

IN THE ELECTION COURT

Case Name: Gibson v. Woodside

In the Matter of the Parliamentary Elections Act, Chapter 7 of the
2000 Revised Edition of the Statute Law of The Bahamas.

And

In the Matter of a Parliamentary Election for the Constituency of
Pinewood held on the 2nd May, 2007.

B E T W E E N

ALLYSON MAYNARD GIBSON

Petitioner

AND

BYRAN WOODSIDE

First Respondent

AND

HERBERT BROWN
Returning Officer

Second Respondent

BEFORE: The Hon. Madam Anita Allen, Sr. Justice
The Hon. Jon Isaacs, Justice

APPEARANCES: Mr. Philip Davis with Mrs. Gail Lockhart-Charles, Ms.
Tamara Saunders and Ms. L Adderley for the Petitioner

Mr. Michael Barnett with Mr. Michael Scott, Mr. Randol
Dorsett and Mr. Michael Foulkes for the First
Respondent

Ms. Dawn Lewis with Mrs. Kayla Green-Smith for the
Second Respondent

On 2 May, 2007 a parliamentary election was held for the Pinewood Constituency (hereinafter called "Pinewood"). The returning officer, Herbert Brown (the second respondent), declared Byran Woodside (the first respondent) duly elected by a majority of 64 votes over Allyson Maynard Gibson (the petitioner).

2. Pursuant to leave granted on 15 June, 2007 by the Supreme Court, and following amendment of the petition by this Court, the petitioner claimed a scrutiny of the votes cast, a determination that she had a majority of the lawful votes and was duly elected and ought to have been returned. She also claimed a declaration that the return of the first respondent was undue.

3. Following the striking out of portions of paragraph 5 of the petition, the petitioner's claim that she had the majority of lawful votes was based on allegations that at least 266 persons had voted who did not satisfy the provisions of section 9 (2) (b) of The Parliamentary Elections Act (hereinafter "the Act").

4. Pursuant to Rule 14 (1) of the Election Court Rules (hereinafter "the Rules"), the petitioner filed a list of votes she contended were wrongly counted. That list however contained only 158 voters the petitioner alleged were not ordinarily resident within the meaning of the Act and one voter she claimed was not a citizen of The Bahamas on the day of election.

5. The first respondent filed a list of 41 votes he claimed were wrongly counted on the basis that the voters were not ordinarily resident in premises in Pinewood within the meaning of the Act and likewise asked for a scrutiny. Seventeen of the voters on the first respondent's list were common to the petitioner's list.

6. During the trial, the Court visited the locus in quo and heard from 172 witnesses over a period of ten weeks. We thank all Counsel for their able

arguments and the courteous manner with which they have conducted themselves before us.

7. This Court was appointed and mandated by Article 51 of the Constitution to hear and determine, inter alia, whether any person has been validly elected and is the guardian of our parliamentary democracy. Accordingly, any suggestion, that this constitutional function may be unnecessary, does a disservice to the Constitution and its noble objective.

8. Before dealing with the issues which arose, we are obliged to make some comments relative to the parliamentary registration process and related matters.

9. This case exposed the most egregious failures in the parliamentary registration system. The Parliamentary Commissioner failed, for whatever reason, to ensure the integrity of the registration process in Pinewood. It was indeed startling to the Court that Counsel for the petitioner and the first respondent, were forced to concede that 85 of 183 votes challenged were unlawful votes.

10. This case also revealed that far too many Bahamians are willing to take an oath without regard to truth and their promise before Almighty God. This Court will be considering whether any person ought to be referred to the police authorities for appropriate action.

11. One particular case which illustrates how the system of registration can be abused and corrupted is that of Manani Kijana Taylor. We saw a disturbing trend of the ease with which persons who are non Bahamians are able to register and vote in The Bahamas.

12. Perhaps the time is appropriate for the Parliamentary Commissioner to comprehensively examine the practices and procedures of the Parliamentary

Registration Department with a view to ensuring that what we saw in Pinewood does not re-occur because it threatens to undermine the fundamental basis of our parliamentary democracy.

13. The dispute between the parties turned on the lawfulness of the votes cast by 183 voters in Pinewood on 2 May 2007.

14. The Court is not required to make any determination as a result of Counsel for the petitioner conceding, on the evidence, that each of the following persons challenged by the petitioner, was ordinarily resident in Pinewood within the meaning of the Act: **Anicka Armbrister, Jeremy Bain, Levasseur Barret, Dillon Bethell, James Bullard, Joanne Clarke, Errol Davis, ShaaronDavis, Stephen Davis, Patrice Delancy, Anthony Dillet, Earnest Ellis, Devie Forbes, Aliahar Fowler, Kenneth Hepburn, Latoya Johnson, Allison Johnson, Jane Knowles, Tameica Lightbourne, Shantell Lockhart, Daphne Lundy, Melissa Mackey, Patrick Major, Kendal McKenzie, Olivia Mott, Sherlene Munroe, Mcneil Newbold, Denise Peterson-Farquason, Precious Richardson, Jason Saunders, Kihan Saunders, KeithSmith, David Sturrup, Eurica Sweeting, Fauvette Sylvain-Pierre, Jamal Thompson, James Williams, Shannel Worrell.**

15. Similarly, Counsel for the first respondent conceded that each of the following persons challenged by the first respondent, was ordinarily resident in Pinewood: **Delicia Armbrister, Antonio Cooper, Charlene Cooper, Emery Cooper, Deon Ferguson, EdithFerguson, Georgina Ferguson, Andrew Gibson, Albertha Green-Harris, Christine C. Hanna, Lavardo Deangelo Kemp, Angelia Newbold, Ghandya Rolle, Michael O'Neil Rolle, Stephen Robert Rolle, Kyle Lorenzo Smith, Cutell Thurston.**

16. Counsel for the petitioner and the first respondent agreed that **Coralee Rigby**, a voter challenged by both parties, was ordinarily resident in Pinewood.

17. The petitioner accepted, on the evidence, that each of the following persons challenged by the first respondent was not ordinarily resident in Pinewood: **Lutherio Brooks, Vernice Burnside, Essarine Christie, Joycelyn Collie, Vincent Forbes, Isadora Rolle, Tekeria Rolle, Deangelo Munroe.**

18. The first respondent made a similar concession in respect of each of the following voters challenged by the petitioner: **Paulette Adams, Mizpah Albury, Brian Ambrose, Liquent Bethel, Anthony Bodie, Stephanie Bodie, Bernadette Brown, Lena Cleare, Leonard Cornish, Demaril Curtis, Lucine Darcy, Charles Darville, Vanessa Dean, Eleanor Dean, Casey Dean-Forbes, Germaine Demeritte, Monique Duncombe, Lewis Farrington, Ellen Ferguson, Joycelyn Ferguson, Reynaldo Forbes, Shandica Forbes, Sandra Frazier, Gerard Gervais, Ruth Gibson, Theodore Hall, Latoya Hanna, Bill Jenoure, Leslie Jones, Berkley Kerr, Aldrin Scott Knowles, Sandra Lewis, Anwar McDonald, Danielle McKenzie, Michael McKenzie, Otessa McKenzie, Rodcliff McPhee, Adrian Miller, Louise Miller, Monique Missick, Anna Missick, Deon Moxey, Latania Newman-Ferguson, Ethnee Nottage, EyanNottage, Marie Crystal Rolle, Sheena Rolle, Nero Russell, Gary Sands, Adrienne Scott, Donny Smith, Michael Smith, Dwayne Storr, Youlanda Strachan, Aneka Sweeting, Christine Taylor, Mercedes Thompson, Lavana Turnquest, Anthony Watson, Lesia Weir, Indera Whymms, Denise Williams, N'Keba Williams, Pamela Withfield, Glen Woodside, Hilderine Wright and Manani Taylor.**

19. Both counsel further conceded that each of the following voters challenged by both parties was not ordinarily resident in Pinewood: **Jennifer Davis, Latia Davis, Jethro Daxon, Henry George Harris, Clinton Josey, Deandre Munroe, Ronette Rolle, Margaret Smith, Christine Naomi Symonette and Stacia Thompson.**

20. The parties joined issue in respect of 42 votes which require determination by this Court. That number includes the vote of **Gretal Collie**. The evidence shows, this voter was not registered in Pinewood and did not vote in Pinewood. There is no basis therefore to search for her vote.

21. Before assessing the evidence in respect of the remaining 41 votes, we should like to determine three issues of law which arose.

22. With respect to the burden of proof in election court proceedings, from our examination of the authorities, it is clear that the presumption is that each person who voted was ordinarily resident in the constituency in which he or she voted. The burden is therefore on the party challenging the voter to establish that the voter was not so resident on a balance of probabilities. The burden then shifts to the opposing party to rebut the evidence as it is unreasonable for the challenger to be in a position to negate facts of which he has no knowledge. See **Fountain v Smith et al** [1971 -6] 1LRB 367, **Ferguson v Gray et al** No 1166 of 2002,

23. As previous Election Courts have noted, for example, in **Ferguson v Gray et al** and in **Fountain v Smith et al** (above), the Act does not define the expression "ordinarily resident" and perhaps wisely so as it would be impossible to legislate every factor which may be relevant to the determination of whether a person is ordinarily resident.

24. Sections 8 and 9 of the Act provide:-

"8(1) Subject to the provisions of this Act, a person shall be entitled to be registered as a voter for a constituency if, and shall not be so entitled unless, on the day on which he applied for registration-

(a) he is a citizen of The Bahamas of full age and not subject to any legal incapacity; and

(b) he is, and has been during the whole of the period of three months immediately preceding that day, ordinarily resident in premises in that constituency.

