make the money to put it in the Treasury, he or  
8 himself or any person hired by Government could only go a  
9 certain distance.

10           COMMISSIONER HICKINBOTTOM: I understand that.

11           (Overlapping speakers.)

12           THE WITNESS: But the impetus we had was also to  
13 continue the rule of Special Advisors, but it was always said  
14 there was not a template for it. That was the issue we were  
15 having.

16           COMMISSIONER HICKINBOTTOM: In respect of these  
17 particular contracts, his obligation was to identify and  
18 implement the initiatives. I think what your evidence is that  
19 he couldn't implement them beyond a certain stage because that  
20 required I was going to say "government"--intervention of Public  
21 Officers and Cabinet Decisions and all.

22           THE WITNESS: Government Officers.

23           COMMISSIONER HICKINBOTTOM: Thank you.

24           BY MR RAWAT:

25           Q. What was the basis of the Cabinet waiver?

1           A.    It would have been over \$100,000, the total of the  
2 Contract.

3           Q.    So, because of that, Cabinet waived it?

4           A.    Right.

5           COMMISSIONER HICKINBOTTOM:  No, no.  What was the  
6 reason for the waiver?

7           THE WITNESS:  Because it was over \$100,000.

8           COMMISSIONER HICKINBOTTOM:  That's the reason you  
9 needed a waiver, but what was the justification for the waiver?

10          THE WITNESS:  Because his amount--even when you add it  
11 up by 12 months it would have been over 100,000.

12          COMMISSIONER HICKINBOTTOM:  Sorry, I understand the  
13 Major Contracts procurement regime.  This required either  
14 tendering under the procurement regime or a waiver.

15          THE WITNESS:  Right.

16          COMMISSIONER HICKINBOTTOM:  What was the justification  
17 for waiver that meant that you did not have to go through the  
18 procurement regime?

19          THE WITNESS:  Again, the reason being that there was  
20 not a regular contract that should have been tendered because it  
21 was always meant for him to have some measurables for the  
22 technical persons but to be a Special Advisor, Ministerial  
23 Advisor, to the Premier.  So, with--that is something not done  
24 in the United Kingdom.  It's not tendered anywhere in the world.  
25 That's the impetus behind it.



1 BY MR RAWAT:

2 Q. I think understand the point, where you have a Special  
3 Advisor as you want to have now--

4 A. Um-hmm.

5 Q. --that is not a position that can be tendered because  
6 of the nature of the appointment?

7 A. That is what I was saying from the time I was elected  
8 about the whole regime, but eventually we got to research and  
9 now have it narrowed down. It took about two-and-a-half years  
10 to get that narrowed down, that's what I was saying.

11 Q. It's a combination of it that it's a  
12 personal/political appointment, so therefore it's not something  
13 you can put out to tender. It just doesn't work.

14 A. Exactly. Like in the UK, that's all I'm saying.

15 Q. So, that's the position--that's what you can do now as  
16 a government?

17 A. Um-hmm.

18 Q. Or any government in the BVI can do now--

19 A. Right.

20 Q. --because of the changes you've made?

21 Taking you back to Mr Skelton-Cline, you--your  
22 rationale from the start you've made plain was that I am having  
23 you here as a Special Advisor in all but name. That's what I  
24 want you to do.

25 A. That was the intention with some--some--with some

1 areas to look at, although they won't be limited to those.

2 Q. Yes.

3 So, above and beyond what was in the Contract, you  
4 expected Mr Skelton-Cline to play the role of Ministerial  
5 Advisor or Special Advisor, whatever title you want to give it.  
6 That was your expectation, and that's the expectation you went  
7 into this Contract and subsequent contracts with?

8 A. At all times, but because the regime of the Public  
9 Service kept saying there is no template for Special Advisor.

10 Q. So you needed to have deliverables--

11 A. To satisfy their structure.

12 Q. --to satisfy the technical people?

13 A. Exactly.

14 Q. And--but from your perspective, his performance was  
15 not about whether he delivered or not because, as you've  
16 explained, there was not a line he could cross anyway.

17 A. Right.

18 Q. You would have assessed his performance at the end of  
19 that six months on the basis of has he--has he met, if you like,  
20 your benchmark of being a Special Advisor? Has he--has he done  
21 the things I would expect of a Special Advisor?

22 A. In the public's interest, to help with the economy and  
23 to be productive, that would be one of the major factors of  
24 assessment.

