

**Commission of Inquiry into Historic Loss of Land In
Bermuda**

Opening Remarks

by

Justice Norma Wade Miller

Commission Chair

Grotto Bay Hotel, Hamilton Parish, Bermuda

Tuesday, 8th September 2020

Good morning Ladies and Gentlemen of the Public, Members of the media.

Thank you for joining my fellow Commissioners and me for the commencement of this Commission of Inquiry hearing.

I am retired Justice Norma Wade Miller. I was appointed by The Honourable Premier, the Hon. E. David Burt JP MP, as Chair of the Commission of Inquiry into Historic Land Loss in Bermuda.

Serving with me as fellow-members of the Commission are:

- The Hon. Wayne Perinchief, a former Minister of National Security and retired Assistant Commissioner of Police;

- Mrs. Maxine Binns, former Consultant Legal Counsel with the Business Development Unit and retired Legislative Assistant with the Business Development Unit
- Ms. Frederica Forth, a former banking Senior Bank Manager and an experienced realtor;
- Mrs. Lynda Milligan-Whyte, Senior Legal Counsel practicing at the Bermuda Bar;
- Mr. Jonathan Starling, Economic and Cooperative Development Officer with the Bermuda Economic Development Corporation; and
- Mr. Quinton Stovell, a prominent quantity surveyor.

Permanent Secretary Ms. Marva O'Brien was statutorily appointed Clerk to the Commission.

The Commission's Secretariat provides administrative and other support to the Commission. The members are Mrs. Alberta Dyer Tucker, a retired Senior Civil Servant and Mrs. Alicia Lister.

The Commission is well-served by counsel. Queen's Counsel, Mr. Ivan Whitehall of Canada was selected by the Chair of the Commission to carry out the responsibilities of Counsel to the Commission. The pandemic makes it impossible for Mr. Whitehall to travel to attend this hearing in person. However, I am glad to advise that thanks to modern technology, we are able to link with him electronically for the purposes of this hearing.

I will say just a few words about Mr. Whitehall, although time will not allow me to speak of his many professional accomplishments. However, I will offer a snapshot

of his background. In 1989 Mr. Whitehall became the Chief General Counsel of the Department of Justice, occupying the senior litigation position of the Government of Canada with the rank of Assistant Deputy Minister. He was in that position until he retired from the Public Service in 2003, when he became Counsel to a major national law-firm. He has extensive experience serving as counsel on various commission of enquiries.

Mr. Bruce Swan, local Barrister and Attorney, is Junior Counsel to Mr. Whitehall and will lead aspects of the examinations during the hearings.

Having introduced our Team, I would like to move on to the matters which may be considered by the Commission, as those matters are limited by the order.

It is important to clarify that the mandate of the Commission is not to resolve disputes between parties, or to make any legally binding order for the return of the properties that are alleged to have been wrongfully taken.

It should also be made clear that whereas this body has been politically conceived and appointed, it has a quasi-judicial function. It is incumbent upon us to be thorough in our examination of the evidence, objective in our assessment of the facts and impartial in our findings.

We are mindful that these tasks are one of historical significance and may ultimately be put to the test of judicial scrutiny.

I take this opportunity to personally thank each Commissioner and Counsel Whitehall who all diligently met on a weekly basis, and sometimes twice weekly via

Zoom during the shelter-in-place regime. I would also like to thank them for their patience with me while I ‘learnt-up’ the technology of the new Zoom era.

The year 2020 is one of significance to the entire Bermuda community. Therefore, it is perhaps fitting that the Commission is involved in its deliberations this year as, the 6th day of August 2020 marked the 100th year anniversary Tucker’s Town expropriation, that allowed for dispossession of property.

That having been said, I now invite your close attention as I enunciate the Commission of Inquiry’s mandate.

The **Scope of the Inquiry** is specially

1. To enquire into historical losses of citizens’ property in Bermuda through theft of property, disposition of property, adverse possession claims, and/or such other unlawful or irregular means by which land was lost in Bermuda;
2. Collect and collate any and all evidence and information available relating to the nature and extent of such historic losses of citizens’ property.
3. Prepare a list of all land to which such historic losses relate;
4. Identify any persons, whether individual or bodies corporate, responsible for such historic losses of citizens’ property.

The Commission may also refer, as appropriate, matters to the director of Public Prosecutions for such further action as maybe determined necessary by that office.

While allegations have been made about historical land grabs, it is the responsibility of the Commission to determine what the evidence substantiates. This has been done in a systematic manner, utilizing a rigor befitting of the gravity of the task. I will not at this stage provide the exhaustive listing of the grievances. Suffice it to say when we considered the allegations dealing with applications for standing before the commission all of the applications with respect to Tucker's Town and St. David's expropriations were granted. We have also considered more than 50 complaints that we have received. Of that number, the Commissioners have determined that over twenty-five fell within our mandate. We invite the public to take note of our deliberations with the keenness of interest warranted by the gravity of these events.

A word about our original plan: although we had high hopes and many good intentions, we found ourselves in the unfortunate position of having to change our starting date several times. We had originally intended to start these hearing on 24th August, which changed to the 3rd September and, ultimately, here we are today.

Again, as part of our original plan, and in order to provide a solid foundation as an underpinning to our Inquiry, we were hoping to begin our deliberations with reports from two well-known local Historians Dr. Quito Swan and Dr. Theodore Francis.

However, due to the COVID 19 pandemic, and the concomitant closure of archives and other Government organizations in the United Kingdom, United States and Bermuda, our Historians have experienced an unavoidable delay as they have sought the materials required to support their findings.

As a result, they are not ready to begin today, but they have undertaken to be our first two witnesses commencing on the 19th October 2020. We definitely look with great anticipation to hearing their testimony.

In order to do justice to the matters which have been brought before us, the Commission engaged a small team of investigators led by retired Police Officer Mr. Carlton Adams. However, due again in part to restrictions imposed by the pandemic, our team's investigations are not as advanced as we would have hoped. However, we look forward to reviewing their evidence and to hearing what they have found by the second tranche of the hearings which begin in October. Regrettably, this, coupled with the unavailability of other key witnesses, has forced us to shorten this tranche of our hearings.

Before I end, please allow me to make what I would like to call a public service appeal. In order to ensure that we properly deal with as many of our cases as possible prior to our October hearing, I would like to invite any retired police officer who is willing to volunteer his or her service to come forward to assist us. The investigation process is not complicated, as our chief investigator, Mr. Carlton Adams, will avow. Any retired officer who is able to assist should contact the Commission Office on the fourth floor of Sofia House, 48 Church Street, Hamilton or contact 535-9801. What could be better than to give the gift of helping our community heal?

I close by referring to a few words of encouragement from The Right Reverend Nicholas Dill, Anglican Bishop of Bermuda, who recently wrote to me.

I quote from the Bishop

“I hope your work allows truth and light to float to the surface, enabling us to move forward as a community. May God grant you and your team wisdom, patience and courage!”

Before our work commences and I call our witness, I now invite the Commission Counsel, Mr. Ivan Whitehall, to address you.

Thank you.