(2) For the purposes of paragraph (b) of sub-section (1) of this section and paragraph (b) of sub-section (2) of section 9 and without prejudice to any other rule of law concerning the meaning of the term "ordinarily resident", a person's residence in premises in a constituency shall not be deemed to have been interrupted –

(a) by reason of that person's absence in the performance of a duty arising from or incidental to an office service or employment held or undertaken by him-

- (i) if he intends to resume actual residence within six months of giving up such residence as aforesaid;**
- (ii) if he resumes actual residence within six months of giving up such residence as aforesaid;**

(b) by reason of permission being given by letting or otherwise for the occupation furnished of such premises by some other person –

- (i) if the permission is given in the expectation that throughout the period for which it is given, the person giving it will be absent in the performance of any such duty as aforesaid; or**
- (ii) if the person giving the permission intends to resume actual residence within three months of giving it up and will not be prevented from doing so by the permission given as aforesaid;**

(c) by reason of that person's absence in pursuance of a course of study as a bona fide student, if he intends to resume actual residence within six months of the completion of such course of study -

(3) For the purposes of this Act, a person who is a patient in any establishment maintained wholly or mainly for the care of persons suffering from mental illness or mental defectiveness or who is detained in legal custody at any place, shall not by reason thereof be treated as a resident there.

- (4) No person's name which is included in any part of the register shall be retained therein if that person is not entitled to have his registration retained in that part in accordance with the provisions of this Act
- 9(1) Subject to the provisions of this Act, every person who is registered as a voter in any polling division in any constituency shall be entitled to vote at that polling division at an election in that constituency.
- (2) Notwithstanding the provisions of sub-section (1), no person shall be entitled to vote at an election in any constituency, unless on the day of election-
- (a) he is a citizen of The Bahamas of full age and not subject to any legal incapacity; and
 - (b) in the case of a person who is registered as a voter in a polling division in that constituency, he is or has been at some time during the period of six months immediately preceding that day, ordinarily resident in that constituency."

25. Counsel provided us with many authorities on how 'ordinary residence' has been construed by courts in the past. Templeman L.J., in **Rv Barnet London B C, ex parte Shah** [1982] 1 All ER 698 at 710, was of the view that there is a logical distinction between the expressions 'ordinary residence' and 'residence'. Everleigh L.J in **ex parte Shah** (above) at page 705 said: **"A person is resident where he resides.... But when is he 'ordinarily resident'? I think that it is when he resides there in the ordinary way. That must be the meaning of the adverb. The expression is therefore contemplating residence for the purposes of everyday life. It is residence in the place where a person lives and conducts his daily life in circumstances which lead to the conclusion that he is living there as any ordinary member of the community would live for all the purposes of his daily life."**

26. Viscount Cave in **Levene v IRC** [1928] AC 217 thought: **"ordinary**

residence is contrasted with usual or occasional or temporary residence... it connotes residence in a place with some degree of continuity and apart from accidental or temporary absences. So understood the expression differs in meaning from the word 'residence'..." Lord Warrington in *Levene* (above) at page 232 said that if ordinary residence **"has any meaning I should say it means according to the way in which a man's life is usually ordered"**. Lord Buckmaster said that the words 'ordinarily resident' meant **" no more than that the residence is not casual and uncertain, but that the person held to reside does so in the ordinary course of his life"** See *IRC v Lysaght* [1928] AC 234 at 238.

27. In *Fox v Stirk And Bristol Electoral Registration Officer and Ricketts v Cambridge City Electoral registration Officer* [1970] 2 Q.B. 463, the Court had to determine whether a person was 'resident' in a constituency within the meaning of sections 1 and 4 of the Representation of the People Act 1949. Lord Denning at page 475 letters E- F said: **"The first principle is that a man may have two residences. He can have a flat in London and a house in the country. He is resident in both. The second principle is that temporary presence at an address does not make a man resident there... The third principle is that temporary absence does not deprive a person of his residence.....People who have houses or flats in London and houses in the country can be on the register for both, but they can only vote in one.**

28. We are obliged to point out that the Act does not allow registration in more than one constituency and moreover one of the qualifications to be registered and to vote under the Act is not 'residence' but 'ordinary residence'. We found Mr. Justice Rand's guidance in *Thomson v Minister of National Revenue* [1964] SCR 209 helpful. He said at page 224: **"...The enquiry lies between the certainty of fixed and sole residence and the uncertain line that separates it from occasional or casual presence, the line of contrast with what is understood by the words 'stay' or 'visit' into which residence can become**

attenuated; and the difference may frequently be a matter more of sensing than of a clear differentiation of factors. The graduation of degree of time, object, intention, continuity and other relevant circumstances, shows, I think, that in common parlance 'residing is not a term of invariable elements, all of which must be satisfied in each instance. It is quite possible to give it a precise and inclusive definition. It is highly flexible, and its many shades of meaning vary not only in the contexts of different aspects of the same matter. In one case it is satisfied by certain elements, in another by others, some common some new.'"

29. We concur with the view of the Court in **Ferguson v Gray** that the approach of Mr. Justice Rand is consistent with the legislative framework of the Act. However, we believe there is a distinction between 'residence' and 'ordinary residence', and it is that 'ordinary residence' implies a home and 'residence' includes a place which may be occupied otherwise than for the purpose of constituting a home. 'Ordinary residence' then connotes a degree of continuity and permanence apart from accidental or temporary absences and the interruptions allowed by section 8(2) of the Act.

30. In his closing submissions, Counsel for the first respondent objected to the Court considering evidence of citizenship, already admitted, in respect of Betty Charles Joseph and Kenol Seraphin on the basis that the ground of challenge pleaded in each case was that the voter was not ordinarily resident. With respect, we say that Rule 14 (3) of the Rules allows evidence to be admitted which is against the admission or rejection of a vote or as to any ground of contention not specified in a party's list with the leave of the Court. We are of the view, that evidence of citizenship is relevant to prove or disprove the main fact in issue, namely whether a person's vote was lawful. Any evidence which tends to render the existence of that fact probable or improbable is relevant and admissible. Obviously, if a voter is not a citizen of The Bahamas, he cannot be ordinarily resident for the purposes of the Act. If he is a citizen of The Bahamas, he may

be ordinarily resident. We shall therefore consider that evidence to determine the lawfulness of the votes of these persons.

31. What follows is an assessment of the evidence against the admission or rejection of the remaining 41 votes. In assessing the evidence and determining the lawfulness of each vote, we considered the credibility of the witnesses and the weight and sufficiency of the evidence.

PATRICK F. ARMBRISTER

32. This voter was challenged by the petitioner. He registered on 2 April 2007 and he swore he lived for the whole of the previous three months at: “**Apt. #2 N/Sequoia E/Buttonwood**”. He did not give evidence despite the issue of a subpoena to compel his attendance. The petitioner filed an affidavit sworn by the process server that he was unable to find him.

33. Mr. John Munroe, the petitioner’s private investigator said he made enquiries for the voter and his information took him to an unnamed road called Church Street off Sequoia to an apartment complex out of Pinewood, but a lady at that address refused to speak to him.

34. Stafford Coakley, a surveyor of many years’ standing and who we found was extremely knowledgeable of the Pinewood Gardens subdivision and its layout, testified the stated address may be in or out of Pinewood. He further testified that John Munroe took him to an apartment complex which was north of where Ellen Ferguson lived, which was out of Pinewood. The first respondent has conceded Ellen Ferguson’s residence was out of Pinewood.

35. Patrice Cleare, an office assistant and canvasser for the petitioner testified that she has lived in Pinewood for eleven years and went into the area of the stated address and made enquiries for the voter. She said she was directed to an address out of Pinewood. She said however that the stated address may be in or

out of Pinewood as there was a part of N/Sequoia Street, which is out of Pinewood. She further told the Court that throughout her campaigning and canvassing, both before and after the elections, she never came across this voter.

36. Timothy Brown said he lived on N/Sequoia Street and knew persons who lived there. He testified he didn't know the voter and never encountered him in Pinewood.

37. Takoya Thompson, another canvasser for the petitioner, testified she knew this voter from attending school with him. She told the Court his father lived on Braziletta street, which is located behind her residence, but the voter did not live there. She said she knew he was registered in polling division 11, but never saw him at any residence in that polling division. She testified she saw him on the street and the last time she saw him was at the mall at Marathon in April 2007.

38. On cross examination she said she saw him in the back of where she lived as well as at Pine view food store which was a 'little ways' from the washhouse, about a minute's walk. She told the Court she would see him in the street and saw him in the area around Christmas of 2006. She said however that she knocked on every door in polling division 11 and never knew him to live in Pinewood.

39. Patrick Cedric Armbrister gave evidence. He told us he lived on Braziletta Street off Pigeon Plum Street. The photo on the counterfoil of the challenged voter was put to the witness, but he said he didn't recognize it. He said there was a Patrick Armbrister Jr. who carried his name, but he met his son for the first time when he was 12 and it has been a long time since he saw him. He said he believed Patrick lived with his mother Elizabeth near the Cleveland Eneas School.

40. We accept that the area stated on this voter's counterfoil and Form B may be either in or out of Pinewood, but the preponderance of the evidence, in our view, supports the conclusion that he was not ordinarily resident in Pinewood. Takoya Thompson's evidence of seeing the voter on occasions in Pinewood is more consistent, in our view, with his visiting the places she saw him than with his being ordinarily resident in Pinewood. We also note that the voter registered on the day before registration closed.

41. In all the circumstances, it is our view that the petitioner has discharged her burden and has proven that it is more probable than not that this voter was not ordinarily resident in Pinewood. We find his vote should be disallowed.

