**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSS**

**IN BERMUDA**

**CHAIRMAN**

**HON. WAYNE PERINCHIEF, J.P.**

**COUNSEL**

**MR. DIRK HARRISON**

**COMMISSIONERS**

**MR. QUINTON STOVELL**

**MR. JONATHAN STARLING**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: WILLOWBANK CONFERENCE CENTER**

**THURSDAY, MARCH 25, 2021 AT 1:00 pm**

**AFTERNOON SESSION (b)**

**MATTER NO. 015**

 (Continuation of Morning Session (a)

**HON. WAYNE PERINCHIEF** 0:06: You may be seated. Good afternoon, and good afternoon, Counsel.

**COUNSEL DIRK HARRISON** 0:17: Afternoon Chairman.

**HON. WAYNE PERINCHIEF** 0:20: When we adjourned for lunch and to consider the document that we had been talking about it our discovery and it's always been the case that when the bundle of information was sent out, electronically, it was sent to all. And in some instances, it may not have been opened by the recipients, but the document is with the everyone, all those to whom advance notice was sent, but it would appear that only Mr. Henson, open that link, but it is there, I can assure you that of that. So Counsel keeping in mind that is a situation that everyone does actually have the document, even, albeit electronically in their possession. Can you now give their action for the proceedings to carry on thank you?

**COUNSEL DIRK HARRISON** 1:29: Thank you, Chairman and Commissioners. Importantly, a question was being posed by Mr. Michael Hansen to the witness the claimants, we heard from the Mr. Charles Brown is surely that he does not have the document. I trust by now the document has now been shared with him, in light of the fact that Counsel also Mr. White, had indicated he was not aware of it and also more importantly, Miss Virgil indicates that she is not aware of the document. In the circumstances, based on the question that had been put, I can't speak about the line of questioning that would follow after I think it best that in respect of any questions in relation to this document, one which I too need to digest, I must confess, and state my case. I am not one and I get a file. I don't read investigators opinion, I read the statements on files. So it is not a document that I have read. It is not something that I do. I form my own opinions, not investigators opinion. So that's all been said. I think that adjournment in respect of this probably until tomorrow, in respect of all the parties being able to digest a document, and then any question along this line could be could be taken tomorrow. We I propose that in respect of any other questions. We could they could be taken. We could also take Mrs. Barbara Brown immediately after but I propose that any other question on this matter be delayed until tomorrow. I invite through you Chairman Mr. Hanson, Mr. White and Miss Virgil to comment in that regard.

**HON. WAYNE PERINCHIEF** 3:38: Thank you, counsel for your timely and wise advice. Just to reiterate, the process going forward. So you will be allowed to or invited to ask any questions that are not specifically relevant to the document that you had first mentioned in the intent of us, allowing everyone to scrutinize it, and tomorrow, we'll take that document off and anything that flows from it, but we will continue to take any questions of the witnesses, by yourself and others. Consistent with their evidence given today and previously. So if you would now continue Mr. Hansen with your line of questioning by and avoiding the document. Thank you, sir.

**MR. MICHAEL HANSON** 4:39: Thank you Mr. Chairman. I don't think it's practical, because most of the questions are surrounding the issue of the reports and people's interpretation of them. So we have no further questions other than around that which we can ask tomorrow.

**HON. WAYNE PERINCHIEF** 4:53: Yes. And you will get an opportunity to do so and ask those questions tomorrow when we resume at 10 o'clock. So with that being said, the next person who would be giving evidence or

**COUNSEL DIRK HARRISON** 5:11: Chairman, I'm sorry could you just invite Mr. White and Ms. Virgil, to comment on that matter, please.

 Yes, I was going to go to Mrs. Virgil to start with since we had not heard directly from her other than just in relation to this document. Ms. Virgil do you have questions and I'll get back to Mr. White again or would you defer to Mr. White, and then continue after he gives us His questions?

**MR. KIM WHITE** 5:37: Ladies first sir.

**HON. WAYNE PERINCHIEF** 5:39: Yes. All right. She's smiling and nodding her head. Yes. Mr. White carry on.

**MR. KIM WHITE** 5:44: Very good. I concur with Counsel. And I think it's an adjournment until tomorrow, certainly to let the Browns read the report as well it makes eminent sense. Thank you, sir.

**HON. WAYNE PERINCHIEF** 5:55: However, we will be continuing with Barbara Brown evidence in chief for one of a better description. And Ms. Virgil.

**MS. MYRA VIRGIL** 6:02: Yes. Thank you, Mr. Chair. I'm speaking on behalf of the descendants of the late John Alfred Virgil, I don't have any questions to direct at the Brown family right now. But I would offer the following comment. We are of the opinion in response to any claim, which concerns the late

**COUNSEL DIRK HARRISON** 6:23: Just a minute Ms. Virgil through the Chair, I know it's not the time yet for you to do that. I just asked you just to exercise a little patience. Hold those questions, and you can put them at an appropriate time it appears tomorrow, but I just ask you to hold them first, please. Okay,

**MS. MYRA VIRGIL** 6:44: I don't have any questions. Thank you,

**HON. WAYNE PERINCHIEF** 6:47: Thank you, Ms. Virgil, and at this time Counsel, following your lead, we will invite the witness, Mrs. Barbara Brown, to make a submission to this Commission.

**COUNSEL DIRK HARRISON** 7:05: Thank you, Chairman, I would just indicate that I once again I hold no brief for Mr. Hanson or Mr. Masters in respect of the witness to be taken. It is for them to determine their posture. I know a part of the statement at the very end mention is made of the Bank, but is for them to certainly determine whether or not to ask this tribunal to remain to hear this evidence. Sir.

**HON. WAYNE PERINCHIEF** 7:38: Mr. Hanson, it appears that you have a question?

**MR. MICHAEL HANSON** 7:42: If it pleases the tribunal, we don't think it necessarily is relevant for the bank to be present for this particular witness. But we will be accessible or we can remain if the tribunal prefers. Sorry, the commission prefers that.

**HON. WAYNE PERINCHIEF** 7:57: So would you put that again, Mr. Hanson?

**MR. MICHAEL HANSON** 8:00: Sure. So we don't think we necessarily have any relevance to add in respect to Mrs. Brown. So we would like if possible to be excused.

**HON. WAYNE PERINCHIEF** 8:12: Yes, that's quite appropriate. And we understand your position. It will be your question will be on the documents submitted by Mr. Adams, at the appropriate time tomorrow. And you at this point, passing up the opportunity to put any further questions to these witnesses or to Ms. Barbara Brown

**MR. MICHAEL HANSON** 8:33: Correct. Thank you Mr. Chairman.

**COUNSEL DIRK HARRISON** 8:36: As I just indicated to Mr. Hanson, even though what I've said and he has said in relation to paragraphs 11 and 23 he could also have a look at those and review his posture before he exits of the statements of the witness about to be taken, where mention is made were mentioned is made 11 through 15 and 23. I will proceed nonetheless. But I just advise Counsel that he could review his stance in that regard. Yes. I'd like to ask Miss Mrs. Barbara Brown that she is permitted to take her seat. I'm going to ask that she's either sworn or she is allowed to be affirmed.

**HON. WAYNE PERINCHIEF** 9:28: Yes Counsel that will be done at this point. If the witness Mrs. Barbara Brown could come forward with some assistance and don't rush take your time. I appreciate Mrs. Brown is not a young person.

**COUNSEL DIRK HARRISON** 9:43: Hello. Oh, no, I'm sorry could you indicate what she is doing Mrs. Lister. She is being sworn at this point, and the Secretariat is in the process of swearing. Mrs. Brown.

 I'm not certain if she's being affirmed, or swearing because she doesn't have the Bible and she's her right hand is not raised. If she's affirming.

**MRS. LISTER (Secty)** 10:54: Counsel I haven't confirmed yet I was just getting her to state her name.

**HON. WAYNE PERINCHIEF** 10:56: Counsel the process has just begun. We just started

**MRS. LISTER (Secty)** 10:59: State your name for the record and repeat after me.

**MRS. BARBARA BROWN**  11:05: Barbara Lucille Brown, I swear by Almighty God, that the evidence that I shall give shall be, shall be the truth, the whole truth and nothing but the truth.

**COUNSEL DIRK HARRISON** 12:09: Thank you very much. Your name is Barbara Brown madam?

**MRS. BARBARA BROWN** 12:13: Yes, sir. Yes.

**COUNSEL DIRK HARRISON** 12:16: You are over 40 years of age.

**MR. KIM WHITE** 12:22: Nicely put

**MRS. BARBARA BROWN** 12:26: Yes almost 100

**COUNSEL DIRK HARRISON** 12:29: Okay. Thank you. You're presently retired?

**MRS. BARBARA BROWN** 12:32: Yes sir

**COUNSEL DIRK HARRISON** 12:34: What parish do you live in madam?

**MRS. BARBARA BROWN** 12:36: Pembroke Parish.

**COUNSEL DIRK HARRISON** 12:38: Thank you.

 Now, you gave a statement to the Commission of Inquiry dated the 25th of January 2021. Madam?