25 Q. And then going forward, that's also something he would

1 have kept in mind because there's two roles going on here.  
2 There is the Contract and the deliverables which the technical  
3 people can assist you on. They can make an assessment of that.  
4 But the other side of it, the Special Advisor side, that is down  
5 to you because it's the nature--

6 A. That's why they would check with me on those sections.

7 Q. Yeah, because, as we discussed, they can't cross that  
8 line. You have to make that assessment because it's a political  
9 appointment, you have to be satisfied, and yes, you're going to  
10 have regard to the public interest, but you have to be satisfied  
11 that he's met the marks.

12 A. That was the intention of the whole contract, but  
13 because there was not--I just keep using the word you give me a  
14 template for Special Advisors. They didn't want to put it in  
15 the Contract, but that was our understanding. And he understood  
16 that, too.

17 Q. Who would have explained that to Mr Skelton-Cline?

18 A. No, I mean, he would have understood that because,  
19 from the time into it--he wanted--when I finally found was  
20 dealing with the first meeting with the FPS, one of the things  
21 he sent in was a role of Chief of Staff, so that's why we said  
22 no, no, no, no, no, no, I don't want a Chief of Staff. I want a  
23 Strategic/Ministerial Advisor to work on certain areas, so  
24 that's off the table, so he would have understood that the role  
25 was that and not Chief of Staff because that's what he--

1 Q. Well, I canvassed that with Mrs Smith-Maduro.

2 A. Okay.

3 Q. Because there is an e-mail where Chief of Staff is  
4 raised.

5 A. Exactly--

6 (Overlapping speakers.)

7 Q. Her evidence to the Commission was that that was  
8 swiftly dealt with.

9 But can I just take you to 7291, please, Premier.

10 A. Okay.

11 Q. This is where we look at the Decision of Cabinet on  
12 this issue, and at 28(b), it says: "The Cabinet approved the  
13 request for waiver of the tender process in favor of Grace  
14 Consulting that is deemed to be a suitable company having  
15 successfully executed deliverables in a just-concluded contract  
16 and provided evidence of the same".

17 So, that seemed the basis on which Cabinet made the  
18 decision to waive, but it's not--as you've explained to the  
19 Commissioner, it's not the full picture.

20 A. It's not the full picture.

21 Q. But the oddity is there is nothing in the memorandum  
22 that goes to Cabinet that actually says--

23 (Overlapping speakers.)

24 A. Same statement, sir. The system was not recognizing  
25 Special Advisors in that nature, so they didn't have a template

1 for it, so giving a Public Officer to put that in writing, they  
2 were just saying that it would be understood, but there is no  
3 template for it, but that was always the understanding and even  
4 conveyed to him that along with these deliverables, that is what  
5 your role is.

6 Q. There is a file which is--or I hope is there, a small  
7 grey file. If you turn up 317, please.

8 A. Yes.

9 Q. This is Appendix A to the second contract, so again we  
10 have--the change this time is that rather than reporting under  
11 Petty Contract to the Permanent Secretary, Mr Skelton-Cline is  
12 now required to report to a Financial Secretary, which he again  
13 is described as a Strategic Advisor, and what he's contractually  
14 obliged to do is to provide services--

15 A. Might I add, please?

16 You notice that "Strategic Advisor" coming up all the  
17 time. That's the only terminology that could give me--that  
18 would relate to what it is that you are stating. That's why  
19 they keep coming up because you will see it just as  
20 "consultant", so that is why that has been under action  
21 terminology that's coming through all the contracts, and even as  
22 you look through here with this one.

23 But go ahead and ask the question. I just needed to  
24 clear.

25 Q. His services is to assist the Government in

1 identifying and developing a portfolio of revenue-generating  
2 initiatives, and be responsible for developing and delivering a  
3 minimum of three initiatives within the 12-month time frame that  
4 will generate a minimum of \$5 million.

5 So, the obligation placed on Mr Skelton-Cline was that  
6 within that 12 months he should deliver \$5 million, and we could  
7 look through the status reports that he submitted, but  
8 he--he--he didn't deliver \$5 million.

9 A. How could he? When you--how could he deliver  
10 \$5 million? It said that will generate a minimum of \$5 million.  
11 It didn't say he would deliver \$5 million. So, with that, now,  
12 the medicinal marijuana that came to fruition would have  
13 generated more than \$5 million.