DAPHNE BAIN

42. This voter registered to vote on 22 February 2007 and listed her address as **"#783 N/Cascarilla ST E/Thatchpalm Ave W/Bay Geranium Ave"**. She testified she lived at this address with her boyfriend's parents between February 2006 and February 2007, when her boyfriend was in Exuma. That address is in Pinewood and we accept her evidence. We find the petitioner has not proven this voter was not ordinarily resident in Pinewood and her vote should stand.

AARON BAIN

43. Mr. Bain registered on 21 February 2007 and his address as listed is: **S/ Pinewood Dr. E/Thatchpalm W/ Bay Geranium Ave.** He was challenged by both parties. He did not testify at the trial. John Munroe told the Court that as a result of information received from Sean Munnings, he went to Lily of the Valley corner, which is out of Pinewood and spoke to Neill Whymms, a resident of the area. Patrice Cleare testified she visited the area on the counterfoil and no one there knew him.

44. Having assessed the evidence before us, including Form B which was sworn by the voter, we determined that the burden of proof has not been discharged by either party and Aaron Bain's vote should stand.

SANDY BASTIAN

45. Sandy Bastian was challenged by the petitioner. She swore on 22 August 2006 that she lived at "**Walnut Street, E/Thatchpalm Ave.**" Patrice Cleare testified she knew this voter and that they worked together for 10 years. She testified she knew the voter lived on Walnut Street with her mother at some time, but that from June 2006 to May 2007 she canvassed the area where Sandy's mother lives and she did not live at that address. She admitted however that she did not call the voter nor did she enquire of her mother when she moved out.

46. On 3 December 2007, this voter gave evidence and gave her address as Walnut Street, Pinewood. She, at first, told the Court she never moved out of the area, and lived there with her mother, Brendamae Lewis, her son Jakhan Carey and another person. She told the Court she has a duplex at lot 112 Yamacraw Beach Estates and denied she lived in one of the apartment's there, as suggested by Counsel for the petitioner, but said she rents out both apartments. She subsequently recanted and said that Gary Darville rents one apartment and she stays in the other since August 2007.

47. Sandy Bastian also told the Court the first apartment, which Gary Darville occupied, was finished in 2002 but the second apartment, which she now occupies, was not finished until 2007. She however told the Court there was a tenant in apartment 2 in 2006 and said she could not refute the suggestion that the tenant moved out in June or August 2006. She could not recall the tenant's name. She told the Court that the apartment was not rented for the rest of 2006.

When asked about rent receipts, she said her mother collected the rents and she never bought any receipt books for her.

48. This voter also testified the BEC bills for apartment 2 were in her son's name. As it turned out, there were no bills in his name and further, the duplex was shown by the BEC bills not to be located at 112 Yamacraw Beach Estates, at all, but at Kool Acres in Lumumba Lane, York Street, which she admitted on cross-examination.

49. Sidney Bethel testified on 5 December 2007 that he lived at Sugar Apple Street for 25 years and knows the constituency like the 'back of his hand'. He testified he knew Sandy Bastian and he knew she used to live with her mother in Pinewood but moved out between a year and a year and a half before 'give or take a few months'. He also testified he had been to the house, but was unable to obtain any information.

50. Having observed the demeanour of the voter and after hearing her evidence, we are of the view that Sandy Bastian was evasive and less than frank and we do not believe she told us the truth when she said she moved out of Pinewood in August 2007. We believe she moved out in August 2006 after her tenant moved out of apartment 2. Having considered the evidence led by the petitioner, we find it sufficient to prove that it was more probable than not, that this voter was not ordinarily resident in Pinewood. Her vote should be disallowed.

DEBBIE BULLARD:

51. This voter is challenged by the petitioner. She was registered on 16 February 2006. Her stated address is: "**3329 unnamed Road Pinecone Avenue w/unnamed road**". She did not give evidence.

52. John Munroe testified that at 7:00 p.m. on 7 August 2007 he went to Sir Lynden Pindling Estates and visited house #3329. There he saw Debbie and

Lucian Bullard. His enquiries of them revealed that they lived there for three 3 years. He also testified that this home is east of the boundary of Pinewood and is in the constituency of Seabreeze. He told us he went on Pinecone Avenue and #3329 could not be found in that area. He described the home as a single storey dwelling.

53. Stafford Coakley said he was taken to 3329 and found this home out of Pinewood.

LUCIAN BULLARD:

54. He was registered on 15 February 2006. His stated address is: “**3329 N/unnamed Road W/ Acacia Avenue**”. This voter is challenged by the petitioner. He is the husband of Debbie Bullard to whom Munroe said he spoke at 3329 Sir Lynden Pindling Estates. This voter did not give evidence.

55. On the evidence, we find the stated address is out of Pinewood and that both Debbie Bullard and Lucian Bullard were not ordinarily resident in Pinewood and their votes should be disallowed.

NIKEYA CLEARE

56. This voter registered on 17 August 2006 and gave her address as: “**#1677 S/Walnut St. E/Thatchpalm Ave. W/Bay Geranium.**” She testified she moved to Misty Gardens off Marshall Road on 15 November 2006 and lived with her mother at the address shown on her counterfoil from March 2006 to November 2006. Patrice Cleare testified she knew Nikeya Cleare as she had been married to her nephew. She said she personally knew the voter was out of Pinewood for two years.

57. John Munroe testified this voter told him in August 2007, that she had been living in Misty Gardens for ten months which meant that she moved there in November 2006. This is consistent with the evidence she gave here. In the

premises, we are satisfied on a balance of probabilities that this voter was ordinarily resident in Pinewood and her vote should stand.

JOHN COLLIE

58. This voter was challenged by the petitioner. His counterfoil states his address as: **“1965 N/ Pinecrest Drive/E Thatchpalm Ave. W/ Bay Geranium Ave.”** and in Form B he swore he was ordinarily resident at: **“1959 N/Pine Crest DR, E/ Thatchpalm AVE, W/Bay Geranium AVE.”** Both documents show he registered on 6 July 2006.

59. Hilda Smith testified on 15 November 2007 she knew John Collie for almost a year, because he comes to her daughter. She said her daughter Catrice and John were married in June or July 2006, but that Catrice lives in the apartment next to her with her grown son and others and John Collie lives in Pinewood. She admitted speaking to a woman and a man but denied she told them John Collie lived in Washington Street for 2 years. She said Catrice was present during the conversation and she did not hear her tell them that John lived at Washington Street for 5 years. She said John lives between Washington Street and Pinewood.

60. She further testified John spends the night sometimes and keeps clothes at Washington Street. She admitted the apartments were separate and she did not know what was going on at all times.

61. John Munroe testified that on 4 September 2007, he went to Washington Street and saw and spoke to Hilda Smith and Catrice Collie. He said Hilda Smith introduced herself as the mother and Catrice as John Collie's wife. He said Hilda Smith told him she lives on one side of the duplex and her son and his wife live on the other side and they lived there for 5 years. As it turned out, Hilda Smith is the mother of Catrice Collie. He said enquiries made at the address on the counterfoil revealed that no one by that name lived there.

62. Patrice Cleare testified on 8 November 2007, that she knows John Collie and Catrice and knows John Collie did not live at the address in Pinewood since he married Catrice, more than a year ago. She said he lived with Catrice in Washington Street.

63. John Collie testified Catrice was his wife and lives in her apartment in Washington Street and he lives in Pinewood in a 3 bedroom house owned by himself and his brother. He testified he lived there with his two sons and said that the reason he and his wife have such an arrangement is because they agreed not to live together until they owned a house together. He told us he sleeps in Washington Street 2 – 3 times a week, but most of the time Catrice sleeps in Pinewood. He said he started sleeping in Washington Street before they were married. He told us he had no clothes at Catrice's apartment only a pair of shoes.

64. On cross examination, the voter said he and Catrice dated for 3 years before they got married.

65. The evidence of Hilda Smith was not consistent with the evidence of John Collie, either as to the duration, or nature of Collie's presence at Washington Street and we did not believe that either of them told us the whole truth in that regard.

66. We do not accept the voter's explanation for the couple's separate living arrangements. It simply is not reasonable. One would expect a married couple who are in a relationship to live together, especially as they had two abodes, either one of which could have been used as a home. His explanation would have been more believable if he had said there was not enough space for him at Catrice's apartment, but even then he admits spending a lot of time there and sleeping there. We believe on the evidence led by the petitioner that it is more probable than not that this voter's ordinary and usual place of residence was with

his wife at Washington Street. and his vote should be disallowed.

WELLEANA FERGUSON

67. This voter was challenged by the petitioner. She registered on 13 February 2006 and the address on her counterfoil is: “**1420 S/ Sapote Street, E/ Pigeon Plum St. W/ Buttonwood Ave.**” The voter testified she lived with her aunt at the aforementioned address until March 2006 when she moved out of Pinewood to Zion Boulevard. She returned to Pinewood in March 2007 to Thatchpalm Avenue south of Pinewood Drive, which means she was resident out of Pinewood for a year.

68. The only other evidence comes from Patrice Cleare who said she knew the voter and knew she moved from Sapote Street since 2005. We accept the evidence of the voter that she moved out in March 2006.