**MRS. BARBARA BROWN** 12:49: Yes I did.

**COUNSEL DIRK HARRISON** 12:52: And you signed that statement. Madam. You initialed each page of that document.

**MRS. BARBARA BROWN** 13:00: Yes Sir.

**COUNSEL DIRK HARRISON** 13:02: Madam. You have the original of that document there with you, madam?

**MRS. BARBARA BROWN** 13:09: Yes Sir.

**COUNSEL DIRK HARRISON** 13:12: Are you able to tell us what happened in this matter without relying on the document, Madam?

**MR. KIM WHITE** 13:18: Okay.

**COUNSEL DIRK HARRISON** 13:22: Would you like to rely on a document to give your evidence?

 Now you can't ask Mr. Charles Brown, you're going to have to just he can't help you now in terms of answering I'm sorry. You just have to answer my question.

**MRS. BARBARA BROWN** 13:41: Okay.

**COUNSEL DIRK HARRISON** 13:42: Are you able to tell us what is in the statement without looking at the statement madam?

**MRS. BARBARA BROWN** 13:47: Yes, I can.

**COUNSEL DIRK HARRISON** 13:49: Okay, but would you like to rely on the statement also?

**MRS. BARBARA BROWN** 13:54: Yes.

**COUNSEL DIRK HARRISON** 13:55: Okay.

 Chairman, I know we're relaxing the rules somewhat and Counsel I'd wish to ask that the statement of Mrs. Barbara Brown dated the 25th January, 2021. Is tendered as an exhibit BB1

**HON. WAYNE PERINCHIEF** 14:16: Yes, so recorded Counsel.

**COUNSEL DIRK HARRISON** 14:27: I'm going to ask at this time, I know that you are beside your sons at this time. You cannot speak to them. And they are not to speak to you. In terms of the answers you gave they have to be your own answers. Okay understood madam?

**MRS. BARBARA BROWN** 14:45: Yes.

**COUNSEL DIRK HARRISON** 14:47: Okay good. Now, the statement that is in front of you. Are you able to read a statement madam?

**MR. KIM WHITE** 14:57: No.

**COUNSEL DIRK HARRISON** 14:59: Why Madam.

**MR. KIM WHITE** 15:00: Because I can't see well.

**COUNSEL DIRK HARRISON** 15:02: Okay. Would you like to ask someone to read it for you madam?

**MR. KIM WHITE** 15:05: Yes I would like to ask my son Charles.

**COUNSEL DIRK HARRISON** 15:09: Okay. But the document that you have there you see your signature on it the signature that you made?

**MR. KIM WHITE** 15:14: Yes, I can see that.

**COUNSEL DIRK HARRISON** 15:16: Okay. May the witness chairman. Could Mr. Charles Brown her son be allowed to read a statement based on her request, Chairman?

**HON. WAYNE PERINCHIEF** 15:26: Yes, Counsel. I have heard the question and the request is granted.

**COUNSEL DIRK HARRISON** 15:32: Thank you very much. Mr. Chairman.

**HON. WAYNE PERINCHIEF** 15:41: Yes. Mr. Brown you may read this statement that your mother made on her behalf.

**MR. CHARLES BROWN** 15:48: Thank you.

 **STATEMENT:**

 **1.** The purpose of this statement is to facilitate communication between the Commission of Inquiry into Historic Losses of Land in Bermuda and myself, Mrs. Barbara Brown. I am one of seven (7) beneficiaries of the estate of my late Uncle John Augustus Alexander Virgil and have standing with the Commission. The other six (6) beneficiaries are my siblings and cousins. Two (2) siblings and now two cousins (that's Aunt Sylvia).....

**HON. WAYNE PERINCHIEF** 16:29: Just follow the written text please Mr. Brown.

**MR. CHARLES BROWN**  16:41: Two (2) siblings and a cousin have passed, leaving the four (4) surviving beneficiaries whom I am representing.

 **2.** The following is a set of documented memories and experiences that have occurred over the last 49 years during the pursuit of justice regarding the real estate, spring Benny Sandys Bermuda These memories are categorized for ease of reference.

 **Residents of Spring Benny:**

 **3.** In 1984, Mr. Kenneth Maybury came to my home in Spanish Point Pembroke to discuss his title to the property he lived on in Spring Benny. I asked him if he would show me to deeds to his property, he owned with his wife Pam. I wanted to see the title to his property as shown in his deeds. He refused to show the deeds. He said, "If I show you my Deeds, then John Swan won't give me anymore work".

 **4.** In April 1982, at my daughter Diana's wedding reception at the Bermudian Beach Club on South Shore in Warwick, I spoke with Mr. Robert Horton, about the matter of clear title to the property. Mr. Horton told me that the neighbors had been invited to a meeting with Mr. Stanford Richardson, who was a representative of John W. Swan Limited. Mr. Horton told me that Spring Benny residents were told by Mr. Richardson that, quote, "there is nothing to worry about, and everything is an order", regarding their concerns about the legitimacy of the property title. **5.** I retained the services of Conyers, Dill & Pearman to draft the letter and send it to prominent Bermudian, and Mr. Robert Horton, who was a Spring Benny resident. The purpose of the July 14, 2000 letter was to invite Mr. Horton to show his title deeds to the beneficiaries for review. There was no response to the letter. **6**. The late Mr. Linnet Edwards, who was a distinguished public servant, and former Commissioner of Police in Bermuda. Soon after he passed away in 2005, I filed a Caveat with the Supreme Court of Bermuda. This Caveat challenged the Estate of Mr. Edwards regarding the claim of legal title to his property at Spring Benny. This Caveat effectively stalled the transfer of the title of the Edwards property. To date, the Caveat has not been challenged by the Edwards family.

 **7.** I placed a Legal Notice in the world is that in 1982 through our lawyer, Mr. Julian Hall was providing legal services to the Beneficiaries. This legal advice, described the land in question and identified all the occupants of the land at the time. The occupants were all advised that the legal title to their respective lot of land was being challenged by us the Beneficiaries.

 **Appleby Experiences:** **8.** In Spring of 1972, Mr. Robert Motyer from Appleby, Spurling and Kempe, telephoned me to invite the beneficiaries to his office for the reading of Uncle John's Will. We all went to the meeting, Mr. Geoffrey Bell, was dressed in a really nice blue suit that day, read the Will. He advised us that Uncle John owned real estate, and that we should go to the Bank of Butterfield so the Will could be executed. Years later, I telephoned Mr. Bell one day (in 1979/80) denied that he even read the wheel.

 **9.** On the day of Uncle John's death in January 1972, I went to Appleby and asked to speak with Mr. Robert Moyter. He came up to see me and I told him I was John Augusts Alexander Virgil's niece. Mr. Motyer said, "Why come to me?" I replied, "You're his lawyer, and I know my uncle has land, but I'm not sure about any money. Mr. Motyer told me to go and give my uncle a nice funeral and he will call in two weeks to invite the beneficiaries in for the reading of Uncle John's Will.

 **10.** During the 2010's, I decided to walk into Appleby to speak with someone that would listen and help with our outstanding claim. Although I did not have an appointment I did meet with Ms. Kiernan Bell. During this meeting, I informed Ms. Bell that I understood that Appleby did something wrong regarding the settlement of the estate of my Uncle John. Ms. Bell asked me "are you trying to say Appleby did something wrong?" I told her "that's exactly what I am saying".

 Just a minute slow down a bit while the secretary catch up. Yes, stop there. Continue.

 **Butterfield Bank:** **11.** One afternoon in the early summer of 1974. I had an appointment with Mr. William King, a Trust Officer at the Bank of Butterfield to discuss the settlement of Uncle John's estate. Mr. King, had previously said he would settle the estate 'soon'. Dissatisfied with Mr. King, I then met with Mr. King's boss, Mr. Mann. I told Mr. Mann that I intended to go to the Chief Justice with my complaint. At that point, Mr. Man offered me $154,000 to settle this thing. I rejected this offer and explained that, that among 154,000 was not enough to buy even one house on my uncle's property. This offer from the bank was not put in writing.

 **12.** Later that day, I decided to pay a visit to the Chief Justice Mr. James 'Rufus' Astwood - unannounced. Surprisingly, I was granted an audience with the Chief Justice. After discussing the matter, his legal advice to me at the time was, "You should put a match to those deeds". **13.** I attended a meeting at the Bank of Butterfield in the Spring of 1974, to discuss our concerns about the unsettled estate of Uncle John. When I returned home after the meeting, Mr. David Dodwell from the Bank of Bermuda, phoned me. Keep in mind that I held a Consumer loan from the Bank of Bermuda at the time. Mr. Dodwell informed me that the consumer with the Bank of Bermuda would have to be paid in full by the end of the next day. I told Mr. Dodwell, "I did'nt know that the Bank of Bermuda and the Bank of Butterfield were combined. I also told Mr. Dodwell, "I'll tell you where you can go to get the money, go ask Arnold Francis, John Swan and David Wilkinson...." and tell them I sent you!" David Dodwell said he would look into it. He called back the next day until me to carry on as usual with the loan payments.

