**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSS**

**IN BERMUDA**

**COMMISSIONER:**

**JUSTICE NORMA WADE-MILLER**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: UNKNOWN**

**MONDAY, DECEMBER 1, 2020**

**MORNING SESSION (b)**

**Mr. Dirk Harrison (Counsel)** 0:00 Thoughts on opinions or you're not aware

**Dr. E. Harris** 0:04 The depth of of conflict created around the cemetery? Had I have been aware of it I probably would not have become involved in the project.

**Mr. Dirk Harrison (Counsel)** 0:21 Sir are you Bermudian.

**Dr. E. Harris** 0:23 I am

**Mr. Dirk Harrison (Counsel)** 0:25 You have lived here all your life

**Dr. E. Harris** 0:27 Except University.

**Mr. Dirk Harrison (Counsel)** 0:32 And you're saying that what you know now, or what came to your attention sometime around 2011 and I use that time you are not aware of and you used the word political, but you are not aware of the political landscape.

**Dr. E. Harris** 1:03 I was not aware of the instances of the depth of the political landscape.

**Mr. Dirk Harrison (Counsel)**  1:09 And define political for me because I have been speaking about social culture I've been speaking about social economic in terms of the persons who had their forefathers buried in graves, some graves, some parts, they don't know where the graves are, you're saying that's what you call political because I recall social cultural, social geographic, social economic, you're saying that's what you refer to as political?

**Dr. E. Harris** 1:41 I'm just referring to general sort of context and background.

**Mr. Dirk Harrison (Counsel)** 1:46 What is your understanding of the context and background? touching and concerning the cemetery, the Marsden Cemetery? What is your understanding?

**Dr. E. Harris** 2:01 That for many years it lay derelict, and then when the golf club was built, attention was brought to it by several members of the community.

**Mr. Dirk Harrison (Counsel)** 2:14 And when you say it lay derelict are you trying to say, are you trying to say the Marsden Church did not look after it, is that what your trying to say? Is that what you mean when you say derelict. Because even from Dr. Trigs report, he was saying aerial photographs did not assist nobody could see it. So how would you say derelict is, are you saying that the church

**Dr. E. Harris** 2:30 Unattended the graveyard was unattended, no attention was paid to it until the 1990s.

**Mr. Dirk Harrison (Counsel)** 2:47 So the statement by the Honorable Ombudsman, that the destruction of the tombs has struck a nerve, and evokes the entire history of pain and slavery, and the legacy of structural racism and white privilege in Bermuda. Is that a politically correct statement?

**Dr. E. Harris** 3:10 I can't speak for the Ombudsman's sir.

**Mr. Dirk Harrison (Counsel)** 3:13 And I don't want you to, but I'm trying to put into context your definition of political because we have certainly the destruction of tombs which you have agreed has occurred, correct. We agreed as to the destruction of the tombs sir.

**Dr. E. Harris** 3:28 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 3:31 After 2011, you agree that persons were actually quite upset? Especially persons who have their forefathers were buried there, or their forefathers lived in Tucker's Town or had been removed from Tucker's Town, you became aware of that fact, sir.

**Dr. E. Harris** 3:54 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 3:58 And you became aware of the history of Tucker's Town and the removal of persons for the purpose of the construction by private interests under the name of expropriation, you're aware of that, sir.

**Dr. E. Harris**  4:14 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 4:20 Are you aware that there was structural racism in the removal of persons from Tucker's Town, blacks and whites?

**Dr. E. Harris** 4:36 May, I have your definition of structural racism.

**Mr. Dirk Harrison (Counsel)** 4:44 Certainly sir, I'll break it down. Do you know what racism means sir?

**Dr. E. Harris** 4:58 To discrimination against people on the basis of the color of their skin.

**Mr. Dirk Harrison (Counsel)** 5:02 Thank you, do you know what structural means sir?

**Dr. E. Harris** 5:09 I'm waiting for your definition of it.

**Mr. Dirk Harrison (Counsel)** 5:16 Just for avoidance of doubt let me use my phone. So, I'll look up the meaning and tell you.