69. The petitioner contends that on the voter’s evidence:

- (i) she did not live in the constituency from March 2006 and was not entitled to vote as she was not ordinarily resident as defined by section 9 of the Act;
- (ii) her actual residence in the constituency was interrupted for one year;
- (iii) when presenting for registration a voter must be entitled to vote at that time and on poll day;
- (iv) any interruption of a person’s residence in premises in a constituency for a period of six months disentitles a person from having his name maintained on the register and to vote in that constituency on election day;
- (v) any interruption of a person’s residence in premises in a constituency for six months, would require that person to register and vote in the constituency where the new residence was acquired. In the event the voter returns to the constituency abandoned, the law would require the residence in premises to be for the stipulated period before either registering or voting;
- (vi) the fact that the registered voter returns after an interruption of six

months does not entitle him to vote;

(vii) the only exceptions to the above are set out in section 8(2) of the Act.

70. On 13 February 2006 when the voter registered we find she was qualified to register in Pinewood. However, having moved out of Pinewood and remaining out for a year, under section 8(2) of the Act, her ordinary residence was interrupted and not saved by paragraph (a), (b) or (c). Section 8 (4) of the Act prohibits the maintenance of such a voter in that part of the register if she is not entitled to have her registration retained therein. In our view, this voter lost her ordinary residence in premises in Pinewood and was qualified and entitled to be registered in June 2006 in the constituency to which she moved and on polling day would have been entitled to vote in that constituency had she registered.

71. The fact that she returned to Pinewood does not qualify her to vote there since her registration was not lawfully retained in Pinewood and indeed she could not have registered there again, before she had been ordinarily resident there for three months which would have been after polling day. In the premises, we find her vote should be disallowed.

NICOLE FERGUSON-LEWIS

72. This voter was challenged by the petitioner. She registered on 20 September 2006 and swore she lived at: “**Apt. 1 S/St Mark Ave E/Buttonwood Ave.**” Mr. John Munroe testified his enquiries led him to Forbes Street in Nassau Village. He further testified that he made enquiries in the area of the address stated on the voter’s counterfoil and no one knew her there.

73. The voter testified she lived at the stated address since November 2005. She described where she lived. She said it was on the east side of the dead end in an apartment which was white with red trim.

74. Having assessed the evidence before us, we are of the view that the petitioner did not prove this voter was not ordinarily resident in premises in

Pinewood and we find her vote should stand.

NICOLA FYNES

75. This voter registered on 28 February 2007 and swore she lived at: **“E/Buttonwood S/Sequoia N/ Safron St.”** She was challenged by the petitioner. Stafford Coakley testified the stated address could be in or out of Pinewood and showed us with reference to the map of Pinewood why he said so.

76. This voter did not return to give evidence although she was ordered by the Court to do so after appearing to a subpoena served on her by the petitioner.

77. Mr. John Munroe said he made enquiries for her in the area of the stated address in June/July 2007 and was unable to locate her. He said his enquiries also took him, on 14 August 2007, to Holy Spirit Court in Nassau Village to an apartment complex where he spoke to Dorothy Saunders and was given information about the voter.

78. Takoya Thompson testified she campaigned and canvassed the area of the stated address before and after election day and never encountered this voter.

79. Before us then is the sworn Form B of the voter that she was ordinarily resident in Pinewood for three months as at 28 February 2007, the evidence of Stafford Coakley that the address given by the voter could be in or out of the constituency, the evidence of Mr. Munroe that his information led him to premises outside Pinewood and the evidence of Munro and Thompson that they never encountered her in Pinewood.

80. Having considered these matters as well as the fact that she failed to appear to respond to the challenge that she was not ordinarily resident in Pinewood, from which we are entitled to draw reasonable inferences, we are of

the view that the petitioner has established a prima facie case that she was not ordinarily resident in Pinewood and there is no evidence which refutes it. We find her vote should be disallowed.

MARLO GARDINER

81. This voter was challenged by the petitioner. He testified he moved back into Pinewood on 25 February, 2006 and his Form B shows he applied to be registered as a voter on 10 April, 2006. He swore he lived at “**1915 N/Maple st E/Thatch Palm Ave**”, in Pinewood for the whole of the preceding 3 months but in his evidence before us, he admitted that was not true.

82. Patrice Cleare told the Court she knew the voter moved out of Pinewood in 2003/ 2004. Akaha Knowles said she knew the voter from 1996 – 1998 when she attended A.F. Adderley and also from his living, at one time, four houses behind her. She said she remembered he was one of the boys who stood on the bus stop and harassed the girls. She said she has not seen him around the area for a long time before the election. She said her observation was confirmed when she spoke to his mother during campaigning while ascertaining how many voters were in the house. She told us after the election she went back to the stated address and he was still not there.

83. This voter admitted he lied on oath and that affects his credibility with us. In any event, his evidence even if accepted, shows he moved back to Pinewood in February 2006, but there is no evidence that he was still ordinarily resident there on election day or at sometime within the six months immediately preceding that day.

84. In the premises, having weighed all of the evidence before us, we are satisfied that it is more probable than not that the voter was not ordinarily resident in Pinewood either at election day or at anytime during the period of 2 November, 2006 and 2 May, 2007 and we find his vote should be disallowed.

DELLRICK GIBSON

85. This voter was challenged by the petitioner. He registered on 19 March 2007 and swore he lived at: **“Apt #3 S/Sequoia St. W/ Acacia Ave.”**.

He testified the registered address was a burgundy and white apartment building on St. John Avenue. He said Betty Charles Joseph lives upstairs. This apartment complex is conceded to be located within Pinewood. He gave directions to this address, which appeared to be within the constituency, but he told the Court he lived around the corner from his cousin Jethro Daxon. He denied however that he lived in Nassau Village.

86. Jethro Daxon testified he lives at S/Safron Street, E/Acacia Avenue for 16 or 17 years and lives next door to Sandra Frazier. He gave directions to his residence, which he said was in Nassau Village.

87. Sandra Frazier told the Court on 3 December 2007 that she lived S/St. Luke Avenue, E/Buttwood, which was in Nassau Village, for 14- 15 years. She said she knows Jethro Daxon, that they live on the same side of the street and are next door neighbours. She also testified she knew Dellrick Gibson and said he lived a 'little' from her on the same side of the street. She said he has lived there for a year or two. It has been conceded by the parties that where Sandra Frazier and Jethro Daxon live is out of Pinewood.

88. Having observed the demeanour of Jethro Daxon and Sandra Frazier and considering the lack of credibility of the voter and his extreme difficulty in giving directions to where he lives, we accept the evidence of Jethro Daxon and Sandra Frazier.

89. In the result, we are satisfied on the balance of probabilities that this voter was not ordinarily resident in premises in Pinewood and his vote should be disallowed.

SAMUEL HIGGS

90. This voter was challenged by the petitioner. He registered on 10 February 2006. He swore he was ordinarily resident at: **“659 N/Safron ST. W/Safron ST. E/Buttonwood Ave.”**. Both Samuel Higgs and his wife Angela Higgs testified the stated address was the matrimonial home and they were going through a divorce and were awaiting the resolution of ancillary matters.

91. Samuel Higgs admitted he had a girlfriend who lived in Fire Trail Road and that he moved from the matrimonial home to her home at Fire Trail Road on 18 April 2006. He told the Court that between 18 April 2006 and December 2006 he was moving in and out of the matrimonial home. He said he would spend 3 months in Fire Trail Road and whenever there was an argument he would go back to Pinewood for a week and stay there. He testified things settled down around February 2007 and he moved permanently to Fire Trail Road and has not slept in Pinewood since.

92. The electricity account for the Fire Trail Road premises showed that electricity was activated there on 18 April 2006. That document was shown to him and he expressed disbelief that it was in his name, he had previously denied that it was.

93. On cross examination he said he still had clothes and gun casings in the house at Pinewood and the house was still in his name as were the utilities.

94. On the evidence, there is no doubt in our minds the voter was ordinarily resident at Fire Trail Road from 18 April 2006 and visited Pinewood whenever the kitchen at Fire Trail Road became too hot for his comfort. We are of the view that the regular order of his life was with his girlfriend at Fire Trail Road and his presence in Pinewood was occasional and casual. In all the circumstances, we

are satisfied on the balance of probabilities that Samuel Higgs was not ordinarily resident in Pinewood and his vote should be disallowed.

PAMELA KING

95. Pamela King was challenged by the petitioner. She registered on 3 February 2007 and swore she was ordinarily resident at: “**E/Pinecone Ave. S/Pinewood Drive**”, which, according to the evidence of Stafford Coakley as well as other witnesses, is out of Pinewood.

96. This voter gave evidence at the trial and said she did not know whether the address on the counterfoil was correct, that she told the revising officer she lived at Buttonwood facing the school. She told us she didn't know which school it was but she lived there from 2005 – 2007. She insisted she told the revising officer she lived through the corner where the Urban Renewal office is located on one side and the washhouse on the other and her house was the fourth on the left hand side.

97. Patrice Cleare testified she visited the address on the counterfoil on 20 July 2007 and made enquiries there and discovered that no one knew the voter. She also testified she called the telephone number given on the Form B and spoke to someone who identified herself as the voter and she was directed by that person to an address four houses from the washhouse, east of Buttonwood on South Pinewood Drive, but did not find her when she arrived. Ms. Cleare also said she canvassed that area between June 2006 and May 2007 and never encountered the voter.

98. Kaynet Pinder, a revising officer, described the procedure she followed in registering voters. She explained that when a person presents himself for registration she asks whether they have lived in the constituency for 3 months, she asks them to describe where they live and locates the area from those directions on a map of Pinewood and points it out to the voter. If the voter agrees

the location, she records the address and explains the Form B to the voter before asking the voter to swear and sign it. She said she followed that procedure when she registered Pamela King. She admitted on cross-examination that the map did not have all of the street names, in particular, that corners north of Pinewood Drive and east of Buttonwood Avenue were not reflected on the map. She agreed that Pine Cone Avenue is south of Charles Saunders Highway and not south of Pinewood Drive. She was referred to the Form B of this voter and insisted she wrote in the address from information given by the voter.