 **14.** I made an appointment to meet with the Bank’s General Counsel Mr. Steven Kemp. In the mid to late 1970s. I showed up along with my two brothers Glen and Gladwin Ming, and my cousin Genevieve Hollis. When we arrived Mr. Kempe was notified and eventually came out to the public reception area. In a strong voice Mr. Kemp's legal advice was to, "Go and get yourself a lawyer". **15.** During the early 2000s, I received a letter from the Chairman of the Bank, Mr. James King. The letter restated the Bank's position of having no responsibility or obligations to the beneficiaries of the estate of John Augustus Alexander Virgil. Consequently, I called the Bank to Ms. Tammy Richardson. During the phone call, Ms. Richardson rudely said to me, "Mrs. Brown, what?" - You don't get it? Which part of the 1974 Estates Act don't you understand? "

 **Experiences with Mr. David Wilkinson:**

 **16:** I had worked as a waitress at the Hog Penny Restaurant since 1970, serving lunch and dinner. One evening in the spring of 1975, Mr. David Wilkinson, from Cox Hallett and Wilkinson, lawyer for Russell Pearman showed up unannounced to the Hog Penny Restaurant. This was strange because I never seen him in there before. I had never seen him in there before. Sorry. He made his way to my workstation and took a seat. So I approached him as I would any other customer. He asked me if anything had been saddled with my uncle's estate. He did not order any food or drink. It seemed to me that he was trying to intimidate me. He said, "You better watch your step", and then he left. Sir Dudley Spurling **17.** In the late 1970s, I went to the office of Sir Dudley Spurling, a founding member of Appleby, and eventual Chair of the Bermuda Law Reform Committee. I showed up unannounced at his office to encourage him to address the outstanding estate of my Uncle John. During our meeting, I told him that I will be going to the House of Assembly to complain about the treatment I had been experiencing. He ended the meeting by telling me, "the ball is in your court and you had better be very careful with what you say!"

 **Experiences with Sir. John Swan:**

 **18.** During 1975, I called John Swan at his home one evening. I wished to speak with him about how he claimed ownership of my uncle's property. I wanted to meet with him to discuss his claim to the land in Spring Benny. John Swan said, "I ain't having no meeting with you and don't call here no more". Then he abruptly hung up the phone in my ear.

 **Experience of Eric Jones:**

 **19.** In the early I telephoned Mr. Eric Jones at his office, after hearing that he was on Island. He said to me over the phone, "I didn't come here to do any business with you" And he hung up in my ear. I then went to see him at his office in Washington Mall. Ms. Charlotte Cann was the receptionist at the time, and she told me that Mr. Jones was not in office, I replied, "then I will take a seat and wait for him". Mr. Jones eventually showed up later that day. We spoke and I asked him about my uncle's property. His explanation of both the property did not make any sense to me.

 **Other memories**:

 **20.** The safety and security of the Title Deeds to the property has always been of high importance to me and my family. Because of the consistent dishonesty, the behavior of the people involved, as well as the critical value of the deeds, I decided to keep them as close to me as possible. In preparation for my daughter Diana's wedding in 1982, I decided to have a custom made pouch prepared by a seamstress to her and secure the title deeds. This pouch filled with the title deeds would fit comfortably inside the mother of the bride's dress. **21.** Uncle John and his good friends, Mr. Algernon Blakeney and Mr. Kenneth Simmons, used to travel by train or bus to visit the land quite often. He proudly talked about the land he owned and how he intended to will it to his seven (7) nieces and nephews. When his nephew Gladwin Ming was getting married in 1962, it was suggested by family friend, Ms. Olive Bean, that Uncle John gift Gladwin a piece of his land as a wedding present. Uncle John said "no, I will leave it to all I will leave it all to the seven of them". Ironically, Eric Arthur Jones, the Virgil Family Lawyer claimed ownership in 1962.

 The beneficiaries retained Brown and Wade Chambers in 1989. Brown and Wade Chambers wrote to the Commissioner of Police, June 16, 1989, requesting that the 1976 investigation conducted by Detective Sergeant 55 Thomas Cassin be reopened with specific reference to the circumstances under which John Augustus Alexander Virgil's signature was obtained upon a conveyance dated 15th of April 1969. Over the years, I have written letters to both the Bank of Butterfield and or Appleby on at least six occasions, to address the fact that the estate of John Augustus Alexander Virgil was not settle despite the beneficiaries holding the Title Deeds and Uncle John's Will. On each occasion, the message was essentially the same. Your uncle had no property and the Bank nor Appleby had any responsibility to the beneficiaries. That concludes the statement sir.

**HON. WAYNE PERINCHIEF** 34:56: Yes, you've read the statement as supplied by Miss Barbara Brown.

**COUNSEL DIRK HARRISON** 35:02: Thank you. Could I ask the Secretary just to take us to Page *2 Paragraph 7?*

 Mrs. Brown in the statement that was asked right at paragraph seven mentioned is, “I made of a legal notice being placed in the Royal Gazette through your lawyer. You also indicated that you the occupants were all advised that the legal title to their respective lots of land was being challenged by also beneficiaries. How did you advise them that? How did you do this Madame advise them?

**MR. KIM WHITE** 35:55: Through my lawyer, Mr. Julian Hall he was the one that advised the people that was on the land.

**COUNSEL DIRK HARRISON**  36:06: Okay, Thank you. And may I take you to paragraph six, just above the second line where it states soon after he passed away in 2005, I filed a Caveat with the Supreme Court of Bermuda. Did you file any other Caveats? This here in paragraph six? It mentions Estate of Mr. Edwards. Did you file any other Caveats in the Supreme Court or any other court, Madam?

**MR. KIM WHITE** 36:40: No, I just signed the one for Mr. Lenny Edwards.

**COUNSEL DIRK HARRISON** 36:46: Is the Caveat still in place, Madame?

**MR. KIM WHITE** 36:48: No, I took it out in 2019 because they were answering me.

**COUNSEL DIRK HARRISON** 36:55: Because what madam?

**MR. KIM WHITE** 36:56: Because the Edwards family never was responding to it. And I was just paying and paying, and they responded and had gone through 2019 so I withdraw it.

**COUNSEL DIRK HARRISON** 37:12: Okay. Now in respect what are the cost of that Caveat? What was the cost of the caveat being large madam?

**MR. KIM WHITE** 37:25: I put the caveat in so the people on the land could answer to it.

**COUNSEL DIRK HARRISON** 37:35: No, I'm asking about the cost?

**MR. KIM WHITE** 37:38: Oh the costs. Pardon me? I paid $25.

**COUNSEL DIRK HARRISON** 37:43: Thank you. Is that each year?

**MR. KIM WHITE** 37:46: Yes. I had to do it twice a year.

**COUNSEL DIRK HARRISON** 37:49: Thank you very much.

 Now madam, you mentioned through your statement, I was just read a number of institutions that you approached. The statement refers to contact you had an conversations with residents of Spring Benny Appleby, Butterfield Bank, Mr. David Wilkinson, Sir Douglas Spurling, Sir John Swan and Eric Jones. What was the purpose of you speaking to all these persons madam?

**MR. KIM WHITE**  38:31: Hoping that they will come to a settlement like my uncle put in his will.

**COUNSEL DIRK HARRISON** 38:37: Thank you.

 And finally, what does it mean for you being here today speaking about the claim that had been submitted to the Commission of Inquiry by the beneficiaries on behalf of the Estate of John Augustus Alexander Virgil, madam?

**MR. KIM WHITE** 39:06: Today is a great day for me and my family, because it appears that he finally had somebody to listen to us listen hear us.

**COUNSEL DIRK HARRISON** 39:19: Thank you. I have nothing this time Chairman.

**HON. WAYNE PERINCHIEF** 39:28: Thank you, Counsel. At this point, those persons to whom adverse notice has been sent. I have the opportunity to put questions to the witness Miss Barbara Brown. If you so wish. Mr. White, are you indicating that you wish to put questions to the witness?

**MR. KIM WHITE** 40:02: Yes.

**HON. WAYNE PERINCHIEF** 40:03: At your leisure, Mr. White. Mrs. Brown, Mr. White would like to put some questions to you. And you may respond to take your time to respond to any questions put to you, if you so wish. Mr. White has indicated that he is requesting copies of the statement of Mrs. Brown. Would you repeat that, sir?

**MR. KIM WHITE** 40:48: Oh, Secretary is providing Mrs. Brown with copies of the case, Mr. Wade is dealing with or has dealt with?

**HON. WAYNE PERINCHIEF** 41:14: Yes. And at the same time, has the Secretary been provided this similar copy? And if we could, if possible, have the Secretary project that case on screen so that we can be led through it

**COUNSEL DIRK HARRISON** 41:33: Chairman I just asked. I'm sure have to Mr. White goes through the formalities of making it an exhibit. We can project it then. But I just asked that he could be allowed to go along that course. So. Mr. White, we're not hearing from your microphone. Could you check if your microphone is off?

**MR. KIM WHITE** 41:59: It is not on site. It will be fixed?

 Good afternoon, Mrs. Brown. How are you today?

