**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSS**

**IN BERMUDA**

**COMMISSIONER:**

**JUSTICE NORMA WADE-MILLER**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: UNKNOWN**

**MONDAY, NOVEMBER 30, 2020**

**MORNING SESSION (c)**

**Mr. Dirk Harrison (Counsel)** 0:00 I have asked the witness to point us to the two exhibits CNLB Four and CNLB Eight.

**Justice Norma Wade-Miller**  0:07 Is it Four or CNLB Five?

**(Madam Chair)**

**Mr. Dirk Harrison (Counsel)** 0:13 Five I stand corrected Five and Eight. Mr. Brown, when your finished.

**Charles Brown** 0:25 Okay, so the Somers Report states that

**Mr. Dirk Harrison (Counsel)** 0:32 can you just point us, where

**Charles Brown** 0:33 On page 6

**Charles Brown** 0:43 That's it the research conclusions. So, if we refer to the conclusions on page six of the Somers Report. You see the second paragraph it says it is concluded herein that John Augustus Alexander Virgil owned Lot 4 shown on annex plan seven of 24th of January 1962.

**Mr. Dirk Harrison (Counsel)** 1:11 Please slow down thank you

**Charles Brown** 1:21 It is concluded herein that John Augustus Alexander Virgil owned Lot 4 shown on the annexed plan seven on the 24th of January 1962. John Augustus Alexander Virgil died on the 17th of January 1972. So this report concludes, ownership and then the Butterfield Report, in its conclusion say that.

**Mr. Dirk Harrison (Counsel)** 2:02 Can you direct us to the page and paragraph number, if possible,

**Mr. Dirk Harrison (Counsel)** 2:06 It's page 9, the last page of the Butterfield Report

**Justice Norma Wade-Miller**  2:15 Just a moment please.

**(Madam Chair)**

**Mr. Dirk Harrison (Counsel)** 2:30 Please allows us just to project it just before you proceed. You said the last page 9

**Charles Brown** 2:57 Yes.

**Charles Brown** 2:58 The last paragraph says however the point is academic.

**Mr. Dirk Harrison (Counsel)** 3:08 Yes, please proceed.

**Charles Brown** 3:10 So the Butterfield Report, the last paragraph of the last page, the report dated 30th of October 1978, reads as follows.

**Charles Brown** 3:23 However,

**Charles Brown** 3:24 The point is academic because as we have stated, apart from residual worthless interest in certain roadways we do not believe that John Augustus Alexander Virgil owned any part of the said tract at the date of his death.

**Mr. Dirk Harrison (Counsel)** 3:46 Thank you. Can you just direct us to just remind us to tract, what the acreage and the size of the tract.

**Mr. Dirk Harrison (Counsel)** 3:55 Certainly, and Counsel we have to make a distinction here. Because if we turn to page 23 of our handout from Thursday.

**Mr. Dirk Harrison (Counsel)** 4:10 Just one minute. I just ask you to not to forget that point. But I think importantly, that the said document that it references is being made to CNLB Eight made to CNLB Eight whereas the conclusion it speaks about the said tract. I believe not giving evidence at the beginning of the said document speaks to what it is there looking at the tract.

**Charles Brown** 4:51 Correct.

**Mr. Dirk Harrison (Counsel)** 4:52 But I'm saying hold your point, and just make reference to that.

**Justice Norma Wade-Miller**  5:04 But you proceed with your

**(Madam Chair)** drawing our attention to Exhibit Four

**Mr. Dirk Harrison (Counsel)** 5:11 Page what page on Exhibit 4

**Charles Brown** 5:14 23 it says claim of ownership as of 24th of January 62 by Eric A Jones

**Justice Norma Wade-Miller**  5:25 Grieve indulgence. Just having

**(Madam Chair)** it projected Madam Chair.

**Charles Brown** 6:23 this is perfect

**Mr. Dirk Harrison (Counsel)** 6:29 So Commissions if I can draw your attention to the slide in front of you ownership following Conveyance dated 24th of January 1962. The Somers Report says that John Augustus Alexander Virgil had an legitimate ownership to that which you see in front of you know as the Northern portion, the Southern portion where Eric Arthur Jones has laid an ownership claim as of the 24th of January 1962. There is no Sales Agreement or Conveyance. But the Somers Report acknowledges and places value on a memo from David Wilkinson's office in April of 1969. That 1969 memo, which we discussed in our last meeting, does not, in of itself, legitimize the transaction of ownership or claim to ownership of the Southern portion in and of itself. But we acknowledge that the Somers Report grants Eric, ownership we take issue with them. For reasons we've stated. But for full disclosure, we share with you that point that the Somers Report acknowledges that Eric had a claim to the Southern portion, we take issue with that claim, because it is not supported with any legal instruments. Although Mr. Somers includes it in his presentation, you want to make that clear, because as far as we're concerned, it's the Southern and the Northern portion. That we need the Southern portion to be legitimately documented as being earned by Eric Jones, in order for the Northern portion to connect in terms of the transactional data that is being offered. That's an important point that may we may revisit further down. We take issue with Somers claiming Eric has ownership of the Southern portion but we acknowledged that he states it in his report. Just as we take issue with several statements in the Butterfield Report, although they are included there and we will take those as we find them.