99. Having observed the demeanour of the voter and considering her lack of familiarity with the area she swore she lived in for 2 years, we do not believe her. We prefer the evidence of the revising officer, which we found credible. We accept that the voter gave the revising officer the address stated, we also accept the evidence of Stafford Coakley and Patrice Cleare that the address is out of Pinewood and find on the balance of probabilities that the voter was not ordinarily resident in Pinewood and her vote should be disallowed.

DEVAL KIRBY

100. This voter was challenged by the petitioner. He registered on 13 July 2006. His address is shown as: "**Apt. #2 N/Sequoia E/Buttonwood Ave.**" Deval Kirby testified he moved to Yamacraw from Pinewood in January or February 2007.

101. We accept his evidence and find he was ordinarily resident in Pinewood and his vote should stand.

LYNISHA BRENEE MCKENZIE

102. Lynisha McKenzie was challenged by the petitioner. She registered on 29 March 2007. Her stated address is: "**E/Buttonwood Ave. S/ Charles W Saunders Hwy.**" This voter told the Court the address on her counterfoil and

Form B are not correct, that she lived through St. Mark's Avenue from June 2006 to 10 February 2007 and from 10 February 2007 she lived at Saffron Street and Buttonwood Avenue. She insisted she told the revising officer she lived at Saffron and Buttonwood.

103. Rachel Nabby testified she was the revising officer who registered this voter and took the Court through the process she used to register her. That process was consistent with that described by Kaynet Pinder. She was adamant the voter did not tell her she lived on Safron Street and Buttonwood Avenue and the address written on the counterfoil and Form B is what the voter told her.

104. Both Patrice Cleare and Sidney Bethel said they canvassed and campaigned the area of the stated address and no one had ever seen or heard of this voter. Sidney Bethel said he had seen the voter in the Nassau Village area.

105. This voter agreed she swore to the contents of Form B and signed it. It is beyond belief that this revising officer could have been so wrong about the voter's instructions especially as S/ Charles Highway is some distance away from Saffron Street and Buttonwood Avenue. Counsel for the first respondent suggests that this is yet another one of the many mistakes we have seen on the register based upon wrong directions and incorrect descriptions and should be ignored.

106. We disagree. Having considered the evidence of this voter and having observed her demeanour, we accept the revising officer's evidence that she recorded what the voter told her and find the voter was untruthful. In the premises, we find on a balance of probabilities that the voter was not ordinarily resident in Pinewood and her vote should be disallowed.

KAREN MILLER

107. Karen Miller was challenged by the petitioner. She registered on 3 May 2006 at: **“1910 N/Maple St. E/ Thatch Palm Ave.”**. This voter testified she married Philip Capron on 28 October 2006, went on honeymoon and moved to Garden Hills to her husband’s apartment taking some of her clothes and leaving the rest in Pinewood. She said she moved with her husband from there to their apartment at Sandilands Village on 17 November 2006 and never moved back to Pinewood. She agreed she intended to live with her husband after her marriage.

108. From her evidence, it is clear that Karen Miller intended to abandon her residence in Pinewood when she got married on 28 October 2006 and establish a home elsewhere with her husband. The fact that she left clothes in Pinewood is not sufficient to continue her ordinary residence there. In the premises, she was not ordinarily resident in Pinewood either on election day or at some time within the 6 months immediately preceding that day and her vote should be disallowed.

RICKY MILLER

109. Rickey Miller was challenged by the respondent and the petitioner. He registered on 13 March 2007. The address on his counterfoil is: **“N/ Pinewood Dr. W/ Willow Tree Ave.”**. This address is in Pinewood. Sidney Bethel told the Court this address is across the street from the Progressive Liberal party headquarters. He further testified he knew that area well as he has canvassed the area on many occasions and never came across this voter. He told the Court he does not know any Millers to live in that area. A subpoena was issued for this voter by the petitioner, but the process server swore he was unable to find him. The first respondent led no evidence against this voter.

110. On the evidence, we are not satisfied that neither party has proven this voter was not ordinarily resident in Pinewood. The contents of his Form B are not refuted and his vote should stand.

INSLEY MITCHELL

111. Insley Mitchell was challenged by the petitioner. He registered to vote on 31 October 2005 and his address as stated is: "**N/SafronST. E/Pigeon Plum St. W/Buttonwood Ave.**" He told the Court he lived at the stated address until July or August, 2007, when he moved into the apartment at Joe Farrington Road known as Kool Meadows, with his girlfriend Patricia Bullard. He insisted his girlfriend did not move into that apartment until December 2006 or January 2007. He testified the electricity was turned on at that apartment at the same time.

112. Mr. Mitchell accepted that the house at Safron Street was renovated, but insisted the renovations were cosmetic, dismissing any suggestion that he moved out of Pinewood prior to November 2006 so that the renovations could be undertaken. Indeed, he subsequently told the Court on cross examination by Counsel for the first respondent that he moved into the efficiency attached to the home at Safron Street when the renovations were being done. He denied he told anyone that he lived at two places between November 2006 and May 2007. He also denied he left Pinewood after the 2002 general elections or that he lived with his girlfriend prior to November 2006.

113. The voter admitted he was involved in a traffic accident on 28 May 2007 and told the police he lived at Joe Farrington Road. When asked why he gave the police that address in May 2007 in light of what he told the Court, he confessed he had lied to the police. He explained he was 'drunk and panicky' when he made the statement because he had hit someone's car. He also admitted giving the police the telephone number at Joe Farrington Road, but said he did so because the telephone at Saffron Street was out of service.

114. When it was suggested to Mr. Mitchell that the telephone at Safron Street was off since June 2006 and remained off during Christmas of that year, he said he could not refute that. He also admitted the electricity at the house was off between June and December 2006.

115. Patricia Bullard testified and supported the voter's testimony that she moved to Joe Farrington Road in December 2006 and that he did not move in with her until July or August 2007.

116. Patrice Cleare testified she knew this voter and his family and also knew the house at 534 N/Safron Street. She said she knew the Mitchell home was empty since June 2006 and the voter's sisters and their husbands and children now live there since January 2007.

117. The electricity bill for Joe Farrington Road was produced and shows the electricity was turned on there on 12 December 2006.

118. Insley Mitchell admits he lied to the police and that obviously affects his credibility with us. However, even if we do not believe that he moved in with Patricia Bullard in July/ August 2007, but sometime earlier, the earliest he could have moved in with her at Joe Farrington Road would have been 12 December 2006 accepting her evidence as supported by the BEC document which shows the activation of electricity service at Joe Farrington Road on that date. Further, there is no evidence he lived with Patricia Bullard at any other address prior to her moving to Joe Farrington Road. We accept his evidence that he lived in the efficiency attached to the house at Safron Street while the renovations were ongoing and that is not refuted by the evidence of Patricia Cleare.

119. After assessing the evidence relevant to this voter, we are of the view that the petitioner has not proven he was not ordinarily resident in Pinewood and his vote should stand.

ASA MOSS

120. He was registered as a voter on 9 March 2007 and stated his address as: "**S/Guinep Tree Street E/Thatchpalm Ave W/Bay Geranium Ave**". Asa Moss' vote is challenged by the petitioner. He testified he lives with his wife in Boyd Road since 22 June 2007, but for 3 years prior to that he lived at the stated

address with his mother and other family members including one of his daughters. He told us his wife lived at the address at Boyd Road with their daughter for over 3 years and denied he moved from Guinep Tree Street to live with them prior to their marriage on 23 June 2006.

120. He admitted he and his wife were courting for some 7 years, and following the birth of their daughter, who is now 5 years old, he tried to visit with them every day. He admitted he slept there 'as often as he pleased or as often as she would allow him to'. He also admitted he kept his work clothes at her home, but insisted he lived in Pinewood.

121. Ivan Minnis claimed he was the voter's landlord in Boyd Road and has known him since 2001. He testified he played dominoes with the voter at his shop, which is in the same building as the apartment the voter rented from him, and in which he has been living from 2002.

122. He told the Court when the voter rented the apartment in 2002, he requested the rent receipts be put in his wife's name who was his girlfriend at the time. Mr. Minnis offered to show the rent receipts to the Court. He said he made out receipts for every tenant from the time they moved in to the time they leave.

123. He testified he opens his shop every day except Sunday between 10 and 10:30am and closes between 3 and 8:30pm depending on whether or not there is a game of dominoes in progress. On cross-examination, the witness admitted the apartment had only one bedroom and Mr. Moss' wife has 3 children, all of whom live there. Mr. Minnis testified he was an avid fan of the game of dominoes, as was the voter, and they would play every day if there was a game.

124. This witness testified that most of the participants would come to play after 5 pm. He admitted when he arrived in the morning he would not see Mr. Moss or the children, but he saw him after work. He also said that on many

occasions he observed the voter return from work, go into the apartment, change his work clothes and come out to play dominoes with them until late into the night.

125. Having considered the evidence of the nature of the voter's presence at Boyd Road, we are satisfied, on the balance of probabilities, that this voter had his permanent and ordinary residence at Boyd Road with his wife and children at least since 23 June 2006 and that his presence in Pinewood was occasional or casual. In the circumstances, we should disallow his vote.

PERLINE MOSS

126. Perline Moss is challenged by the petitioner. She registered on 3 April 2007. Her stated address is: "**W/Safron St., N/CWSaunders Hgwy S/ Cordia St.**" She testified she lived off Saffron Street, west of Sadie Curtis School between September 2006 and 10 May 2007 with her husband and children and her sister Patrice Rahming, having moved there from their apartment in Bellot Road. The witness pointed out where she lived on the map and the Court determined the address was in Pinewood.