**MRS. BARBARA BROWN** 42:19: Good afternoon Mr. White.

**MR. KIM WHITE** 42:20: Good. I'm going to ask you a few questions, not many about cases that you've been involved in against my client, Sir John Swan or John Swans Company.

 Okay. Because you've just said this a great day for your family. You know someone is going to listen. That was your last statement when you concluded your statement in chief. You did say that didn't you?

**MRS. BARBARA BROWN** 42:49: I sure did.

**MR. KIM WHITE** 42:51: Thank you. In 1982. Case No 252 just let your our son's catch up with that. Thought they might be in date order I am going to deal with them in date order. You can find this a second while the cases 1982 number 252, short document. Those were those are provided to the candidates beforehand. In fact, I might have another copy as well. So let me

**HON. WAYNE PERINCHIEF** 43:39: Yes, I understand that there are five (5) cases? Yes. There are five cases being submitted. And

**MR. KIM WHITE** 43:48: They were supplied to the Commission some time ago.

**HON. WAYNE PERINCHIEF** 43:51: Yes. But I have some spare. So

**MR. KIM WHITE** 43:53: Let me just give that.

**MRS. LISTER** (Secty) 43:54: Yes. The secretary it does confirm that we have had them. The commissioners do have them. We're just seeing if we have another copy for the Brown family.

**HON. WAYNE PERINCHIEF** 44:04: The witnesses are the witnesses being shown the five cases indicated by Mr. White. And the Secretary has indicated that they do have those. Mr. White, is it possible if you just give us the cases perhaps in sequence and date order? Yes. Yeah, we could do a tick off for

**MR. KIM WHITE** 44:25: **1982 : No. 252** **1990 : No.226**

 **1998 : No. 60** **1998 : No.16 2001 : No. 435**

I believe that's five cases, sir.

**HON. WAYNE PERINCHIEF** 45:12: Yes, it is. Yes. You may proceed, Mr. Troy?

**MR. KIM WHITE** 45:18: Yes, Mrs. Brown. I'll deal first with 1982 number 252. In this case, you and other members of your family issued a Writ against the Bank of Butterfield and John W. Swan Limited And others. Is that not correct?

**MRS. LISTER (Secty)** 45:42: Counsel Mrs. Lister here Do we need to exhibit it for us so we can share them on the screen?

**MR. KIM WHITE** 45:49: Very good point.

**HON. WAYNE PERINCHIEF** 45:51: Counsel Do you wish to make these exhibits?

**COUNSEL DIRK HARRISON** 45:56: I will allow Mr. White to do so. But I prefer that as done so. We could all follow but sure certainly. Can we make 1982: No. 252?

 **Exhibit JS2**

**MR. KIM WHITE** 46:24: Mr. Brown could just mark that says easy for you to find later. Thanks,

**HON. WAYNE PERINCHIEF** 46:28: 1982: No. 252 to be registered 1982: No. 252 **Exhibit JS2**

**MR. KIM WHITE** 46:43: So I know Mr. Brown is trying to be helpful, but I think that he has to be careful about speaking to the witness, while she's giving evidence. That's all he's trying to be helpful, but don't want him to say otherwise. Okay. Yes. Mrs. Brown, do you recall this case?

**MRS. BARBARA BROWN** 47:00: I recall that case. Today that's not about today is a completely different case.

**MR. KIM WHITE** 47:18: And in that case, that case was dismissed against the defendant, wasn't it?

**MRS. BARBARA BROWN** 47:24 we never had a case.

**MR. KIM WHITE** 47:26: Sorry I couldn't understand that.

**MRS. BARBARA BROWN** 47:28: We never had a case.

**MR. KIM WHITE** 47:30: You never had a case. So okay, thank you, I will accept that you didn't have a case. Thank you. Could I now turn to the next one, which is

1990: No. 226

**HON. WAYNE PERINCHIEF** 47:45: And that naturally would follow as Exhibit JS3.

**COUNSEL DIRK HARRISON** 47:52: JS3 Chairman and Counsel. So could I just ask later, the fact that we have the five cases probably Counsel could indicate the preamble. The witness has indicated she has a difficulty reading. At our age, probably the preamble of each word before the witnesses asked if he remembers the class. That is.

**MR. KIM WHITE** 48:18: Excuse me, Mr. Chair,

**HON. WAYNE PERINCHIEF** 48:20: Mr. White is aware of your request and keep it in mind. The witness may not hear clearly but to take his time and give a preamble to each case. So she fully understands. In all fairness to the process.

**MR. KIM WHITE** 48:39: Mr. Brown we’re able to mark this one.

**COUNSEL DIRK HARRISON** 48:40: Sorry, Chairman Ms. Virgil is trying to say something.

**MS. MYRA VIRGIL** 48:44: Yes. Hi, excuse me, Mr. Chair, but I don't believe I have these documents. Am I supposed to or not at this time?

**HON. WAYNE PERINCHIEF** 48:52: Ms. Virgil, these cases represented on the John Swan side; but because they've been tendered in evidence, they will be a part of the record and will be available to you from our secretary. Okay, thank you,

**MR. KIM WHITE** 49:14: Susan. Other points are in this case I'm referring to Yes. Mrs. Mitchell's, father, grandfather, sorry, is referred to as one of the defendants. So she

**HON. WAYNE PERINCHIEF** 49:25: Say it gain Sir, as one of the

**MR. KIM WHITE** 49:26: In the case 1990 : No. 226. Yes, John Alfred Virgil is the first defendant.

**HON. WAYNE PERINCHIEF** 49:33: And this grant for Ms. Virgil indicating by a nod of the head that she is aware of that. No, no, no.

**COUNSEL DIRK HARRISON** 49:41: Chairman if I could assist, this is what I think Mr. White is indicating. Yes, he had been a fact that her Mr. JOHN Alfred Virgil is named as one of the parties in this matter. Properly speaking, Miss Virgil should have all the documents just as she has said so I just asked the Secretariat to send all of them to her. And also, if he has any questions, probably she may defer them to tomorrow or some other time. I think that's what's being communicated Chairman, and they

**HON. WAYNE PERINCHIEF** 50:11: Will be communicated by the user process electronically. Thank you. Mr. Roger. You understand?

**MS. MYRA VIRGIL** 50:19: Yes. Fine. Thank you, Mr. Chair.

**HON. WAYNE PERINCHIEF** 50:20: Yes is acknowledged by the secretary.

**MR. CHARLES BROWN** 50:31: Chair I brought to your attention that I have. Case number 252. We have three not five.

**MR. KIM WHITE** 50:51: Sir, if I may approach.

**HON. WAYNE PERINCHIEF** 50:54: Yes. Yes. Mr. White and, Mr. Brown. I agree that there are five matters five cases. There was some misunderstanding

**MR. KIM WHITE** 51:04: The problem. Clearly Sure. The witness has.

**HON. WAYNE PERINCHIEF** 51:06: Yeah. It's now been cleared up Counsel and those listening. This was a wide receiver the next case?

**MR. KIM WHITE** 51:18: Yes, miss. Yes, Mrs. Brown. Yeah, the 1990. Number two to six, in fact, is also on the face sheet of this case, allied to the case of 1991 number 163, in which you and others were suing the Bank of Butterfield. And there was a judgment in that that matter. And it says the judgment says the plaintiffs

**COUNSEL DIRK HARRISON** 51:45 : I'm sorry, I'm sorry, Mr. Secretary, has not uploaded a document. I'm not sure if they have it. But for the benefit of the commissioners and Miss Virgil, who does not have the documents, I think we need to have the thing uploaded so she could follow at least.

**HON. WAYNE PERINCHIEF** 52:04: Yes, we'll adjust. We're just we're not going to take an extra recess. However, we will be given the secretary time to load up the drive, so that these matters may be projected on the screen.

**MR. SIMONS (Secty)** 52:26: Counsel, just for clarification. We were referring to the judgments of the case number 252. At first, we do we are case, case number 252. We are in the judgment as well. But it's not attached to this document. It's a separate document. Would you like to tender that?

**HON. WAYNE PERINCHIEF** 52:50: This is a judgment? Yes. If it the document requested if you'd give it to the secretary. It's an addendum or an attachment to the original.

**MR. KIM WHITE** 52:58: I sorry, I misunderstood. Yes. Definitely.

**HON. WAYNE PERINCHIEF** 53:08: Yes, we have sorted out console free information and Ms. Virgil. Okay.

**MRS. LISTER (Secty)** 53:36: Okay. Counsel we can proceed from the secretary.

**HON. WAYNE PERINCHIEF** 53:40: Yes, if you would upload the document for us the first document

**MR. KIM WHITE** 53:46: That's it. Yes. I'm finished with that. For the time being that document I'm actually on the next document. Yes, it says JS3.

That was the 1990 : No. 226

**HON. WAYNE PERINCHIEF** 54:13: Yes so the Secretary could move on to the next case. Case No. 226?

**MR. KIM WHITE** 54:26: No. 226 allied together with 1991 number 163.

 That's it. Yes. That's up on the screen now. Thank you. Mrs. Brown. The judgment in that case says as follows "the plaintiffs not having complied with paragraph two A of the order of this Court made on the 3rd February, 1994 the consolidate actions here and having been struck out, is hereby a Judge of the plaintiff pay the costs of the defendant and failing agreement. Such costs be text signed the 10th of March 1994. Vince Peeny. Judge Mr. Justice Vincent Mirabeau? Do you recall that case?