14 Q. Within 12 months?

15 A. Once we passed it, everything that was going, that was  
16 already factored in the Budget.

17 So--but it was never assented to, so he couldn't get  
18 it implemented, so you can't blame him not--for that money not  
19 being made.

20 Q. Well, there is no qualification to what  
21 Mr Skelton-Cline's obligations are.

22 A. No, but it said it right there.

23 Q. After 12 months of the Contract, he has to deliver a  
24 minimum of \$5 million.

25 A. Is 317 you're looking?

1 Q. 317.

2 A. Okay, let me read it for you: Strategic Advisor,  
3 which is what is the term, Strategic Advisor, "provide services  
4 of a Strategic Advisor to assist the Government identifying and  
5 developing a portfolio of revenue-generating initiatives, and be  
6 responsible for developing and delivering normal initiatives  
7 within the 12-month time frame that will"--the key word there is  
8 "will"--"that will generate a minimum of \$5 million".

9 So--I mean, I didn't study law like you all, but that  
10 will, that means it has the ability to generate \$5 million. So,  
11 what I'm saying is that initiatives, one of which I named, that  
12 will generate \$5 million, but it was not able to come to  
13 fruition because it was passed in the House, our legislation,  
14 but was not assented to, and that is still ongoing.

15 But we were confident that once you get passed  
16 whatever concerns are in the UK that we have to deal with the  
17 Foreign Secretary on, that when it is implemented, it will  
18 generate more than \$5 million, for sure. The word is "will".  
19 That's not the word is?

20 Q. How would you assess it?

21 A. Well, of course, in doing all those different areas  
22 with the legal part and all tech Public Officers dealing  
23 whatever lawyers deal with and looking at other economies of  
24 medicinal marijuana all through the world, you will be able to  
25 get a good bearing of how things would be done.

1 Q. This is your provision.

2 A. Um-hmm.

3 Q. You wanted this in.

4 A. This is something that we agreed again because there  
5 was no template to satisfy Public Officers to make sure they are  
6 in--you're dealing with the political end of what all we are  
7 working with, but we wanted some technical areas that we feel  
8 satisfied with. That was all of the conversation.

9 Q. Premier, from your Written Response, you say: "I also  
10 gave him an ambitious task of identifying and implementing"--

11 A. Right.

12 Q. --"these three initiatives that would generate revenue  
13 for the Territory of 5 million or more".

14 A. Yes.

15 Q. And then you refer to this particular page that we're  
16 looking at.

17 A. Exactly.

18 Q. The page doesn't say that "might" generate a minimum  
19 of 5 million.

20 A. That "will".

21 Q. It doesn't say "is likely to".

22 A. Right.

23 Q. So, what Mr Skelton-Cline had to give you within the  
24 12 months of his contract was at least three initiatives, would  
25 give the BVI Government--



1 A. Yeah.

2 Q. --a minimum of \$5 million.

3 A. Right. But he cannot--

4 Q. Not "maybe".

5 A. No matter how you turn it, no matter how you turn it--

6 Q. Walking away from that contract--

7 A. Right.

8 Q. --you had to be satisfied that that's what

9 Mr Skelton-Cline delivered to you.

10 A. No matter how many times, my answer is the same way.

11 There is no way for him to put that \$5 million in the  
12 Government's coffers. He can only carry the initiative to a  
13 certain level. He cannot--the Government cannot realise that  
14 money--he cannot go there and create the industry, make the  
15 \$5 million and put it in the Treasury. He only could bring the  
16 initiative, the Government carried to the level it has to go,  
17 and when they do the implementation of the new initiative, the  
18 new revenue generator, then that would bring in the money after  
19 one year's time.

20 There is no way legally--legally--you can hold him to  
21 make \$5 million and put in the Treasury.

22 COMMISSIONER HICKINBOTTOM: But with respect, Premier,  
23 it's not a contract--you signed the Contract requiring him to do  
24 this. The Financial Secretary became the direct reporting line  
25 because it has to do with cash, \$5 million within the year. No

1 reference in here at all to anything I don't think that could be  
2 construed as a Political Advisor.

3 THE WITNESS: Yes, but this was always on the side no  
4 matter--I can't change it. I'm saying what I know what there  
5 was.

6 COMMISSIONER HICKINBOTTOM: I understand that, but on  
7 its face, it was not Political Advisor. It was somebody to  
8 generate \$5 million within 12 months.