127. The petitioner contends the voter could not have been ordinarily resident there because she admitted her stay in Pinewood was intended to be temporary and had no degree of permanence. Even if we accepted that argument, there is no evidence this voter had a residence at any other place. Pinewood was her permanent and ordinary residence at the time. We are satisfied that on election day she was ordinarily resident in Pinewood. In the premises, we find her vote should stand.

WARRICK MOSS

128. Warrick Moss registered on 2 August 2006 and listed his address as: "**N/ Walnut St. E/ Thatchpalm Avenue W/Bay Geranium Ave.**". His vote is

challenged by the petitioner. He testified he lived at the stated address for some 30 years and was transferred to Eleuthera by the Customs Department in November 2005. He agreed he knew from the beginning that this assignment would last for at least a year. He told us he resided in an apartment in Eleuthera and had some clothes there, but kept clothes in Nassau as well. He said he comes home to Pinewood three weekends a month, spent Christmas there and intends to return to Pinewood at the end of his assignment in Eleuthera.

129. Warrick Moss' supervisor testified and produced the voter's overtime records for 2006 and 2007. Those records contradict his evidence and show he worked overtime almost every weekend in Eleuthera in 2006 and 2007 and worked the 2006 Christmas holidays as well. The fact that he visited Pinewood occasionally and kept some clothes in Pinewood is not sufficient of a presence there to constitute ordinary residence

130. Further, it is our view that this voter's residence in Pinewood was interrupted by his employment in Eleuthera for 2 years and is not saved by any of the provisions of section 8(2) of the Act. In the premises, we are satisfied he was not ordinarily resident in Pinewood either on election day or at sometime within the six months immediately preceding that day and his vote should be disallowed.

ANTOINETTE NEELY

131. This voter was challenged by the petitioner. She registered to vote on 12 March 2007. Her stated address is: **"1973 S/ Maple Street E/Thatchpalm Ave. W/Bay Geranium"**.

Patrice Cleare testified this address does not exist and Mr. Stafford Coakley found this house number at W/ Thatchpalm Avenue. John Munroe found this voter on 10 October 2007 at house #3450 in the Sir Lynden Pindling Estates, out of Pinewood.

132. Antoinette Neely gave evidence. She said she received the keys for her home in Sir Lynden Pindling Estates in June 2006. At the time, she lived with her husband and son in Bamboo Town and moved from there shortly after she received the keys, to live with her sister in Pinewood. She had a baby in March 2006 and said she could not afford to stay in the apartment in Bamboo Town nor was she able to move to her new home because the house was not tiled and she could not afford to tile it.

133. The voter testified she was a self employed beautician and worked from home and lived between her sister on Maple Street, and Mr. Lee Rolle's residence on Thatchpalm Avenue, both in Pinewood. She told the Court she, her husband and their two children moved back and forth between the two homes every month until they moved to their new home in June 2007.

134. She admitted the electricity at her new home was turned on in July 2006, but said it was turned on for security reasons. She also admitted the telephone number she gave when she registered was her number at Sir Lynden Pindling Estates which, she said, was transferred from the apartment at Bamboo Town when she left there in June 2006. She also admitted the house number she gave the revising officer was incorrect and attempted to explain that by saying she was confused and not thinking straight at the time as she had had a few cocktails. The evidence from Cable Bahamas also shows cable was installed in her home at Sir Lynden Pindling Estates from 2006.

135. Having observed the demeanour of the voter and having considered the evidence she gave, we find it to be an amazing story, but we do not believe a word she said. As a self employed beautician working from home, it would be totally impractical to move one's place of business every month for a year, not to mention the logistics of moving a family of four every month over that same period. Further, a telephone is essential for a self employed person working from home, yet her telephone was installed in Sir Lynden Pindling Estates while she

lived and worked in a different location every month. In the circumstances, we are satisfied on the balance of probabilities that this voter was not ordinarily resident in Pinewood and her vote should be disallowed.

TENEAL RAHMING

136. Teneal Rahming was challenged by the petitioner. He registered on 9 March 2007. The address stated is: “**St John Ave, E/Buttonwood Ave.**” This address is in Pinewood. This voter swore he lived at the stated address since 2004 with his biological mother in a beige and green apartment.

137. Against this evidence is the evidence of John Munroe and Patrice Cleare who said they visited the stated address and never came across this voter and did not find anyone in that area who knew him.

138. In our view that evidence is not sufficient to rebut the voter’s evidence that he was ordinarily resident in Pinewood and his vote should stand.

JAMAAL RECKLEY

139. This voter is challenged by the petitioner. He registered on 15 February 2007. The stated address is: “**S/ Jumbay Street E/Willow Tree Ave.**” That address is in Pinewood. He testified he lived at that address from September 2006 until April 2007. He described where he lived and was able to give directions to that address.

140. Jamaal Rolle supported the voter’s evidence and confirmed he and the voter lived at that address during the period stated by the voter. In the circumstances, we find this voter was ordinarily resident in Pinewood and his vote should stand.

CHRISTENA ROLLE

141. This voter is challenged by the petitioner. She registered on 3 April 2007. The address stated is: “**E/ Buttonwood Ave. N/Braziletta St. S/ Un-named Rd.**” She gave evidence and swore she lived in Pinewood, but admitted the stated address was incorrect. She told us she did not know Braziletta Street, but knows Buttonwood. She testified she lived with Wendy Rolle and Ormonique Davis in a beige and brown apartment just before the washhouse on Buttonwood and St Mark Avenue. Both of those persons were registered voters in Pinewood and their stated address was in the area of E/Buttonwood Avenue between St. Mark Avenue and St. John Avenue.

142. In this case, as in Lynisha’s case, the address stated is so far removed from the stated address, that it is difficult to accept it was simply a mistake. However, we found this voter to be a truthful witness and there was no evidence which contradicted her evidence. We believe she made a genuine mistake in describing where she lived in as much as she appeared unfamiliar with the area. Further, we believe her evidence that she lived with Wendy Rolle and Ormonique Davis both of whom, it is accepted lived in Pinewood. In the premises we find on the balance of probabilities that she was ordinarily resident and her vote should stand.

DEMETRIUS ROLLE

143. This voter is challenged by the petitioner. He registered on 6 March 2007. His stated address is: “**N/ Maple St E/Thatchpalm Ave W/Bay Geranium Ave**”. This address is within Pinewood. He told the Court he lived on Maple Street with his aunt, Helen Green, since 2004.

144. Patrice Cleare testified she did not come across this voter during her campaigning between June 2006 and May 2007. Her evidence is not sufficient to negate this voter’s evidence that he was ordinarily resident in Pinewood. In the premises, we find his vote should stand.

ANTOINE SAUNDERS

145. This voter was challenged by the petitioner. He registered on 2 February 2007. His address as stated is: **“2112 N/Brazileta Street E/Pigeon Plum St.”**

This address is within Pinewood. He testified he lived with his mother at the stated address, but after March 2007, he slept with his grandmother in Raymond Road, off Claridge Road, three nights a week

146. Inez Hinsey told the Court she lives at Croton Street in Pinewood and is familiar with persons in the area of Brazileta Street. She said her mother lived there for 21 years and she lived there until she moved to Croton Street seven years ago. She told the Court she knew the voter from he was 3 – 4 years old through living at Brazileta and for the last seven years through visiting her mother and ‘everybody’ there every day. She said despite this, she has not seen this voter for a long time, from about September 2006.

147. Patrice Cleare testified she visited the stated address and spoke to Antoine Saunder’s aunt who gave her information about him. She said she frequented the area before and after the elections and never saw him in that area.

148. Antoine Saunders’ mother, Monique Saunders, told the Court Antoine lived at the stated address from his birth in 1988 to the present. She admitted that he spends time with his grandmother in Claridge Road particularly after her sister moved out of her mother’s house in Claridge Road in 2005, when Antoine slept there every other night and since her uncle’s death in August 2006, he slept there more frequently. When asked what she meant by more frequently she said he slept there 3 or 4 times a week.

149. She told the Court Antoine still has a room at Brazileta Street and keeps clothes there. She said Antoine worked fulltime since June 2006 and keeps some of his work clothes at Claridge Road and some at Brazileta Street. She said she

washes his clothes at her house. At the end of the day she admitted he spent most of his time at his grandmother's house, but insisted he didn't move permanently from Brazileta Street.

150. The voter's evidence conflicted with his mother's evidence relative to when the character of his presence at his grandmother's residence changed. We find Monique Saunders more credible and her evidence is consistent with Inez Hinsey's evidence that she had not seen Antoine in the area from around September 2006. We prefer the mother's evidence. Having assessed the evidence relative to this voter's presence at Claridge Road and in Pinewood, we are of the view that simply having a room in Pinewood and keeping clothes there, do not satisfy the test of ordinary residence. Having weighed all of the relevant factors, we find it is more probable than not that he was ordinarily resident in Claridge Road and had only an occasional or casual presence at the stated address. His vote should be disallowed.

MICHAEL MICAH SAUNDERS

151. Michael Micah Saunders registered on 8 March 2007. His stated address is: "**S/Poplar Street N/Sequoia Street W/Pigeon Plum Street**". This address is in Pinewood. He was challenged by the petitioner. This voter did not testify and the only evidence led was through John Munroe and Cable Bahamas.

152. Mr. Munroe told the Court he spoke with this voter at Gleniston Gardens out of Pinewood on 23 August 2007. He said the voter told him he lived at Gleniston Gardens for 2 years. The voter was born on 18 October 1988 and was 18 years old on the day of election.