**MRS. BARBARA BROWN** 54:46: There was no case.

**MR. KIM WHITE** 55:19: But you did take out two proceedings that were struck out,

**MRS. BARBARA BROWN** 55:24: But never heard.

**MR. KIM WHITE** 55:30: That wasn't the question

**MRS. BARBARA BROWN** 55:31: Okay let me get your question.

**MR. KIM WHITE** 55:33: The questions were those cases struck out as a judgement, which I just read.

**MRS. BARBARA BROWN** 55:41: I can see that being it wasn’t any case, and we are here today on a complete different case. You're taking me back where I'm already been. Today is about a fraudulent case. Before it was Civil, and that's why my son, my son, talks about laces. Whatever the words call, I can't listen to something that I'm already been through. And I'm almost 100. Listen, to this all over again. This must come to an end understand come to an end. Come on now.

**HON. WAYNE PERINCHIEF** 56:19: Yes. Mr. Boyd, I will advise at this point, that the legal niceties or technicalities may not be completely acceptable or comprehensible to the witness at this point, she did indicate that there was no case. To me, the understanding would be a strikeout would be cruel. In other words, there was no positive result on our behalf. And the Commission of Inquiry we get it. And it is for our benefit, that the evidence is being led. And we understand quite clearly the results of any judgments. And if you could go sequentially through the matters, even though you put the question to the witness. And she will respond no doubt. This commission will presume peruse the documents and come to its logical conclusion. Mr. Brown.

**MR. CHARLES BROWN** 57:34: Good afternoon, if I can ask permission, could I speak to a few things that were asked of my mother that is not going to relate to her, per se, but

**HON. WAYNE PERINCHIEF** 57:46: In all fairness to the process, Messrs. Brown, I would prefer to go through the process of the cases that have been mentioned and presented as exhibits, go sequentially through them. After that, I'll speak with Counsel but no doubt you will be allowed to make some

**MR. CHARLES BROWN** 58:14: Thank you, I just want to elaborate on it.

**HON. WAYNE PERINCHIEF** 58:16: Is still ongoing, and you're not barred or stopped from speaking or having a fair say at the end of it. So let us get through this process, in an orderly fashion, get through these cases that Mr. White has presented as exhibits, and then I'll entertain any further deliberations

**MR. CHARLES BROWN** 58:40: Thank you.

**MR. KIM WHITE** 58:41: Maybe the most expeditious way of dealing with it is to put it into the evidence, the three more cases sequentially; and then just ask a generalized question, which then

**HON. WAYNE PERINCHIEF**  58:52: Yes, that would be a better process scenario, they fall in the same vein, yes, obviously, yes. And we will have them entered in evidence and we can peruse them at that time. A general consensus of what the outcome was will be registered and recorded.

**MR. KIM WHITE**  59:14: Therefore, sir, 1998 : No. 60. I would like to have entered as JS4

**HON. WAYNE PERINCHIEF** 59:27: Yes. Okay. Recorded

**MR. KIM WHITE** 59:30: Move onto the next case. There are two cases that

**HON. WAYNE PERINCHIEF**  59:34: Is that correct? 1998.

**MR. KIM WHITE** 59:36: 1998 : No. 90 and then there's 1998 : No. 16. Which is actually a Court of Appeal case.

**HON. WAYNE PERINCHIEF** 59:51: Originally 1998 number I thought it was 60. But if you say

**MR. KIM WHITE** 59:55: No that is JS4 Yes. Which is a Supreme Court case, then I move onto the next case, which is 1998 : No. 16 is JS5.

**HON. WAYNE PERINCHIEF** 1:00:09: Yes Okay. And, and in fact, there are four documents. There are two in 1988.

**MR. KIM WHITE** 1:00:14: Yes that's right sir.

**HON. WAYNE PERINCHIEF** 1:00:15: I need to give each case a separate exhibit number. Therefore, number 16 of 1998 will be recorded as **JS5**

**MR. KIM WHITE** 1:00:27: In fact, I suspect what they are Sir, is that the 1998 : No 60. is the Supreme Court Action; the 1998 : No. 16 Is the Court of Appeal Action appealing decision in number 60 - I can put it that way. This consists of three certificates of failure to comply with the rule sorry, two certificates have failed to comply with the rules. And then a judgment dismissing the appeal assigned by Sir James Astwood the President of the Court of Appeal. So that's all **Exhibit JS5.**

**HON. WAYNE PERINCHIEF** 1:01:04: All be tendered in evidence as Exhibit JS5 - Correct thank you.

**MR. KIM WHITE** 1:01:10: Thank you. And then I move on to the final case, which is 2001 : No. 435. Which I would like tendered as **Exhibit JS6.**

**HON. WAYNE PERINCHIEF** 1:01:38: Exhibit JS6 which occurred 2001: No. 435.

**MR. KIM WHITE** 1:01:47: Yes, sir.

**HON. WAYNE PERINCHIEF** 1:01:48: That will be tendered as evidence as JS6. And you wish to do a preamble

**MR. KIM WHITE** 1:01:58: Very, very briefly. These are brief, two Supreme Court Summaries of these two Supreme Court actions and a Court of Appeal action, you were involved in were you not Mrs. Brown.?

**MRS. BARBARA BROWN** 1:02:12: Yes I was.

**MR. KIM WHITE** 1:02:13: Thank you. They were I should just ask a compendium question that then they were all dismissed as well. Were they not?

**MRS. BARBARA BROWN** 1:02:23: I'll take your word.

**MR. KIM WHITE**  1:02:25: Thank you, Mrs. Brown. Mrs. Brown in these actions, where you and the other plaintiffs and defendant in one case, ordered to pay costs to the other side?

**MRS. BARBARA BROWN** 1:02:42: Yes.

**MR. KIM WHITE** 1:02:43: Did you ever pay any cost to the other side?

**MRS. BARBARA BROWN** 1:02:45: I sure did.

**MR. KIM WHITE** 1:02:47: You did?

**MRS. BARBARA BROWN** 1:02:50: Yes, sir.

**MR. KIM WHITE** 1:02:52: To whom did you pay?

**MRS. BARBARA BROWN** 1:02:54: Let me just get the name right.

**MR. KIM WHITE** 1:02:58: Fair enough. Take your time. Take your time.

**MRS. BARBARA BROWN** 1:03:02 Diel Bernard & something

**MR. KIM WHITE** 1:03:05: Smith Bernard & Diel?

**MRS. BARBARA BROWN** 1:03:09: At that time Marshall Diel & Myers

**MR. KIM WHITE** 1:03:13: Myers. Just to help you.

**HON. WAYNE PERINCHIEF** 1:03:19: This indicates that costs were awarded against her and they did pay to Marshall Diel & Myers that is her evidence. Now whether it did or not Sir

**MR. KIM WHITE** 1:03:31: That was not my instruction. But

**HON. WAYNE PERINCHIEF** 1:03:39: As a Commission. We need to just understand Thank you. Yes, Mr. White, do you wish to continue?

**MR. KIM WHITE** 1:04:06: Yes. I have a further question further thing to put to Mrs. Brown. Could she be shown JS2 the very first case? We started with JS2 and could you go to page seven?

**MR. CHARLES BROWN** 1:04:19: Chair if I may offer a comment?

**HON. WAYNE PERINCHIEF** 1:04:23: Yes, sir.

**MR. CHARLES BROWN** 1:04:25: My mother has difficulty reading this.

**MR. KIM WHITE** 1:04:27: I understand. I was going to read the part to her if that helps?

**HON. WAYNE PERINCHIEF** 1:04:29: Yes, I request that anything that's written to be read by Mr. White and should you need assistance, I will. In all fairness, asked one of you to assist so she would not be belabor too much. So Mr. White, would you now request the exhibit that you wish to produce and read from that document?

**MR. KIM WHITE** 1:04:54: JS2 page 7. Go down Take it Download, scroll down that stop there. Yeah, that's it. That paragraph, but that argument. Okay, that's it. Okay. Mrs. Brown, I'll read to you a passage from that Judgment. Okay.

**HON. WAYNE PERINCHIEF** 1:05:15: And if you would read it at a pace that she could, and that we can all understand

**MR. KIM WHITE** 1:05:21: Apologies in advance for the Latin pronunciation that the argument would be to overlook the ‘*maxie oenia praesumjntur legitiae facta donec probetur in contrariua’*. Which means in English, Mrs. Brown, all things are presumed legitimately done until the contrary is proved. The Plaintiffs have had six years since their Originating Summons or over sixteen years since the date of their uncle's death, in which to find evidence to support allegations which would bridge the gap between the simple assertions made in paragraph 6 and 9 of Mrs. Brown's Affidavit and the matters of which Mr. Scott hints. The judgment does say that doesn't it

**HON. WAYNE PERINCHIEF** 1:06:29: Counsel. Yes.

**COUNSEL DIRK HARRISON** 1:06:30: Now I'm just wondering the proper question. See, now she can read it. And it has been read to her she can see what it says. But I suppose she could agree that that's what was read to her.