**Mr. Dirk Harrison (Counsel)** 5:31 So the Google definition of structural is the arrangement of and relations between the parts or elements of something complex, the arrangement of and relations between the parts or elements of something complex. Would you agree that there was there was a legacy of structural racism in Bermuda, as it relates to the removal of blacks and whites from Tucker's Town?

**Dr. E. Harris** 6:12 There may well have been, I'm not a historian of that period.

**Mr. Dirk Harrison (Counsel)** 6:17 And you don't rely on other person's work, or do you. I'll move on don't answer that question. I'm almost finish, sir. I thank you for answering my very short questions today. They asked you to take me to October 23rd page 33. As we search for that section, I refer again to page 16 of the Learning Ombudsman's report. And she quotes words to the effect. Dr. Harris, and I just start with that run up he instructed which section of the permitted wall had to be taken down so that the excavator machine would reach the tombs? Is that an accurate statement sir? Dr. Harris you are the person

**Dr. E. Harris** 7:59 The wall had been removed before I arrived that day.

**Mr. Dirk Harrison (Counsel)** 8:02 Pardon me.

**Dr. E. Harris** 8:02 The wall had been removed before I arrived that day.

**Dr. E. Harris** 8:07 And in fact, it was intended to extend the wall there to include anomalies found in the ground penetrating radar, that could be part of the cemetery.

**Mr. Dirk Harrison (Counsel)** 8:21 Dr. Harris, at the time of the when you arrived at the site, and you discovered that the wall had already been removed, How long had you then been Director of the Museum in Bermuda sir? At that time.

**Dr. E. Harris**  8:39 30 years?

**Mr. Dirk Harrison (Counsel)**  8:42 You told me early also that the Tucker's Point personnel they are the ones who made the arrangement for the heavy equipment, correct. You said that early.

**Dr. E. Harris** 8:52 Yes sir.

**Dr. E. Harris** 8:56 Did you give any instructions through the Tucker's Point personnel or directly to the operator of the machine prior to your arrival on the site?

**Dr. E. Harris** 9:10 I don't recall.

**Mr. Dirk Harrison (Counsel)** 9:12 But you're in fact saying that by the time you got there work had already started.

**Dr. E. Harris** 9:16 Yes, sir.

**Mr. Dirk Harrison (Counsel)**  9:17 And you don't know on whose instruction they just started to remove the wall.

**Dr. E. Harris** 9:21 No sir.

**Mr. Dirk Harrison (Counsel)**  9:25 So who was in charge there that day, sir.

**Dr. E. Harris** 9:30 I was.

**Mr. Dirk Harrison (Counsel)** 9:33 But work started before you got there.

**Dr. E. Harris** 9:36 Yes it did.

**Mr. Dirk Harrison (Counsel)** 9:37 And the work that you saw when you got there was consistent with what you wanted? How would they have know what to do?

**Dr. E. Harris** 9:50 I presume it may have been discussed.

**Mr. Dirk Harrison (Counsel)** 9:52 I do not want any presumption sir, respectfully. I asked you before, but go ahead I'll allow you to finish. Go ahead sir.

**Dr. E. Harris** 10:04 I don't recall and I presume it may have been discussed in the meeting with the hotel. Regarding the equipment, but I don't recall.

**Mr. Dirk Harrison (Counsel)** 10:22 At the time that day are you familiar? Are you familiar with the Commonwealth War Graves Commission? Which is to honor over the past?

**Dr. E. Harris** 11:15 Sir I'm familiar with .

**Mr. Dirk Harrison (Counsel)**  11:16 Just just just a minute.

**Mr. Dirk Harrison (Counsel)** 11:19 I don't want you to say that I asked a question out of context. I just like to give it to you properly. Just a moment please.

**Mr. Dirk Harrison (Counsel)** 11:38 The Commonwealth are you familiar with the Commonwealth War Graves Commission, which is to honor over the past century war dead applicable to any historical cemetery, the Commonwealth War Graves Commission, monitors over 20,000 field church and hospital cemeteries around the world, including Bermuda? Are you familiar with that. Definition of the

**Dr. E. Harris** 12:09 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 12:13 And being an archaeologist, you certainly believe and consider the preservation of grave sites?