153. The postal address and telephone information on the voter's Form B, to which the voter swore, are identical to the postal and telephone information in the documents activating cable services for the address at Gleniston Gardens, on 21 September 2006, in the name of Michael Micah Saunders.

154. Counsel for the first respondent submits that the national insurance number on the cable documents must be that of Michael Saunders Sr.

155. From the Form B of this voter, it is clear that when he registered he had some connection to the home at Gleniston Gardens and this is consistent, in our view, with what John Munroe said this voter told him about where he resided.

156. We accept the evidence of John Munroe and as there is no evidence from the first respondent which refutes Mr. Munroe's evidence, we find it is more probable than not that this voter was not ordinarily resident in Pinewood and his vote should be disallowed.

MONIQUE SAWYER

157. This voter was challenged by the petitioner. She registered on 1 February 2007. Her stated address is: "**Apt.#2 N/St.Luke Ave. W/Buttwood Ave.**". This address is in Pinewood. The voter testified she moved to the stated address on 7 November 2006 and moved out on 8 October 2007. She described the apartment where she lived during the period, as beige and peach in colour and said she lived there at the time with her boyfriend Dwayne Lynes and her children.

158. On cross-examination, she said both Eurica Sweeting and Sherlene Munroe lived in an apartment across the street from her. It has been conceded by the petitioner that both of these challenged voters were ordinarily resident in Pinewood.

159. There is no evidence to rebut her evidence of her presence in Pinewood and, we find on the balance of probability that this voter was ordinarily resident in Pinewood and her vote should stand.

PAMELA SMITH

160. Pamela Smith is challenged by the petitioner. She registered on 2 February 2006. Her address as stated is: “**#2867 W/Acacia Street N/ Sea Grape Grove**”. She did not give evidence, but Whitney Emmanuel testified she was his neighbour, he lived at # 2866. He said the voter left New Providence since 2006.

161. Lionel Sands, the Director of Education also gave evidence and he said this voter was a teacher and was transferred to Mayaguana in August 2006 and then to Abaco in January 2007 and is still assigned there.

162. This voter’s ordinary residence in Pinewood was interrupted for the period of nine months prior to 2 May 2007 and none of the provisions of section 8(2) of the Act applies. In the premises, as in the case of Warrick Moss, we find this voter was not ordinarily resident in Pinewood and her vote should be disallowed.

ANWAR SYMONETTE

163. This voter registered on 10 August 2006. His vote is challenged by the petitioner. His stated address is: “**S/Avocado Street E/Thatchpalm Ave W/ Bay Geranium**”. He told us he lived at the stated address with his aunt and her daughter since August 2006 after he had a fire on Gladstone Road. He testified he worked during the day and in the evening, leaving out early in the morning and returning late at night and gratuitously suggested that persons in the area may not know he was living in Pinewood because he worked day and night.

164. Mr. Symonette denied he lied on oath, but acknowledged that when he swore on 10 August 2006 he had been ordinarily resident in Pinewood for the whole of the preceding 3 months, it was incorrect. He said he didn’t read the fine print and wanted to get his voter’s card before the ‘line got long’. He insisted he

had used his passport to register, but changed his evidence when he was shown his Form B. He said he was on medication at the time.

165. Akaha Knowles said she knew this voter and at one time he lived one house away from her. She said she knew he moved out of Pinewood in 1996 and did not live in Pinewood during the requisite period.

166. We do not accept the explanation the voter gave and are satisfied he deliberately lied on oath to the revising officer and consequently we do not accept his evidence here. In any event, he registered before 2 November 2006 and there is no evidence he resided in Pinewood on election day or at sometime within the six months immediately preceding that day. In fact the evidence of Akaha Knowles is that he was not so resident. In the premises, we find he was not ordinarily resident in Pinewood and his vote should be disallowed.

MARIA MABEL TURNQUEST

168. Maria Mable Turnquest registered on 21 June 2006. Her vote was challenged by the petitioner. Her registered address is: “**S/St Johns Avenue W/Buttonwood**”. This address is in Pinewood. She testified she moved into her son’s house at the stated address in 2001 and moved back to her house in Quarry Mission Road during the first week of August 2007. She said when she moved out of her home at Quarry Mission Road, she divided it into apartments and rented them. She told us the electricity for each apartment was in the respective tenant’s name.

169. Patrice Cleare said she campaigned and canvassed the area of the stated address between June 2006 and May 2007 and never encountered this voter. She also looked for her after the elections and no one knew her.

170. The petitioner produced the BEC bills for this voter’s home in Quarry Mission and they were consistent with her having divided the house into apartments. The bills were somewhat confusing however and there was only one

bill in a name other than hers for the relevant period. The bills reflect however that she changed that account into her name in July 2007, around the time she said she moved back to Quarry Mission Road.

171. We found this voter to be credible and accept her evidence. In the circumstances, we find she was ordinarily resident in Pinewood and her vote should stand.

SHAKANA WALLACE

172. This voter is challenged by the petitioner. She registered on 11 July 2006. Her stated address is: **“S/Sequoia St E/Acacia Ave”**. According to the evidence of Stafford Coakley, this address is in Pinewood. She did not give evidence, but there was no evidence to rebut the presumption that she was ordinarily resident in Pinewood. In the premises, we find her vote should stand.

DEBORAH WELLS

173. This voter is challenged by the petitioner. She registered on 7 July 2006 and stated her address as: **“A 45 S/Wiseman Avenue W/ Un-named Road”**. This voter did not give evidence. John Munroe testified he spoke to the voter's son and as a result of the information he provided, he, along with Mr. Stafford Coakley, plotted the address to be #43 Wiseman. Mr. Coakley testified there was no lot A45 in the area of the stated address.

174. Sidney Bethel testified he knew the voter and the area off Wiseman. He plotted Lot 43 Wiseman on the map, and put it out of Pinewood. This witness also told the Court he knew Adrian Miller and Eyan Nottage who lived one house from the voter. Both of these voters were conceded by the first respondent to live out of Pinewood.

175. On the evidence, we find on the balance of probabilities that this voter was not ordinarily resident in Pinewood and her vote should be disallowed.

CHERYL WILLIAMS

176. This voter was challenged by the petitioner. She registered on 20 February 2006. Her stated address is: **“4089 N/Sapodilla Blvd E/Ash lane W/Willow Tree Ave.”**. Ms. Williams testified she moved from the stated address and moved in with her boyfriend, Nelson Brennen, at his apartment at Augusta Street in December 2006. She insisted she lived with her mother at the stated address prior to that and denied she lived at Augusta Street since 2002. She said they did not live together before that because he was concerned about them being seen together.

177. She said her boyfriend is married and he moved to the apartment in Augusta Street in October 2002. She explained he was going through proceedings for a legal separation at the time and the utilities and lease for the apartment were put in her name because he did not want anything in his name.

178. She testified she had a still birth in 2003 and was diagnosed with depression. She said she got pregnant again and remained in Pinewood for the whole of the pregnancy in 2006 because she was concerned about the pregnancy. She admitted her boyfriend was going through divorce in 2006 and those proceedings are not completed.

179. She admitted she had an open relationship with Mr. Brennen and their relationship was not a secret, but she gave him his space.

180. Eleanor Brennen, Nelson Brennen's wife gave evidence. She said Cheryl Williams was living with her husband at Augusta Street since 2002. She said she has called the apartment for her husband on many occasions since then and spoke to Ms. Williams who told her he was not 'at home'. She said she has passed the apartment and has seen both their cars parked there and knows they lived together since 2002.

181. Having observed the demeanour of the voter and having considered the evidence she gave, we do not believe she did not live in Augusta Street with Mr. Brennen before December 2006. We simply do not accept her explanation for having the utilities and lease for the apartment in Augusta Street in her name in 2002, nor do we accept her explanation that she did not live with her boyfriend at Augusta Street because they did not want to be seen together. She readily admitted her relationship with Mr. Brennen was an 'open secret'. We do not believe either that she wanted to give him his space, given the obvious serious nature of their relationship.

182. We found Mrs. Brennen to be an honest and credible witness. She admitted she was hurt by the relationship between the voter and her husband. If as the voter said their relationship was an 'open secret' and she began calling the matrimonial home for Mr. Brennen since 2001, there was no reason for the voter to hide the fact that Mr. Brennen was renting an apartment. Indeed putting the utilities and lease for the apartment in her name, was likely to draw attention to the relationship, the very thing she said he was trying to avoid.

183. It may well be that after she became pregnant the second time she stayed with her mother for sometime during her pregnancy, but we are of the view that if she did live there, her presence was for that limited purpose and was temporary. We believe her ordinary residence was in Augusta Street with her boyfriend.

184. In the premises, we do not accept her evidence and are satisfied on the balance of probabilities that she was not ordinarily resident in Pinewood and her vote should be disallowed.

DESMOND WILLIAMS

185. This voter was challenged by the petitioner. He registered as a voter on 12 March 2007. His stated address is: "**1088 Sugar Apple St E/Thatchpalm**

Ave W/Bay Geranium”. He testified he lived at the stated address with his sister and her husband from September 2006 to March 2007. There was no reliable evidence led which rebuts this and we are satisfied he was ordinarily resident in Pinewood and his vote should stand.

LERNICE SHAVONNE WILLIAMS

186. This voter was challenged by both parties. She registered on 25 August 2006. Her stated address is: “**#1815 N/Soursop St E/ThatchPalm Ave W/Bay Geranium Ave**”. Lernice Williams did not give evidence. Kevin Ferguson told the Court he lived at 1841 Soursop Tree Street for 22 years and knows Patrick and Margo Rolle and the children, all of whom live at #1815. He said he visits the address and knows the persons who live there. He said the voter does not live there, although he has seen her around but not for a long time.