**Justice Norma Wade-Miller** 9:04 Thank you. The

**(Madam Chair)** document thatyou refer to specifically the memorandum which it appears that you wish to be treated a particular way in my words, the mere fact that somebody said something doesn't make it in fact so. The memorandum just remind us which memorandum that is, let us have a look at it now. I know you referenced it on the last occasion, by way of presentation of Exhibit Four, but can you just remind us of it and we go to it?

**Charles Brown** 9:35 Certainly, it is the memo that was crafted by David Wilkinson and sent to the Registry General's Office in April of 1969. A full seven years after the transaction supposedly took place. David Wilkinson files with the Land Registry Office for all intense and purposes a memo 1969 claiming that Eric Arthur Jones purchased the Southern portion of Lot 4 from John Augustus Alexander Virgil.

**Justice Norma Wade-Miller** 10:16 Please take us to that

**(Madam Chair)** page so we can have it presented.

**Charles Brown** 10:23 Page 21 is in front of the Commissioner's on the screen.

**Mr. Dirk Harrison (Counsel)** 10:28 Thank you

**Charles Brown** 10:28 Page 21 and Exhibit Four. So, this memo from David Wilkinson does not rise to the standard of legal integrity required in order to authenticate the transaction, that's claimed ownership to the Southern portion. This is the only documentation of any legal flavor that we have been presented with. And so, we submit again that the 69 piece, the Southern portion, from the 62 transaction sorry 62 is not legitimate although Mr. Somers reflects it in his report as being so. Mr. Somers was not retained to investigate the legality of transactions it was the the recording of transactions which relates to title that he was charged with not to investigate whether or not the transaction took place above board, it was not his remit.

**Justice Norma Wade-Miller**  11:43 Thank you.

**(Madam Chair)**

**Mr. Dirk Harrison (Counsel)** 11:49 I wish to draw your attention to the document. So it may be tendered as an exhibit.

**Justice Norma Wade-Miller**  12:39 Counsel.

**(Madam Chair)**

**Mr. Dirk Harrison (Counsel)** 12:40 Madam Chair.

**Justice Norma Wade-Miller**  12:41 Were you asking me to do

**(Madam Chair)** something?

**Mr. Dirk Harrison (Counsel)** 12:42 Yes, I was just waiting Madam. I wish to bring to the witnesses attention letter dated the 19th of February 1969.

**Justice Norma Wade-Miller**  12:58 Is it letter memorandum?

**(Madam Chair)**

**Charles Brown** 12:59 Excuse me Counsel are we speaking to the Southern portion.

**Justice Norma Wade-Miller**  13:04 I'm going ahead of myself I was

**(Madam Chair)** speaking to the Northern. My apologies.

**Mr. Dirk Harrison (Counsel)** 13:11 Create no indulgence. Just to verify Mr. Brown the date of the document just remind me the one the other portion what we refer to as the memorandum what is the date of the memorandum you refer to.

**Mr. Dirk Harrison (Counsel)** 14:31 I don't know. It was recorded by the Registry General's Office 7th April, 1969 and recorded by David Wilkinson's office having been received back from them and on the 15th of April 1969.

**Mr. Dirk Harrison (Counsel)** 14:50 I'm just trying to ensure I am present the right document.

**Mr. Dirk Harrison (Counsel)** 17:33 I claim no indulgence Madam Chair. We're just trying to. I know reference we have been directed to the document from Exhibit Four. I'm just trying to locate the actual document which is reference on page 21 try to attend to that document I'm was trying to locate it.

**Justice Norma Wade-Miller**  17:59 Your not been able to do so

**(Madam Chair)** yet.

**Mr. Dirk Harrison (Counsel)**  18:03 Not yet but I think will be very shortly. I claim no indulgence.

**Mr. Dirk Harrison (Counsel)** 20:46 Madam Chair what I propose that we could take a break now and I will located on the presumption.

**Justice Norma Wade-Miller**  21:20 We can respectively do so. Are

**(Madam Chair)** we going to resume at 1:30 or 2:00? We'll try to resume at 1:30. Yes.

**Mr. Dirk Harrison (Counsel)** 21:31 Thank you very much.

**Justice Norma Wade-Miller**  21:33 So we will take the break at this

**(Madam Chair)** time and sort out what has to be sorted out. Counsel is very thorough and he likes to get things right. So we will take the break now and resume at 1:30.

**Mr. Dirk Harrison (Counsel)** 21:52 Thank you very much.

**END OF TRANSCRIPTION AT 21:52**