**Dr. E. Harris** 12:22 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 12:25 And in retrospect, when one thinks about it, whether by way of meeting because you're not sure, or by whatever means, for heavy duty equipment, piece of equipment to start work on removal and destruction, desecration of a grave site without somebody being there to manage and supervise the process. It could lead to the machine operator doing something that he or she are probably not to do you agree.

**Dr. E. Harris** 13:02 Yes, sir.

**Dr. E. Harris** 13:04 In retrospect, when you look back, the handling of this whole matter of the heavy duty equipment going to the grave site? It wasn't handled very properly, was it?

**Dr. E. Harris** 13:20 No, sir,

**Mr. Dirk Harrison (Counsel)**  13:22 And when one looks back it appears from all accounts that, let me withdraw that. What would you have done differently? Sir, I know you told me would not have been involved at all because of the political un-opinions. That is your opinion, but I won't ask you unless you have said it, but what would you have done differently regarding the destruction of the grave site by the machine operator.

**Dr. E. Harris** 14:04 Well I would not have proceeded with it. However, where there're different circumstances and it had been decided, as has happened in many other places to move the graveyard. This sarcophagu would have been removed.

**Dr. E. Harris** 14:20 So, circumstances in archeological sense dictate how the situation is handled.

**Dr. E. Harris** 14:36 I would hope perhaps that the commission might also having looked into this might also look into the actual destruction of over 10 graves on Watford Island in 2018. On land that was compulsorily purchased by the British Military in 1842. These graves were abandoned.

**Mr. Dirk Harrison (Counsel)** 14:57 Can I just asked you slowly to repeat that for us?

**Dr. E. Harris** 15:02 I would like to suggest that if the commissions looking into graveyards, you mentioned the Commonwealth War Graves Commission in 2008, over 10 actual burials were destroyed in the military cemetery on Watford Island and put into the back of dump trucks and taken away until the process was stopped.

**Mr. Dirk Harrison (Counsel)** 15:28 Thank you very much, sir.

**Dr. E. Harris** 15:30 This was on land, sir, that was compulsorily acquired, as over perhaps 12 to 15% of the total land acreage of Bermuda has been compulsorily acquired, for one reason or another.

**Mr. Dirk Harrison (Counsel)** 15:48 Thank you.

**Dr. E. Harris** 16:02 I should also if I may Madam Chair. I'd like to mention the graveyard in Warwick in which slaves were buried, and also white people I understand. And that graveyard was translated into the modern graveyard, that is to say the burials were dug up completely and moved. When the road was expanded. A monument was later placed on the edge of the now parking lot next to the post office to commemorate the site. And I will say that several individuals cleaned that monument painted it in 2010, namely, my brother and myself, when no one else was willing to take on the job in advance of the making of the African Diaspora Heritage Trail. So there are circumstances where graveyards are moved when they are in conflict with modern circumstances.

**Mr. Dirk Harrison (Counsel)** 17:17 Thank you for that information, sir. I create your indulgence Madam Chair. As we search for that Dr. Harris and as is ask the last few questions I have. And I thank you once again for being so helpful. You would agree with me where we started in respect of the 16 November 2020 letter that you wrote to us. And using your words of the political nature, I had said political un-opinions you had then said, I do not think it will be useful to discuss the matter further. Nor do I think it serves further purpose for me. Looking back with prudence, will you wish to revisit that position that this matter not just Black Lives Matter but all lives matter you think it's useful to discus this matter?

**Dr. E. Harris** 21:22 Sir.

**Mr. Dirk Harrison (Counsel)** 21:24 You heard my question.

**Dr. E. Harris** 21:25 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 21:26 You can, you can give whatever statement you wish after. Just answer my question first please.