**MR. KIM WHITE** 1:06:43: Yes, she could read. That's exactly right. But she can't she can't see the document to agree it actually pulled this a good point.

**HON. WAYNE PERINCHIEF** 1:06:51: Yes. Miss Brown Your heard what Lawyer Kim White read to you. Do you agree that that was what was written in the judgment as read by Mr. White?

**MRS. BARBARA BROWN** 1:07:05: Yes.

**HON. WAYNE PERINCHIEF** 1:07:07: All right. She's heard it. She doesn't have to interpret it. I didn't have to interpret anything, Thank goodness, what it was read to her. Yeah. And I believe she will understand, as explained to her.

**MR. KIM WHITE** 1:07:21: So what the judge was saying there, Mrs. Brown I put to you is that all things are presumed legitimately be done until the contrary is proved. That's what the judge was saying. That's the Latin Maxim that he was applying to this particular matter. And I'm applying it to the document, the transaction which my client was involved in with Mr. Augustus, that that was, as per the Latin Maxim which Maxim which applies. That was a legitimate conveyance, which has not been proved to be otherwise. And I don't know if you want to comment?

**HON. WAYNE PERINCHIEF** 1:08:05: I believe that's a ‘*moot’* point. I don't know if you want to comment on that really fit my spec. I'm taking the position that we want to. We get it.

**MR. KIM WHITE** 1:08:16: I just want to give Mr. Brown the opportunity to comment or not.

**HON. WAYNE PERINCHIEF** 1:08:20: At the end, I am certain how sons will take her aside next week. I'm trying to avoid any type of

 Pressure

**MR. KIM WHITE** 1:08:26: I just …… you have to put it to the witness.

 I have no further questions for Mrs. Brown Thank you, sir.

**HON. WAYNE PERINCHIEF** 1:08:41: Yes, thank you, Mr. White, and Counsel. If you have any questions or if Miss Virgil or any other president has adverse standing wishes to put a question if you would do it, but Counsel I'll defer to you, first of all to make any comments or ask any questions of Miss Brown.

**COUNSEL DIRK HARRISON** 1:09:07: Mr. Hanson could be invited to indicate and then Ms. Virgil.

**HON. WAYNE PERINCHIEF** 1:09:13: Thank you Mr. Hanson.

**MR. MICHAEL HANSON** 1:09:15: Thank you, Chairman No questions from me.

**HON. WAYNE PERINCHIEF** 1:09:20: Mr. Hanson has indicated he has no questions for Mrs. Brown, and Counsel.

**COUNSEL DIRK HARRISON** 1:09:31: No, Ms. Virgil Chairman.

**HON. WAYNE PERINCHIEF** 1:09:35: Ms. Virgil you're invited to put any questions to Mrs. Brown that you wish.

**MS. MYRA VIRGIL** 1:09:42: Thank you, Mr. Chair. Good day, Mrs. Brown. Thank you for serving as a witness and sharing your story. I had not seen these court documents before but they are legendary in my family as well, because my Grandfather, from what I've learned, had said that he had to go to court at some point and all of the allegations were dismissed. And he felt, if I'm understanding the family narrative, he felt that he hadn't done anything wrong and was very relieved that these allegations were dismissed at court. I was unable to find these documents anywhere in any of the archives. So I'm glad that they really do exist, because they do actually are consistent with what my family has been saying all along. My question to you, you said, “that these are different, this is a different situation”. And my question to you is, even though it's they were heard at a different time, and maybe in a different court, how is this a different situation? Because from what I can see, this is the same situation that has been dismissed time and again,

**MR. KIM WHITE**  1:11:06: Because this time is fraud last time it was Civil.

**MS. MYRA VIRGIL** 1:11:11: I appreciate that. And thank you. But it seems to me that it's the same issue. And I don't see the differences the same. It may be in a different court, but it's still the same issue for which we have now you will, at one point see that we can't find any substantive evidence to support the claim.

**MR. KIM WHITE** 1:11:33: My sons have now uncovered the fraud, the fraud.

**MS. MYRA VIRGIL** 1:11:49: And, Mr. Chair, I thank you for the response. I have no other questions.

**COUNSEL DIRK HARRISON** 1:11:58: Chairman?

**HON. WAYNE PERINCHIEF** 1:11:59: Yes, Counsel?

**COUNSEL DIRK HARRISON** 1:12:01: Yes. I have two questions for Mrs. Brown. In answer to questions from Mr. White, you had indicated Mrs. Brown there was no case it was never heard. What did you mean by that, madam?

**MR. KIM WHITE** 1:12:21: That's the statute of limitations.

**COUNSEL DIRK HARRISON** 1:12:30: Yes. So when Mr. White had mentioned the cases to you, he had mentioned what is **JS3** . And he mentioned where it had been joined with 1991: No 163. He had, in his in my words, indicated the case had been dismissed. You said statute of limitation what exactly do you mean when there was no case? It was never heard what you mean statute of limitation Madam.

**MRS. BARBARA BROWN** 1:13:00: Going backwards and forwards no statute of limitations.

**COUNSEL DIRK HARRISON** 1:13:09: Alright, thank you. Now you also an answer to Mr. Wyatt. And also based on what Miss Virgil has just said, or asked you. You had indicated that afterJS2 had been shown to you by Mr. White, you said today is not about that case. What do you mean by that? Madam?

**MRS. BARBARA BROWN** 1:13:38: What I meant by that? Yeah. What, I'm here today for a complete different version of the case that was passed by in 1982.

**COUNSEL DIRK HARRISON** 1:13:57: Thank you, I have nothing further at this time Chairman and Commissioners.

**HON. WAYNE PERINCHIEF** 1:14:06: Yes Counsel. I had said I acknowledged that all process had adverse standing have indicated that they have completed the questions of this witness. However, I was going to entertain a request from Mr. Brown, who wish to say something and I asked him to wait until the end of the process that Mr. White had applied that was going through all the cases and all the questions and responses. Mr. Brown, either of you. What was it that you wish to say you have you do have standing to speak Thank you. Yeah, excuse me. Yes, the

**MR. QUINTON STOVELL** 1:14:53: Chair, if I may interject, before we move on. Can I just ask Counsel to briefly enlighten the lay persons in this room with regard to any difference between a ‘Civil Matter’ and a ‘Fraud Matter’, particularly to the context of what the question that Miss Virgil was inquiring about? And the answer which Miss Brown provided.

**COUNSEL DIRK HARRISON** 1:15:29: Thank you Commissioner Stovell of what I would do short of swearing myself or affirming. I could properly put the question to Mrs. Barbara Brown and allow her to give her explanation because it is her evidence. In that regard. I just asked that I be allowed to ask her because it is her evidence. I started with Mrs. Brown. You mentioned to me in your answer earlier. And I am trying to with my a few gray hairs trying to recall exactly what you just said even a few moments ago, that the matters. A specific ology as to that had been put to you by Mr. White was a Civil matter. We saw it on the screen, it said Civil Jurisdiction. And you then mention that today's different because your sons have uncovered certain things. You also said that this is fraud. Can you tell us what you understand the difference between a civil case and a fraud case?

**MRS. BARBARA BROWN** 1:16:36: A civil case when you're claiming land, and a fradulent case is when people write their names falsely on documents?

**COUNSEL DIRK HARRISON** 1:16:51: All right. Thank you very much.

**HON. WAYNE PERINCHIEF** 1:16:57: Thank you for that clarification Counsel, I think that's probably clear. Thank you. And Counsel can I carry on the process of asking the Brown witnesses if they wish do a rap or make a comment, is that right?

**COUNSEL DIRK HARRISON** 1:17:19: The only thing is that Mr. Brown indicated that he wished to answer something that his mother had been asked. I'm just thinking in terms of us balancing for everyone. If Mrs. Brown is the one who is making the request that she needs help, then it is understandable. But if somebody is offering to help her, I am not certain that it is totally permissible. I think we could first hear what it is that Mr. Braun wishes to say. And then the tribunal can decide if they allow him to say it, but still at the same time decide if how they will treat it if it will be taken as a part of the record. Because I think we need to balance all the sides.

**HON. WAYNE PERINCHIEF** 1:18:04: Yes, Mr. Brown, you've heard that from Counsel. And what is it you wish to say to this Commission?

**MR. CHARLES BROWN** 1:18:12: Well, good afternoon, I was just trying to help enlighten where my mother was trying to go with this because obviously, she has a hard time expressing certain things. And with the five cases that were cited, one will get the impression that my family was heard in court, but there was never really heard in court because they just kept it to doorsteps based on statute of limitations, no cause of action. And it goes to the heart of why we're here in front of you today, which is historic loss of land through legalism. And those types of things.