9 THE WITNESS: It was part of what he would be doing  
10 here, but because they didn't have any template, wouldn't put it  
11 in no matter how much was asked.

12 COMMISSIONER HICKINBOTTOM: I got--I got that point.

13 THE WITNESS: But that was always the impetus behind  
14 what he was hired for.

15 Now, this satisfied their section. The Financial  
16 Secretary would do the reports and monitoring that part of it to  
17 see what all would have been done, but this again now for this  
18 contract, I think this was in--

19 COMMISSIONER HICKINBOTTOM: 2019.

20 THE WITNESS: This contract was 2019 and then it  
21 lapped over into 2020. And once 2020 hit, after a while, a lot  
22 of the tasks that Mr Skelton-Cline was tasked with got adjusted  
23 significantly because of COVID and went into how to help us know  
24 to get the businesses, private sectors, and all of that because  
25 now it's just the landscape of this change.

1           COMMISSIONER HICKINBOTTOM: I understand that. But  
2 the Contract, which was I don't know in November or  
3 December 2020, I think, way into COVID, was in the same terms.

4           THE WITNESS: Right.

5           But you see this is where now the capability, the  
6 institutional capability, of the service clicked in here, so  
7 should have comment something on the law to allow to be fair to  
8 him because you now can't work on this in the middle of COVID,  
9 so with this now his duties and responsibilities had to be  
10 shifted.

11           COMMISSIONER HICKINBOTTOM: I understand that. I  
12 understand that.

13           Yes, Mr Rawat.

14           BY MR RAWAT:

15           Q. If--I won't need to take you, Premier, to the status  
16 reports that were issued on the second contract but to ask you a  
17 couple of questions.

18           Under that second contract, at least until May 2020,  
19 Mr Skelton-Cline was required to submit monthly reports. He  
20 didn't do so. Were you made aware of that?

21           A. From the Financial Secretary?

22           Q. Yes.

23           A. Well, I really and truly wouldn't--I don't remember  
24 being made aware because, in fairness to the Financial Secretary  
25 from then until whenever he was--he was managing one crisis

1 after another, and a--and a lot of things that should have been  
2 regularly checked were not being checked, not being  
3 neglectful--I don't mean money alone, but just in general  
4 meetings we have we couldn't have because the focus was on  
5 COVID, and it was just a crisis management mode continuously.

6 So, I don't remember if he told me or didn't, but I  
7 would figure that he did receive some kind of reports after a  
8 while. And if he didn't, coming out of COVID, the  
9 responsibility of Mr Skelton-Cline shifted.

10 As a matter of fact, the meeting in Necker Island,  
11 that yielded a lot of follow-up meetings, and I mean, I'm not  
12 surprised Mr Skelton-Cline, to be blunt, would be a person of  
13 interest, given who called the Inquiry because the last Governor  
14 wanted to be the one spearheading a lot of those meetings on the  
15 sister islands, and I keep telling him that's not your role, to  
16 the point where one of them was on Zoom, and he demanded that he  
17 be Co-Chair with me in those meetings.

18 So, there was a lot of unnecessary competition in  
19 trying to get the ships there during that COVID period, but he  
20 delivered. Skelton-Cline delivered for us because those persons  
21 kept their staff hired, they paid, all of them promised, look,  
22 during this here, given the negotiations that he has done, we  
23 will keep on our staff through the COVID as much as is possible,  
24 and which did help us--for the most part it did, which helped us  
25 in that aspect of the economy, which was something that he had

1 negotiated.

2 COMMISSIONER HICKINBOTTOM: But one reason we're  
3 looking at this because we're dealing with governance and  
4 process--

5 THE WITNESS: Right.

6 COMMISSIONER HICKINBOTTOM: --is that the work that  
7 Mr Skelton-Cline was then doing was not reflected at all in his  
8 contract.

9 THE WITNESS: It should have made some adjustments on  
10 the file.

11 COMMISSIONER HICKINBOTTOM: There is nothing here.

12 THE WITNESS: His work was understood that it had to  
13 be shifted, and you cannot blame Mr Skelton-Cline for that  
14 because--

15 COMMISSIONER HICKINBOTTOM: We're looking at  
16 governance. We're not blaming Mr Skelton-Cline. We're looking  
17 at governance.

18 THE WITNESS: But if you're looking at governance and  
19 the capability and capacity during the pandemic, worst pandemic  
20 in 100 years caused a shift. And before we even go out of it,  
21 got in the little of the Inquiry.