**Dr. E. Harris** 21:31 I was going to answer it.

**Mr. Dirk Harrison (Counsel)** 21:35 Go ahead, sir.

**Dr. E. Harris** 21:36 Thank you.

**Dr. E. Harris** 21:41 I think it's important that such matters should be discussed in the generality. One of the issues in Bermuda is very little land protection or protection for land archaeology, including graveyards, all sorts of things. In 2001, working with the government

**Mr. Dirk Harrison (Counsel)** 22:04 I'm not going, to prevent you from, answer my question first and then you can give me the rest after. I'm asking about a statement you made prior to coming here. That matters that we wish to discuss in terms of reference, which have been pointed out to you I'm seen having given evidence now having pointed out that you realize there some political issues that you were not aware of, do you now think it's important for us to discuss the matter. The matter of Bermudians blacks and whites were removed from lands in Tucker's Point persons who had their forefathers buried in graves at Marsden Cemetery. Do you think it important and useful for us to discuss the matter? That's my question, sir respectfully.

**Dr. E. Harris** 22:50 Yes, sir. And may I say a bit more.

**Mr. Dirk Harrison (Counsel)** 22:54 You may give your answer now.

**Dr. E. Harris** 22:55 Thank you.

**Mr. Dirk Harrison (Counsel)** 22:56 Go ahead.

**Dr. E. Harris** 22:57 Madam Chair, I think the work of this commission is very important. The whole question of appropriated lands or however you want to call them in Bermuda is a interesting one. It's been with our history almost since the beginning. It extends from Commissioners Point to St. David's Lighthouse. There are many lands which people are probably not aware were taken from Bermuda. In the case of Ireland Ireland, we now actually have all of the conveyances we know exactly who owned the land, how much land it was, what they were paid for, and so on. But in a lot of these cases, no detailed historical studies have been done to show exactly what’s what who owns what where it was, and the line of regression of the property through time. I think it's very, very important discussion, overall. For example, the Great South Road which was built from Tucker's Town to Church Bay disconnect a lot of people from their oceanfront property. But without it, we would not have the public beaches and Warwick that we have today, or indeed, this camp, the public benefit, which cannot be again said that the original properties survived without the creation of that road. All this coastline would have been built over with condos, and all of the beaches would have been private. So it is a big question. I don't know to what extent the commission is going to be looking into it. But as I said earlier, there are probably upwards of 2000 plus acres of land, that was compulsory purchased all over Bermuda for various purposes by Central Authorities or large entities such as the Bermuda Railway Company or the Bermuda Company in the case of Tucker's Town. So it's an important historical discussion in general, and I commend the work of the commission and look forward to seeing your report on the details to do with Tucker's Town and St. David’s. Tucker's Town, original of course was common land belong to the Bermuda Company. It was only later subdivided and eventually sold off. I'd be delighted to see the conveyances some of the conveyances in any case for all of these properties. There are other issues, for example, that I understand in the case of St. David’s, after the end of the 99 year lease, people were supposed to the families were supposed to be allowed to buy their properties back. Well, I don't know what Mrs. Cavely's, family will buy back since we got a new Air Terminal sitting on top of her Long Island. But that's not the story. But the point is that, in that particular case, I understand new leases for that property now extended to 252 years, which means, you know, within a number of generations, you have no chance whatsoever of reacquiring your land if it's not underneath the runway. So it's a big question. And perhaps your inquiries beginning of a long range study into the development of the topography of Bermuda who and what, where and when and how other people acquired it. And in the case of compulsory purchase, what has been public benefit or not to such lands acquired, it's difficult to imagine the West End without the tourist attraction of Dockyard. But that was achieved at possessing about 15 families off of Ireland Ireland. And so on. It goes, I thank you for the opportunity to come today. Sir I, I have watched some of the interviews here and people have been allowed to talk and say what they'd like to say I have a bit to say.

**Justice Norma Wade-Miller** 27:02 Dr. Harris I can't allow you to talk adding in an item, **(Madam Chair)** we have to restrict ourselves.