**HON. WAYNE PERINCHIEF** 1:18:51: Yes, I think Mr. Brown.

**MR. CHARLES BROWN** 1:18:54: And also I was just going to say,

**HON. WAYNE PERINCHIEF** 1:18:56: Yes Mr. Brown. Yes. I can very quickly, pick up what you said. In summary, this is what the Commission ascertains from your comment just now is that they're in the process of the five matters being heard. They were either struck out, there may have been a statute of limitations barring the case going on. Or they were absolutely dismissed and on appeal dismissed again. Absolutely. In your summation that amounted to not having been heard? Is that the spirit of what you're trying to convey?

**MR. CHARLES BROWN** 1:19:39: 200%

**HON. WAYNE PERINCHIEF** 1:19:40: Yes. Well, in that case, we really accepted on the face of it. That that was the implication and understanding by Mrs. Brown. And I think we'll leave it like that. Thank you.

**MR. KIM WHITE** 1:19:54: Thank you for your comment from Counsel, sir.

**HON. WAYNE PERINCHIEF** 1:19:56: Beg your pardon, sir?

**MR. KIM WHITE** 1:19:58: Is Counsel going to be allowed to comment on what Mr. Brown has to say?

**HON. WAYNE PERINCHIEF** 1:20:03: I believe with within reason you've said it. And if I deviated on my wrap up egregiously, and I see you indicate that perhaps it'd be enough. Thank you, sir. I appreciate that. And Counsel at this point. It would be I believe, not just expedient but perhaps prudent to adjourn. Unless you have any further.

**COUNSEL DIRK HARRISON** 1:20:34: Chairman, I think you could allow Mr. White and Mr. Hanson and Ms. Virgil, based on what has now been said by Mr. Brown, you could probably allow them an opportunity to now to put that question to Mr. Brown, because he has added something new.

**HON. WAYNE PERINCHIEF** 1:20:52: Thanks, gentlemen. Thankfully, there's a Counsel another lawyer in the room.

**MR. KIM WHITE** 1:20:57: Thank you briefly, Mr. Brown. Mr. Brown, could you indicate anywhere in those judgments which speak for themselves, where the statute of limitation is mentioned?

**MR. CHARLES BROWN** 1:21:15: I'd have to look at them a little closer. But I know for a fact that these were the reasons cited as to why my mother and other beneficiaries were never heard no cause of action. Some instance, some instance there was statute of limitations, and some was because the court ruled procedures. So like I said, we're here to talk about the fraud that we have uncovered. And the Commission is to look through the legalism side of it so our voices can be heard.

**MR. KIM WHITE** 1:21:44: Miss Mr. Brown, Brown with respect, the passage I read out, spoke about the failure to proceed. The fact that was six (6) years since your mother had issued the Originating Summons. Others you had failed to comply with Orders of the court. Others you had,

**COUNSEL DIRK HARRISON** 1:22:08 Too fast too fast Mr. White All right please can you start again?

**MR. KIM WHITE** 1:22:13: That the case in 2000 2082 252 was the passwords I read, in fact, said that you had 60, the Plaintiffs had six (6) years since issuing their original summons, and 16 years since the date of their uncle's death. The next judgment, talks about failing to comply with an order of the court. The next judgment speaks about again, phishing expeditions disclosing no cause of action, and then only appeal, you were struck out for failing to comply with the Registrar, the Supreme Court's Order, the Registrar List Court of Appeals order and the Chief Justice. Sorry, the president quarter appeal struck out the appeal for failure to comply. And then in the last case, were struck out because of this close no cause of no reasonable cause of action, nothing to do with statute of limitation is not

**MR. CHARLES BROWN** 1:23:08: Did you just mention no cause of action, did you just mentioned no cause of action.

**MR. KIM WHITE** 1:23:12: That's what the Judgment says.

**MR. CHARLES BROWN** 1:23:14: Okay, fair enough. So no cause of action and Civil Court procedures. But once again, this isn't about a civil matter here. This is about uncovering the fraud that has happened. And we're here in front of the Commission to get to the facts. So as not, you can hide behind all of this legalism, if you want. But that's the heart of why that was passed and in the House of Assembly, was all to do with legalism as well. That's why we're here in front of the Commission. So I understand where you're coming from. But this is not a civil matter any longer; back then I agree. I will also was asked back in December when I was here. What has changed Mr. Harris what is different from back in 1972, or the early 70s to now, the difference is, we are addressing a fraudulent claim? There's no longer a civil claim. So yeah, we weren't kept at bay because the statute of limitations, we were kept at bay because of not having the proper documents filed in the Court. I agree with that. But we are talking about the facts here today, in front of the Commission, when I've gone back and said need to wonder why we lost a court case. So

**MR. KIM WHITE** 1:24:21: Just to complete the thought Mr. Brown, since you've raised it. You have alleged no facts of fraud against my client.

**MR. CHARLES BROWN** 1:24:27: Well, that's to be determined.

**MR. KIM WHITE** 1:24:29: Alleged no facts of fraud against my client. Have you Mr. Brown,

**MR. CHARLES BROWN** 1:24:33: There's plenty of evidence and that will be determined.

**MR. KIM WHITE** 1:24:41: I have a right on behalf of my client to know what allegations of fraud are made against my client. As counsel will tell you for when it's alleged has to be particularized with a severe degree of particularity, not a vague throwaway assertion. I am asking a reasonable question. And I think it should be answered

**HON. WAYNE PERINCHIEF** 1:25:05: Counsel I understand that with the added commentary, Mr. Brown a can of worms perhaps is an open on the issue of allegation fraud being brought before this Commission you may wish to comment on that specifically. I can make a general comment, but I would like for you to make a comment at this time as our Counsel

**COUNSEL DIRK HARRISON** 1:25:47: I wasn't sure if you're speaking to myself or Mr. White.

**HON. WAYNE PERINCHIEF** 1:25:51: I'll speak to you, sir. I would ask his advice, but I might not get the right directions.

**COUNSEL DIRK HARRISON** 1:25:57: Yes, it is. The question is, a fair question.

**HON. WAYNE PERINCHIEF** 1:26:05: Coming from Mr. White to Mr. Brown.

**COUNSEL DIRK HARRISON** 1:26:11: Yes it's a fair question. And it's

**HON. WAYNE PERINCHIEF** 1:26:14: One that element of fraud indicated. Yes and your response to Mr. Brown is,

**MR. CHARLES BROWN** 1:26:21: We submitted the evidence.

**HON. WAYNE PERINCHIEF** 1:26:23: Mr. Brown has said that the evidence that he submitted and his opinion, I'm inferring that would indicate that I'm getting.

**COUNSEL DIRK HARRISON** 1:26:37: Chairman I think this is opportunity you should not try to get you're getting let the evidence stand for itself.

**HON. WAYNE PERINCHIEF** 1:26:47: I make no opinion. I have no opinion on the matter. We just consider the evidence as presented

**MR. KIM WHITE** 1:26:56: This is a serious charge, which they are not denying is leveled at my client. My client is not aware of any evidence, nor is even put on notice of any evidence of fraud on his behalf. That is a serious matter if uttered outside of the proceedings of this tribunal would have consequences.

**HON. WAYNE PERINCHIEF** 1:27:19: Yes, we have a response from Ms. Virgil as well.

**MS. MYRA VIRGIL** 1:27:23: Yes, please. Thank you, Mr. Chairman, Mr. Brown, sought to educate me around the differences between a civil case and a fraud case. I've looked it up. Those are not the definitions. This seems to me that this is an allegation of fraud. It has not been evidenced in any of the documentation. So far, if this is this is what we're hearing. I'm sorry, withdrawn. It must be withdrawn.

**COUNSEL DIRK HARRISON** 1:27:49: Chairman respectfully. Ms. Virgil, if you're going to ask them the witnesses questions. I don't mean to say you can do this. But if you're putting a question to the witness, it should be done. But rather than just saying something just by way of comment that probably is not procedurally The best way to do it, I think if you wish to ask questions, you could do so now, through the chairman, but probably not that way.

**HON. WAYNE PERINCHIEF** 1:28:20: I cancel. At this point. I have Commissioners taken note, and it is on the record of Mr. White's reservations and comments. Mr. Brown's comments. And we reiterate this is not a court of law. This is not a court of law. And the cautionary, vein that Mr. White made his comments is noted. And Mr. Brown, you may wish to note that and I'll just leave it like that.

**MR. KIM WHITE** 1:28:55: Unfortunate, Mr. Chairman, that leaves my client hanging out in the wind. These comments are on the record, there is no proof. And I'm asking you to direct that they'd be withdrawn by Mr. Tran asking you about allegations of fraud against my client. They may make allegations in there other evidence against somebody else. But I am asking about my client. And he has not profit one scintilla of evidence against my client and that is damaging to my clients reputation. Which is unacceptable, sir.

MS. MYRA VIRGIL 1:29:27: I Concur Mr. Chair,

**HON. WAYNE PERINCHIEF** 1:29:30: By this Commission Adverse notices has been sent alerting persons that address commentary has been made. The process that we are undergoing now is specifically Mr. White to allow that to be defended or with your caseload and this process is the process as required by this commission.