22 At the end of the day, it was a lot that happened, but  
23 for me to come to tell here this body that Mr Cline has not  
24 worked on this which just tailed off during this COVID period to  
25 help us and help our economy and help with the private sector

1 and help many things, his focus had to shift, I cannot come and  
2 tell you no. He was instrumental in a lot of things that we are  
3 doing to keep us afloat economic-wise with the private sector  
4 with other areas, and he had to shift--his assignment had to be  
5 shifted. And that was understood by most persons who were  
6 dealing with Government.

7 COMMISSIONER HICKINBOTTOM: But not in a contract,  
8 including the Contract at the end of 2020.

9 THE WITNESS: That's why I'm saying that a footnote  
10 should have been placed in there that allows the shift. So,  
11 with that in mind, I can't blame the Public Officers for not  
12 getting to that because they were overwhelmed up until now. But  
13 the man has worked and worked entirely but he had--he could not  
14 in any way be revenue-generating then. So, at the end of the  
15 day, you couldn't ask him to do that because everything was  
16 locked down around the whole world. He would be doing it, he  
17 would act if he had gotten that done at that time, so his role  
18 had to be shifted in watching--wanting to help manage the  
19 crisis.

20 COMMISSIONER HICKINBOTTOM: But the only point I'm  
21 making, which is a modest point, that wasn't reflected in his  
22 contract.

23 THE WITNESS: Well, that is something that should have  
24 been adjustment just on the file and would save a lot of time  
25 here today, but it isn't that the Officers didn't understand

1 that. It isn't they weren't neglectful. It's just a lot to ask  
2 him for, and given this is one of the areas being drilled down  
3 on, the gentlemen were. He was very instrumental.

4 BY MR RAWAT:

5 Q. Turn up 7516, please.

6 COMMISSIONER HICKINBOTTOM: Which bundle?

7 MR RAWAT: Bundle 8.

8 THE WITNESS: 7 what?

9 BY MR RAWAT:

10 Q. 7516.

11 A. Okay, go ahead.

12 Q. This is the third contract, 7516, Premier.

13 So the first page on bundle 8 is 7166.

14 A. 7156, yes.

15 Q. Bundle 8 should start 7166?

16 A. And you want 71--

17 Q. --66, and I would like to take you, please, to 7516.

18 So, the first page on Bundle 8 is 7516.

19 A. 7516. Okay.

20 Q. Thank you.

21 A. Yes.

22 Q. This is the third contract.

23 A. Um-hmm, right.

24 Q. Do you have it?

25 A. Yes.

1 Q. And again if you go through, Premier, to--it's a  
2 12-month contract. This time it's reduced down, and it's signed  
3 in November of 2020--

4 A. Um-hmm.

5 Q. --but scheduled to run from the--I think it's the 18th  
6 of September 2020.

7 Again, Mr Skelton-Cline is tasked in exactly the same  
8 terms as he was under the second contract. The only difference  
9 is that, under the second contract, he had been expected to, and  
10 in fact put in weekly reports. Now he's allowed, last bullet  
11 point, to put in quarterly update and written reports, but again  
12 he has to generate a \$5 billion benefit to the Government.

13 Why give him--he's now gone through the pandemic or is  
14 going through the pandemic. You've explained that his role has  
15 changed as a result of the pandemic.

16 A. This was in May; right?

17 Q. No, this is in November 2020 that you signed this.

18 A. Yes, now I remember.

19 Q. So, he's worked through--he's worked through the  
20 second contract. He's now--what's the--

21 A. It's November, yes.

22 Q. --of giving him a third contract on exactly the same  
23 terms as the second when you've got the pandemic going on?

24 A. Mr Rawat, the--to come and ask that is a logical  
25 question outside of our pandemic, but most contracts during that



1 time was just what you call again "resigned". Much of the  
2 persons didn't drill down on changing anything in any contract  
3 with any person that were resigning because that is--it was just  
4 still intense time and just resign. So, with that in mind, it  
5 didn't dawn on anyone--had anyone deal with or anyone with that  
6 or any other contract during that time to change anything.

7           So, if you look at--I won't say I call a contract but  
8 given the volume of what all and still dealing with at that  
9 time, you would find some anomalies with it, but he was still  
10 involved in the shift somewhat of helping with the--with COVID,  
11 and it was still in business that hopefully we would be out of  
12 it so you could start back up with looking at those revenue  
13 generators.