**Dr. E. Harris** 27:08 Thank you very much.

**Justice Norma Wade-Miller**  27:09 Okay.

**(Madam Chair)**

**Dr. E. Harris** 27:10 Thank you all.

**Justice Norma Wade-Miller)** 27:11 Counsel, is that the end of your questioning.

**Mr. Dirk Harrison (Counsel)**  27:13 No, no, no, I am not finished Madam Chair.

**Justice Norma Wade-Miller**  27:17 Go ahead, got ahead please.

**(Madam Chair)**

**Mr. Dirk Harrison (Counsel)** 27:23 I'm just going to read from the that which is projected on the screen. As I give my long run up for my comment or question on the terms of reference of this matter, and particularly as it touches and concerns the adverse notice which has been given to you along the lines of the terms of reference of this matter, and more particularly as it touches on concerns and relates to the Marsden Cemetery. I read from the transcript of witness, Mr. Danny Richardson, which was evidence given on the 29th of October this year, here before the commission. I read from page 29, which is exhibited on the screen also, so you may read along? Yes, that building still stands as occupied by the Mid Ocean Club and all the Castle Harbour side staff is they had that school room and the church in that area had become residences owned by establishments, Castle Harbour and The Mid Ocean Club. Yes, it did. You see if the memorial of the dead is a memorial of the dead. Are they still live in our hearts somewhere as relatives? Then let us carefully motion aspect that is living soul has had on us and have left with us lest we forget. You got the job. I want to be careful how I respond to that, because I'm disturbed about what happened ultimately, to that grave. What was left of the graveyard with all the research that I have been taught to do to trace by examining the remains of the dead to trace historical background of the body that you come across scientifically, you can research anything today and come up with that answer. While this archeologist as much science background that he might have had. He did not go to the extent of declaring that there were dead bodies and I could prove or he could prove that they were buried there. None of that was done. No one knows the contents of the graves that were demolished in Tucker's Town. Or you really want to know, the head archaeologists in Bermuda has doctor as his first initial and popularity as his last initial. And his second initial to me would be dreamer, but getting pass all that. He was Christened. He was a Christian doctor. His last name I don't want to get I don't want to get be sickened of by the thoughts. He works in Dock Yard at Commissions House where the museum is. Call his name and I would whistle. Harris. Oh, yes, sir. (weak whistling). I can't even whistle. He has a compliance so no one supervises. So no one supervises Mr. Dr. Harris he has a compliance to do whatever he feels like, his emotion drives to him due. And he has been able to convince people who pay him that he is doing the right thing. If you don't answer to anyone, and you do what you like you lose sight and foresight of where you’re going and what you’re doing. Hence carelessness is a result of lack of supervision. And it continues what but I will stop there? This witness suggested, but it is therefore. Do you wish to comment, sir?

**Dr. E. Harris** 31:34 When I was asked if I wish to have standing, having read comments like that, I said I did not wish to have a standing as I understood it meant I would question the witness, that's Mr. Richardson's opinion, he is perfectly welcome to his opinion, he's perfectly welcome to call me names as he likes. What I would like to say actually, that with the greatest show of respect for the people who are buried in the cemetery would be ascertained exactly who's there, which you could do with a proper archeological dig over the whole area without disturbing the bones, you could find out exactly how many grave cuts were cut into the ground. And we'd actually know what we're talking about. So I do agree with part of what he says, and I thank him for his creative interpretation of my name.

**Mr. Dirk Harrison (Counsel)** 32:30 But sir, in fact, at the conclusion of the your instructions to the machine operator on this side, that remove the tombs, parts of the tombs. What has happened since then, with regards to the project that you were

**Dr. E. Harris** 32:55 As I said there was a public meeting. And then it was decided to make an application to the Planning and Department by the Marsden Church which was made to erect a monument in the middle of the cemetery of a novelist form with an inscription on it to mark the people of Tucker's Town. I also agreed at that time, that if this was approved by the planning department, I would help to raise the funds to make that possible, and in the hope that this would bring an end to the conflict of the graveyard.

**Mr. Dirk Harrison (Counsel)** 33:31 And sir the question actually is, after that day with the destruction of the grave site? Did anything happen after that day with regards to the plan to erect a monument?

**Dr. E. Harris** 33:45 The planning a matter went into abeyance because there were two objections out of time, with the actions. And as far as I know, the church has not proceeded further with that.