187. John Munroe testified he found the voter at Foyil Asset Management Company at the Caves Village and spoke to her on 2 August 2007 and she confirmed she had been out of the constituency for a year.

188. We found Kevin Ferguson’s evidence credible and find on the evidence as a whole that the petitioner has established a prima facie case that this voter was not ordinarily resident and there is no evidence which rebuts it. In the circumstances her vote should be disallowed.

BETTY CHARLES-JOSEPH/ KENOL SERAPHIN

189. Betty Charles -Joseph was registered on 28 July 2006 and Kenol Seraphin was registered on 30 November 2006. They are mother and son and their votes are challenged by the petitioner. Betty Charles- Joseph’s registered address is: “**Apt. #3 E/Buttonwood Ave S/ Sapodilla Boulevard**”. The registered address of Kenol Seraphin is: “**S/St John Ave E/Buttonwood Ave.**”

190. Each voter swore on the Form B that he or she, as the case may be, was a citizen of The Bahamas, not subject to any legal incapacity and was ordinarily resident at the stated address for the whole of the three months immediately preceding the date of registration.

191. Betty Charles –Joseph’s Form B contained a hand written note made by the revising officer to the effect: “**check this person, she is a Haitian National and hardly speak or write English**”. There is no evidence that any action was taken in that regard and she was registered and she voted on election day.

192. Betty Charles Joseph gave evidence and we observed she had considerable difficulty understanding and speaking English. She told the Court she was born in The Bahamas in 1961 and came back from Haiti with her mother in 1975 when she was 14. A birth certificate was produced which contained an entry for ‘Betty Joseph’ and the date of birth was recorded as 1 November 1961 at the Princess Margaret Hospital. The birth was recorded on 11 January 1974 by her mother Gloria Charles. The certificate contains no entries of the birthplace of the mother or father but states the permanent residence at birth to be New Providence.

193. The evidence further shows that on 30 January, 1978, the surname “**Joseph**” was corrected to read “**Charles**” upon an affidavit sworn by Gloria Charles and Dessolines Nicholas. Antoinette Bowe of the Public Hospitals Authority gave evidence that there was no record of Betty Charles –Joseph’s birth at the Princess Margaret Hospital and subsequent records of her admissions at that hospital all state she is Haitian.

194. Betty Charles Joseph admitted she had five children all born in The Bahamas at the Princess Margaret Hospital including Kenol Seraphin. The birth certificates of all five children are before the court and it is interesting to note that Betty Charles -Joseph’s date of birth is shown as 1956, 1958, 1960, 1961 and

1962 respectively on the certificates. Further, the certificate of birth of Kenol Seraphin states her place of birth as Haiti, while the others state her place of birth as New Providence. The informant relative to all the birth certificates except for Kenol Seraphin's was Souer Clothilde-Marie, who Betty Charles Joseph told us, she did not know.

195. Two birth certificates were presented for Kenol Seraphin, one recorded on 8 May, 1981 which records his name as Kenol Charles and the other on 9 June, 1981. The certificate recorded on 8 May, 1981 does not contain an entry for the name of the father. An affidavit was subsequently presented and Michael Seraphin's name was added. The certificate recorded on 9 June, 1981 contains the names of both the mother and father and indicates their place of birth as Haiti. The informant was Betty Charles.

196. Mr. Lambert Campbell, the Deputy Director of Immigration, testified he searched his records at the department of Immigration and he could find no record that Betty Charles- Joseph ever applied for, or was granted, Bahamian citizenship.

197. After considering the evidence adduced, we find that a prima facie case is made out by the petitioner that Betty Charles-Joseph was not born in The Bahamas and is not a citizen of The Bahamas, and there being no evidence led by the first respondent to refute it, we find, it is more probable than not, that she was not born in The Bahamas and is not a citizen of The Bahamas.

198. With respect to Kenol Seraphin, we accept his birth certificate and hospital records which show he was born in The Bahamas, but having regard to the insufficiency of proof of his mother's birth in The Bahamas and our findings in that regard and having regard to the entry on his birth certificate that his father's place of birth is Haiti, we are of the view that he could not automatically become a citizen of The Bahamas at birth but is entitled, upon making application on his

attaining the age of eighteen years or within twelve months thereafter, to be registered as a citizen of The Bahamas.

199. Kenol Seraphin holds a Bahamian passport, which is prima facie evidence of Bahamian citizenship, but Mr Lambert Campbell testified that the department of Immigration had no record of his applying for, or being granted, Bahamian citizenship on his eighteenth birthday or at anytime thereafter and could not explain the basis for the grant of a Bahamian passport to him.

200. In the circumstances, we find the petitioner has proven on the balance of probabilities that Kenol Seraphin is not a Bahamian citizen and there is no evidence led to refute it.

201. Akaha Knowles told the Court she knew that Kenol Seraphin moved to Eleuthera in September of 2006 and did not return to live in Pinewood.

202. In the premises, we find on the balance of probabilities that the voters were not citizens of The Bahamas and could not be ordinarily resident in Pinewood for the purposes of the Act. In the premises we find, both votes should be disallowed.

SUMMARY

203. Having regard to the concessions made by Counsel for the petitioner and Counsel for the first respondent and the determinations of this Court, we find the vote cast by each of the following persons in Pinewood in the General Elections held on 2 May 2007 was not lawfully cast:

Paulette Adams, Mizpah Albury, Patrick Armbrister, Brian Ambrose, Sandy Bastian, Liquent Bethel, Anthony Bodie, Stephanie Bodie, Lutherio Brooks, Bernadette Brown, Debbie Bullard, Lucian Bullard, Vernice Burnside, Betty Charles-Joseph, Essarine Christie, Lena Cleare, John Collie, Joycelyn Collie, Leonard Cornish, Demaril Curtis, Lucine Darcy, Charles Darville, Jennifer Davis, Latia Davis, Jethro Daxon, Vanessa Dean, Eleanour Dean, Casey Dean-Forbes, Germaine Demeritte, Monique Duncombe, Lewis

Farrington, Ellen Ferguson, Joycelyn Ferguson, Welleana Ferguson, Reynaldo Forbes, Shandica Forbes, Vincent Forbes, Sandra Frazier, Nicola Fynes, Marlo Gardiner, Gerard Gervais, Dellrick Gibson, Ruth Gibson, Theodore Hall, Latoya Hanna, Henry George Harris, Samuel Higgs, Bill Jenoure, Leslie Jones, Clinton Josey, Berkley Kerr, Pamela King, Aldrin Scott Knowles, Sandra Lewis, Anwar McDonald, Danielle McKenzie, Lynisha McKenzie, Michael McKenzie, Otessa McKenzie, Rodcliffe McPhee, Adrian Miller, Karen Miller, Louise Miller, Anna Missick, Monique Missick, Asa Moss, Warrick Moss, Deon Moxey, Deandre Munroe, Deangelo Munroe, Antoinette Neely, Latania Newman-Ferguson, Ethnee Nottage, Eyan Nottage, Isadora Rolle, Marie Crystal Rolle, Ronette Rolle, Sheena Rolle, Tekeria Rolle, Nero Russell, Gary Sands, Antoine Saunders, Michael Micah Saunders, Adrienne Scott, Kenol Seraphin, Donny Smith, Margaret Smith, Michael Smith, Pamela Smith, Dwayne Storr, Youlanda Strachan, Aneka Sweeting, Anwar Symonette, Christine Naomi Symonette, Christine Taylor, Manani Taylor, Mercedes Thompson, Stacia Thompson, Lavana Turnquest, Anthony Watson, Lesia Weir, Deborah Wells, Indera Whymms, Cheryl Williams, Denise Williams, Lernice Williams, N'Keba Williams, Pamela Withfield, Glen Woodside, Hilderine Wright.

204. Having regard to the determinations of this Court we find the vote cast by each of the following persons in Pinewood in the General Elections held on 2 May 2007 was lawfully cast: **Daphne Bain, Aaron Bain, Nikeya Cleare, Nicole Ferguson-Lewis, Deval Kirby, Ricky Miller, Insley Mitchell, Perline Moss, Teneal Rahming, Jamaal Reckley, Cristena Rolle, Demetrius Rolle, Monique Sawyer, Maria Mabel Turnquest, Shakana Wallace, Desmond Williams,**

205. The petitioner and the first respondent each sought a scrutiny of the votes cast and we so order. The result of the poll will be adjusted after the elimination of such votes as we have found not to have been lawfully cast.

206. We adjourn the matter into Chambers pursuant to Rule 16 of the Election Court Rules to determine the conduct of the next stage of the process.

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207. The Court required the Parliamentary Commissioner and two officers from the Parliamentary Registration Department, to appear in Chambers today with

the 11 ballot boxes from Pinewood. The parties, their Counsel and each party's election agents were present.

208. The Parliamentary Commissioner opened each of the boxes and, having identified and removed the ballots cast by each of the voters whose names appear at paragraph 203, arithmetically adjusted the result of the valid votes for each party and found that 1884 votes were cast for Woodside and 1835 for Gibson.

209. The Court accordingly determines that Woodside was duly returned and elected as the Member of Parliament for Pinewood and this Court shall so certify to the Governor-General and the Speaker, as required by section 85(1) of the Act.

210. The issue of costs is reserved for further argument with liberty to apply.

DATED this 21st day of January, 2008.

Anita Allen

Anita Allen,

Sr. J.

Jon Isaacs

Jon Isaacs,

J.