14           Also, that was something in mind, too, because no one  
15 knew COVID would be lasting this long. And given the time was  
16 coming where we were hearing about the vaccines and other  
17 things, and so you would look ahead and say, "All right, there  
18 seems to be light at the end of the tunnel", so would be--allow  
19 us to start the kick-start the economy again and getting certain  
20 things going.

21           So, if you look at it in context, all of that is what  
22 it is all about.

23           Q. But what you wanted him to do in that third contract  
24 was to carry on doing what he had been doing.

25           A. From--from jet--from the beginning, I know I had one

1 thing in mind, and finally we are being able to approve a  
2 template that even the Governor has agreed so that the--the--it  
3 would be not be an issue for either Public Officers or anyone  
4 which is when any government comes that needs to get Ministerial  
5 Advisors can make sure you get. You can't run the Government  
6 without them. Before, they were just called "consultants".  
7 They existed long before I got into Government. One thing in  
8 the BVI, people called them "consultants", and everywhere in the  
9 world they have them, but we wanted them to make sure that the  
10 Terms of Reference is crystal-clear, so we went to Cabinet and  
11 got a pass, and I don't see this problem about popping up again.  
12 It has been fixed, just like we fixed other areas with  
13 legislation and policies, be they the contractor general. So,  
14 if you have concerns with contracts we meet with earlier, the  
15 public management, new public Management Act, Procurement Act we  
16 are working on, we have what you call it again the contractor  
17 generalization that we will pass. We also have Integrity in  
18 Public Life. We have been fixing a lot of areas to make sure in  
19 the future that we further strengthen good governance.

20           So, if you look at this, this hasn't been a problem  
21 just now. It's been issues for quite some years, but we're  
22 trying to get them fixed one by one, and we're fixing them. So,  
23 you will never see a contract or be able to have this thing of  
24 Strategic Advisor and not find it perfectly--not perfectly, but  
25 having it defined like this again because it has been resolved

1 through the Cabinet and through all the mechanisms that need to  
2 be to have it resolved.

3 Q. In one of his reports under that third contract, 16th  
4 of December 2020, Mr Skelton-Cline--and I could take you to it,  
5 if you want, Premier, but he said--he refers to the pandemic,  
6 and says: "We were forced to pivot our focus, whereas we have  
7 been tasked with identifying new revenue streams. Circumstances  
8 demand that some attention be given to restoration of lost  
9 revenue schemes. As a result, I have been assigned by the  
10 Premier to serve as the Secretariat on the economic Advisory  
11 Council and the British Virgin Islands Reopening Steering  
12 Group".

13 So, Mr Skelton-Cline, when he gave evidence to the  
14 Commissioner, pointed to this serving on the Economic Advisory  
15 Council as an example of repurposing the Contract and the work  
16 he had to do.

17 Which you agree with that example of him--of his  
18 contract effectively being, to use his words, "repurposed"?

19 A. He had to repurpose, as I said before, and I stated--

20 Q. And he's right to say you assigned him to the  
21 Secretariat of the Economic Advisory Council?

22 A. That and many other areas because we needed as many  
23 hands as we could get on deck to help manage this COVID-19.

24 Q. I mean, the reason I raised it, Premier, if you give  
25 me a moment, you gave evidence on the 18th of May, you--I asked

1 you about the Economic Advisory Council, and you explained it  
2 was an ad hoc committee. I asked if it was set up by yourself,  
3 you said no.

4 A. It was two different Councils, then.

5 Q. Well--

6 A. There was one Council where private citizens came, and  
7 that was ad hoc committee. That one came to see me on their  
8 own, so he was added a member to that one, but then there is  
9 another committee that was in-house that we were looking at.

10 Q. So, there's two Economic Advisory Councils--

11 A. And he was specifically dealing with a specific part  
12 of the private sector, so that's two totally different ones.

13 Q. I see.

14 A. But he served on both, there were was a head of one.

15 Q. Right.

16 If I summarise that, there were two Economic Advisory  
17 Councils?

18 A. I wouldn't call them "Economic Advisory Councils"  
19 dealing with the economy of the country. I can't remember the  
20 name of one of them, but that one there he was just a member.

21 Q. Just to avoid confusion--

22 A. Yes.

23 Q. --so we're not back into the land of committees and  
24 working groups and task forces, this is at bundle 4, 3556,  
25 Commissioner. I asked you Economic Advisory Council a board,

1 and you said no, it's an ad hoc committee that was put together  
2 by the Ministry of Finance.