**Mr. Dirk Harrison (Counsel)** 33:56 The church.

**Dr. E. Harris** 33:58 The church made the application to the planning department.

**Mr. Dirk Harrison (Counsel)** 34:06 Are you also saying that, that at this meeting that you refer to the church agreed to the use of a heavy a piece of heavy equipment to remove parts of the grave site? Are you saying that's what happened?

**Dr. E. Harris** 34:22 You're talking about an earlier meeting?

**Mr. Dirk Harrison (Counsel)** 34:24 I'm talking about in meeting, are you saying the church?

**Dr. E. Harris** 34:27 Well I've already answered that.

**Mr. Dirk Harrison (Counsel)** 34:29 I am asking you again?

**Dr. E. Harris** 34:31 Yes that was my recollection.

**Mr. Dirk Harrison (Counsel)** 34:33 Your recollection is that the church agreed. They said that they had no problem with my words with a piece of heavy equipment being used to excavate or remove parts of the grave side. That's what you're saying.

**Dr. E. Harris** 34:53 Yes, sir.

**Mr. Dirk Harrison (Counsel)** 34:54 Okay.

**Mr. Dirk Harrison (Counsel)** 34:58 So my question is as I close from that day of the destruction of the gravesite that you however accepted. How long after did you remain Director of the Museum in Bermuda?

**Dr. E. Harris** 35:38 I retired at the end of 2017, after 37 years.

**Mr. Dirk Harrison (Counsel)** 35:46 Let me repeat you probably you didn't hear. That day after the destruction of the grave site. How long did you remain as Director of the Museum? Just humor me and think about it and answer please.

**Dr. E. Harris** 35:59 Five years.

**Mr. Dirk Harrison (Counsel)** 36:00 Thank you. See how easy that was Dr. Harris.

**Mr. Dirk Harrison (Counsel)** 36:03 Thank you. Now, during that five years, we already said no records were made of what happened that day? Is there any other record in the museum of the meetings or any other activity that took place regarding the activity after the destruction?

**Dr. E. Harris** 36:35 I don't know sir. I would have to go and research it at the museum.

**Mr. Dirk Harrison (Counsel)** 36:38 You don't you made none though.

**Dr. E. Harris** 36:40 I said I made none of the day.

**Mr. Dirk Harrison (Counsel)** 36:44 And I asked you about after that day respectful sir. I'm asking you after that day.

**Dr. E. Harris** 36:51 I don't recall doing anything after that day.

**Mr. Dirk Harrison (Counsel)** 36:53 Thank you, sir.

**Mr. Dirk Harrison (Counsel)** 36:57 Thank you for being so helpful today sir. I have nothing further at this time Madam Chair.

**Justice Norma Wade-Miller**  37:03 Thank you Counsel. Is Reverend Wailing here?

**(Madam Chair)**

**Justice Norma Wade-Miller**  37:09 He has standing. Do you wish to ask any questions?

**(Madam Chair)** no questions? Just turn to commissioners now. Commissioners do you wish to ask any questions?

**Unknown Speaker** 37:20 Yes.

**Justice Norma Wade-Miller**  37:21 This is our process. Dr. Harris Mrs. Forth will now ask

**(Madam Chair)** you questions.

**Justice Norma Wade-Miller**  37:27 Go ahead please.

**(Madam Chair)**

**Ms. Forth** 37:34 Good morning Dr. Harris.

**Dr. E. Harris** 37:35 Good morning ma'am.

**Ms. Forth** 37:35 First of all, I am going to say that I am fascinated by archaeology. And I take every opportunity to look at documentaries on unearthing some history, especially the tombs and so forth in the Middle East and Africa. And I understand their process from looking at these documentaries. First, they would seek the approval of government, they will then also meet with other archaeologists, like you did in this circumstance. And then they carefully that process is carefully and respectfully go through the process as they unearth a bit of history. So what I need to understand two questions was government approved and the parameters were also set as to where they can dig and where they cannot dig. I wonder if the process that was taken here. First of all, was government involved in approving where this cemetery the digging should happen within the cemetery? Was that sought and approved?