**MR. KIM WHITE** 1:30:02: That is actually why I'm asking, Sir, how I can rebut something I don't know anything about how can my client comment on something he knows nothing about? Where is the evidence he is involved in something fraudulent? And how can we rebut it if you don't know what it is? It is blatantly wrong with the greatest respect, and I asked Counsel to give advice to the Commission. If he thinks I'm right, and he thinks otherwise, constantly.

**HON. WAYNE PERINCHIEF** 1:30:27: Question has put heard directly to you at this point. And if you wish to respond now, if you want to do it later on, after we've heard more evidence is up to you. It's your choice, sir.

**COUNSEL DIRK HARRISON** 1:30:43: Chairman, the question posed by Mr. White is one that is entered on behalf of his client and it is one that the Browns should be redirected to them. If they are the ones who require time to answer, then they are the ones who should be given time, but it is a question. And Mr. White, could be asked to repeat it. He has indicated asking for proof, he has asked also whether or not it could be or should be withdrawn? So it is a question that the witnesses should be invited to consider. If they require time, then they're there. They are the ones under oath they could so indicate, but to properly speak, and based on the request of conflict is something that properly ought to be answered.

**HON. WAYNE PERINCHIEF** 1:31:36: Mr. Brown and, Mr. Brown, I'll avoid asking Mrs. Brown since it was made by Mr. Charles Brown. Sir, you've heard Counsel's position, you've heard the question and by Mr. Kim White, and you've also been given an option by Counsel. If you wish to consider take time. Before you respond, or you may respond now it's your choice.

**MR. CHARLES BROWN** 1:32:05: Chairman we'd like to respond at a later time.

**HON. WAYNE PERINCHIEF** 1:32:11: Mr. White, you've heard that. Mr. Brown would like to respond at a later time.

**MR. KIM WHITE** 1:32:18: With the greatest respect, Mr. Chairman, this proceeding is being broadcast. That's, and they have asserted that they have put their evidence forward. I've only asked a very simple question, what evidence they've put forward, which points to my client, not to somebody else, They may have evidence in respect to somebody else. But I'm limiting it only to my client. I'm not aware of any evidence put forward.

**HON. WAYNE PERINCHIEF** 1:32:45: Mr. Charles Brown is indicating by that he wishes to make a comment, sir, Mr. Brown do you wish to make a comment.

**MR. CHARLES BROWN** 1:32:55: First of all I didn't call anybody's name you I was having a difference with the cases. And I said, this matter that we're in front of this commission, and I stand by my convictions as a fraudulent matter. I haven't mentioned any names. So when you say your client, I haven't mentioned anybody's name. I just said the difference with the cases. I said it was a civil case back then. And I mentioned why we didn't get heard.

**MR. KIM WHITE** 1:33:18: The civil cases you will accept were against my client or his company, and others back at that time. Yes. And you are now saying the cases against it is not a civil case. It's a fraud case. And I want you to simply be clear, that is not a fraud case against my client.

**MR. CHARLES BROWN** 1:33:37: I couldn't get any clearer. I haven't mentioned your client’s name. I haven't mentioned that. Let me finish, please.

**MR. KIM WHITE** 1:33:46: I was agreeing with you, sir.

**MR. CHARLES BROWN** 1:33:47: I haven't mentioned your clients. I've mentioned anybody's names.

**MR. KIM WHITE** 1:33:51: But you understand my concern. This is a being broadcast and broadcast across the news media, that my client is accused of fraud. I understand you confirm that he's not

**MR. CHARLES BROWN** 1:34:00: What I'm going to tell you. We're speaking to the truth and I haven't called anybody's names.

**MR. KIM WHITE** 1:34:07: I've asked a direct question, Mr. Chairman,

**MR. CHARLES BROWN** 1:34:09: My brother said, we need more time in that regard. I'm telling you, I haven't called anyone's names,

**MR. KIM WHITE** 1:34:13: At what cost to my clients reputation, whilst you overnight and think about it.

**HON. WAYNE PERINCHIEF** 1:34:18: Mr. White you may wish and I'm not here to direct you, specifically, to put a specific question to request a specific answer, I mean, I've been in court to serve you. And it's your wish, sir. You are in a position to ask specifically. The question about your client. If you wish to do so fair enough, if you don't, if you wish to leave it hanging, open, speculative, it's also your choice.

**MR. KIM WHITE** 1:34:54: Not to be argumentative sir, but I think I've asked it three to four times specifically right? There is no allegation of fraud against my client. Is there, Mr. Brown? That can be more specific than that? And the answer is Sir?

**MR. CHARLES BROWN** 1:35:14: Mr. Chair, we have outlined in our submission from November 2020, a series of steps that we believe to be outside of the law, as you relate to, to transactions in particular. But the transaction that involves Mr. John Swan is the transaction regarding the northern portion of the subject property 1968 1969, when we spoke at length earlier today, about several instances where Mr. Swan was involved, directly and indirectly with the alleged purchase of this property, and then the subsequent sale of the property, you can look at the deeds of the people that are there now and ask a question about the legitimacy of their tag as relates to a purchase from a real estate agency. And so there's, we've entered, we haven't had evidence. With respect to handwriting, we've offered the Police Report as evidence of what we call fraudulent behavior. We've offered the some evidence within the Bermuda Caribbean report, which speaks to what we believe to be fraudulent submission on behalf of party's name to the Planning Department. And so we've submitted, but we haven't consolidated and focused in on Mr. White's client, as he's requested today, which is the reason we ask for some time to pull that piece together, because what we've submitted, speaks to the transactions over those two periods, as opposed to a specific focus with any one individual at any given time. And so what is the fair question, we don't have our material prepared and we would like time to prepare that answer that speaks specifically to the fraudulent activities associated with Mr. White's claim?

**MR. KIM WHITE** 1:37:29: You're now making an allegation against my client.

**HON. WAYNE PERINCHIEF** 1:37:31: Mr. White, I didn't hear that specifically. And let me bring some balance to this discussion. I agree that the *Suit of Damocles* hangs by a thread over the heads of everyone. To whom address notice has been serve. I do not take from the body of evidence that has been provided, then one specific person is more probable than the other or is culpable, however, the process is open, the evidence is still being gathered. Mr. Brown has indicated that he wishes to proceed further. However, Mr. White I take what you said that until definitive responses made that your client is or is not culpable, that everyone seems to be being tart by a broad brush of an allegation of fraud. And while it's not a comfortable position, I would say that it is still an open issue; and I would not specifically indicate that or empathy in any indication that your client specifically is being targeted. And even Mr. George Brown has indicated that he has not directly pointed the finger at anyone specifically. I understand it is confident and maybe experienced it however, I'll leave it like that. Counsel I know there's a slippery slope upon which we stand. Nevertheless, I suggest that this is still an open issue. And that no one should draw any assumptions from the evidence tendered so far, and they be cautioned not to do so.

**MR. KIM WHITE** 1:39:54: Sir, thank you for those comments. I appreciate them. But am I to understand because you're saying it's an open issue that there's more evidence to come. I thought the Browns evidence was complete.

**HON. WAYNE PERINCHIEF** 1:40:04: Mr. White, the matter the case, we as a Commission have not considered all the evidence now. Tomorrow, specifically, most specific the report submitted by Mr. Carlton Adams, who all of the respondents have not read have indicated, I have not read has yet to be dealt with. And most specifically, Mr. Hanson, is asking specific questions about that report. So this is an ongoing and open matter.

**MR. KIM WHITE** 1:40:42: Sorry, so maybe you're misunderstood.

**HON. WAYNE PERINCHIEF** 1:40:43: As I said, the evidence has not, the evidence is not all in, and in other words, the referee has not put his finger up.

**MR. KIM WHITE** 1:40:52: Sorry, sir. I was just talking about the Browns that was not anything

**HON. WAYNE PERINCHIEF** 1:40:57: The Brown evidence is not incompletion. No,

**MR. KIM WHITE** 1:41:00: Not complete. It's not complete. No, no, not. There's another witness.

**HON. WAYNE PERINCHIEF** 1:41:06: There's other evidence to be provided.

**MR. KIM WHITE** 1:41:08: No, no, the Browns family evidence not. No other evidence that be being called because my client has yet to give evidence on that issue. But I'm just talking about the Browns are we to expect more evidence from the Browns now?

**HON. WAYNE PERINCHIEF** 1:41:21: It may very well be Mr. White. It may very well be they can be recalled at any time. This process is a fact gathering exercise. There's no deadline or cutoff point at which a person's evidence is conclusive that can be recalled. I mean, people cannot no one no witness can make simply make allegation or assertions, which are not rebuttable. And should there rebuttal be requested It can be ungrateful? Yes. And I wish for anyone to anyone within hearing. This is an open process and an incomplete process. Counsel I’m calling on the referee.

**COUNSEL DIRK HARRISON** 1:42:06: Chairman. Yes. And probably it's a convenient time now.

**HON. WAYNE PERINCHIEF** 1:42:14: As our Counsel in a curriculum man is saying that time for us to drill stomps for the day. And we shall adjourn at this point. And resume tomorrow at 10 o'clock. Thank you. Thank you. Thank you.

**END OF TRANSCRIPTION MARCH 25 (AFTERNOON SESSION b) AT 1:42:42**