3 A. Right.

4 Q. And you agreed that you were with the Ministry of  
5 Finance. I said--I asked who sits on the Council, and you said  
6 you asked the Economic Advisory Council, and I said yes, and  
7 then you went through.

8 And you then said Mr John Klein is Chair, and you  
9 referred to Economic Advisory Council as an ad hoc committee  
10 that has been put together, and that was in the middle of COVID  
11 so we could have businesspeople come together so we could see  
12 how we could go about reviving the economy while balancing lives  
13 with livelihoods. So that's not something approved by Cabinet.  
14 It's just an ad hoc committee?

15 A. Yes, um-hmm.

16 Q. I say set up by yourself? And you say set up by  
17 myself. They have--I then asked, do you sit on that Committee  
18 as Minister of Finance? You explained they meet without me.

19 I asked if any Member of the Cabinet or Minister sits  
20 on this at all. You say none of them sit on them.

21 So, I then asked it's just a group of concerned  
22 businessmen? You said "right".

23 And you then went on to explain, they approached me, I  
24 must say, and state you know they got a cross-section of persons  
25 on it.

1 I asked, do you know whether it has a secretariat?  
2 You say let me clarify it by saying this the record, correct. I  
3 endorsed it because they were already fine without me. I  
4 endorsed it, and so in the wisdom to be a group to listen to  
5 because given that they are businesspeople in the community with  
6 genuine concerns, so I endorsed and adopted it. But that's not  
7 something that I created overall on my own. It was something  
8 that they already had decided to put together.

9 My next question was: Do you know if  
10 Mr Skelton-Cline's involved with the Economic Advisory Council  
11 at all? You answered they brought him in only as a Member, and  
12 then I--then I said I didn't catch your answer, Premier. You  
13 explained again. They brought him on their own as members like  
14 they did with many other persons, but that was independent of  
15 me.

16 So, that's as far as we got with that. So, we were  
17 both speaking about the Economic Advisory Council there.

18 A. And remember I said that he was there as a member.

19 Q. --committee.

20 That's--

21 A. That's not the one he was the head of.

22 Q. Right. So, that's one committee.

23 A. Right.

24 Q. An ad hoc committee of businesspeople of which  
25 Mr Skelton-Cline was a member.

1           A.    Right.

2           Q.    Separate to that--and this is what you say he's  
3 referring to in his status report--you appointed him to  
4 something he calls the Economic Advisory Council to be its head?

5           A.    Yes.  That was the Council, and the Council with it,  
6 he had a different set of businesspersons that were a different  
7 cross-section--the language will be better, different  
8 cross-section of private persons, private entrepreneurial,  
9 private persons, businesspersons that he would meet with that  
10 would be generating certain ideas, but they were mostly ideas  
11 along the line of ideas of how to help restart the economy given  
12 COVID-19.  That advisory committee was given a lot of ideas with  
13 the economy as well, but they were more focused on long-term  
14 than just the immediate rebooting of the economy or  
15 reinvigoration of the economy.  The Committee he was over was  
16 tasked with dealing with the immediate part of it.

17          Q.    Although Mr Skelton-Cline--

18          A.    Ad that was ad hoc, I might add.  That was not as  
19 Cabinet.

20          Q.    Although Mr Skelton-Cline has described it as the  
21 Economic Advisory Council in his Statutory Board, what do you  
22 call it?

23          A.    Advisory, I think if it didn't have the same name, it  
24 was close to advisory, about the same.  It was close.  One was  
25 advisory--Economic Advisory Committee, and one was Economic

1 Advisory Council, if I can remember correctly.

2 Q. I mean, that's the one we were talking about in  
3 May 2021.

4 A. Yeah.

5 Q. The point you're making is that when we're speaking of  
6 the body to which Mr Skelton-Cline was the Secretariat--

7 A. That would be the one there that they brought him, I  
8 think he would be the Secretariat is what they brought him in on  
9 that one.

10 Q. That one?

11 A. Yes.

12 Q. You see, that's the one where he says you assigned him  
13 to be the Secretariat.

14 A. Well, when they brought it in to me with it, of  
15 course, being that he's working with me, I sanctioned him with  
16 being on it.

17 Q. So--

18 A. But I wasn't the one originally asked him to go on it.

19 Q. "Assigned" might suggest that. You didn't assign him.  
20 You agreed to him going on it.

21 A. I would say "agree" is a better word, agreed for him  
22 to be on it, because he was working along with us, where the  
23 other one he was assigned.

24 Q. The Committee?

25 A. The Council, whichever one it is. One is council and



1 one is committee.

2 Q. We're going to be very confused, Premier. I'm going  
3 to call this one the "Economic Advisory Council".

4 A. Council, and the other one is the Committee.

5 Q. Mr Skelton-Cline says you assigned him to that, but  
6 you said the better word is to say that you agreed to him to  
7 become part of the Secretariat.

8 A. Agree.

9 Q. Separate to that, there is another ad hoc committee,  
10 which we shall call between the two of us at least the Economic  
11 Advisory Committee.

12 A. Um-hmm.

13 Q. And you assigned him to that Committee to be the head  
14 of that Committee.

15 A. As a matter of fact, he was the head along with a man,  
16 he was co-chairing those meetings and those committee where the  
17 gentlemen I think it was David Norris, they were co-chairing.

18 Q. Which ones? The one that you assigned to him to?

19 A. The one that I assigned him to. He was co-chairing  
20 those and getting meetings for us. We met a few times in one of  
21 the hotels here. We had a lot of meetings, and they were  
22 co-chairing helping also to get--to get whatever resources that  
23 would be needed to help with the COVID-19. There were a lot of  
24 things that we were doing that were different, some similar but  
25 mostly different from the Committee.

1 Q. It may just be a difference in recollection. You  
2 remember him and Mr Norris co-chairing the Committee?

3 A. Yeah, they were both co-chairing the meetings first  
4 right in the same room, too, I might add.

5 Q. Mr Skelton-Cline's report and his recollection in his  
6 report to Government in December 2020 says, "I was assigned by  
7 the Premier to the Secretariat of the Economic Advisory Council,  
8 and I sit on that with David Norris".

9 A. Right. He was on that also, and David Norris was on  
10 the other one also.

11 Q. Okay. Well, right.

12 A. They were everywhere and are still everywhere.

13 And I might add that Committee came in long before the  
14 other Committee, that Committee.

15 Q. I think I have taken it as far as I can.

16 A. Yes.

17 Q. And it may be a mystery that may have to remain a  
18 mystery.

19 A. No, it's not a mystery. You have it as a mystery, but  
20 it's clear to me if we get dates down pat, but I cannot sit here  
21 in front of the public and say that Mr Skelton-Cline have not  
22 work even Norris that came with him, they worked extremely hard  
23 to help us through this COVID-19 era, and his contract--yes, he  
24 had to pivot from it, and it was known to everyone, and it  
25 should have had a fine note on it, I will agree. But he worked,

1 and he worked still part of it, and the gossip is one thing but  
2 the gentleman worked and he produced.

3 COMMISSIONER HICKINBOTTOM: Your evidence on that is  
4 clear, Premier. Thank you very much.

5 Anything else, Mr Rawat?

6 MR RAWAT: No. I have reached the end of my  
7 questions, Commissioner.

8 Can I conclude by thanking the Premier. We didn't  
9 make the lunch, but we may have made dinner, and I thank him for  
10 his time, and thank him for the way that he has attended once  
11 again to give his evidence. Thank you, Premier.

12 COMMISSIONER HICKINBOTTOM: Thank you, Premier. Thank  
13 you for your helpful evidence, and thank you for your time.

14 THE WITNESS: Thank you, Commissioner. I just want to  
15 make sure I could come so that we could clear the name of the  
16 Virgin Islands so the Virgin Islanders go out and whom we are  
17 also concerned about some of the aspersions that have been  
18 placed on our fine country that we can have this drilled down so  
19 that the name of the country can be cleared, and I want to thank  
20 everyone for their time today also.

21 COMMISSIONER HICKINBOTTOM: Good. Thank you very  
22 much, Premier.

23 Mr Rawat?

24 MR RAWAT: I think we're next sitting on Thursday.

25 COMMISSIONER HICKINBOTTOM: At 10:00, I think.

1

MR RAWAT: Yes.

2

COMMISSIONER HICKINBOTTOM: Thank you.

3

(End at 4:38 p.m.)

## CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

A handwritten signature in cursive script, appearing to read "David A. Kasdan", is written above a solid horizontal line.

DAVID A. KASDAN