**Dr. E. Harris** 38:55 No, it wasn't and I refer to my earlier comments that we need legislation to protect land archaeological sites on land. We have it now for underwater sites. But we need some decent legislation to protect all forms of land archaeology sites.

**Ms. Forth** 39:13 But with regard to the cemeteries, there is nothing. Is there any legislation surrounding unearthing or disturbing cemeteries?

**Dr. E. Harris** 39:24 I'm not, I'm not clear on that.

**Ms. Forth** 39:28 So can you then explain to me your pro, I mean I heard a bit of your process. So government was not informed. So the only knowledgeable people were the church and Tucker's Point. Is that correct?

**Dr. E. Harris** 39:44 Yes.

**Ms. Forth** 39:47 And then the other thing, is there a code of ethics that archaeologists have to adhere to like is there.

**Dr. E. Harris** 39:59 Well, that's one of the most important questions in archaeology. And the fact is that while other professional bodies have code of ethics, that covers excavation work, generally in archaeology, this does not yet exist. I've been trying to force it on an international level, through my Harris Matrix and my book, textbook on archaeology, which is still going strong after 50 years. It's translated into 12 languages. But it's still an uphill battle, some places are changing so that you have to do it correctly in terms of digging, ethics have to be there. Particularly working with certain governments, you don't get any government funding unless you were seen in these ways. We need things in Bermuda for archaeology, it took us many years at the shipwreck law changed because of tremendous resistance in the community to looting. And it's an important question, but it's, it's an area that needs a great deal of work.

**Ms. Forth** 41:19 So did you follow some sort of ethics in this process?

**Dr. E. Harris** 41:24 Yes, ma'am. Yes, ma'am.

**Ms. Forth** 41:27 The other question regarding 2011 when they had a celebration, at Tucker's Town, were you aware or part of that organization of process? Were you involved in that particular celebration?

**Dr. E. Harris** 41:46 I'm not sure I remember attending one gathering at the cemetery. I don't know. I don't recall the date of it.

**Ms. Forth** 41:54 Because it pains well, when I think of that day 2011 they had this celebration and the oldest person was there present. And then the very next year 2012 is when the graves were desecrated. So you're not aware of you don't recall whether you were invited to the 2011 celebration.

**Dr. E. Harris** 42:19 I don't recall, I'm sorry.

**Mrs. Milligan-Whyte** 42:22 Okay. That's my questions, thank you.

**Dr. E. Harris** 42:33 Thank you ma'am.

**Justice Norma Wade-Miller** 42:34 Thank you go ahead please.

**(Madam Chair)**

**Mrs. Milligan-Whyte** 42:35 Given the fact that Marsden Church has existed for a number of years, and has been burying their dead in that graveyard. My concern is whether the scope of the whole graveyard, the burial site, is has there been an examination of that scope. Simply because if you've been there for 100 years, the graveyard has to be definitely bigger than the area that is currently discussed.

**Mrs. Milligan-Whyte** 43:25 Question is, has there been an examination of the scope of the graveyard.

**Dr. E. Harris** 43:32 As to a certain degree, the ground penetrating radar gives you a bit of a survey but the problem with ground penetrating radar, if you don't do the excavation, following it, you can't say whether an anomaly which is a hole in the ground or less compact soil is in fact a grave or small cave or a hole for whatever. Again, it would be my suggestion that if one wanted to get more information, and get some definitive information on the graveyard that an excavation would be done. In this case, presuming the nature of the substrata there is the hard Bermuda stone, of the walls in the Marriott . If you took off a foot of soil or whatever, then you'd have a lot of outlines of graves cut into the hard ground without disturbing the burials. And so you'd be able to determine the full extent of the graveyard. At least how many graves were there. There may be multiple skeletons in each grave, but at least you know what you were talking about. And had there been a thing like the African Burial Ground in New York where 400 odd bodies were taken out, scientifically examined, and then put together under a monument If that had been the resolution to the Tucker’s Town Cemetery, then you would have an excavation of the whole area very respectful job as has been done. And it certainly would be my recommendation that such an archaeological thing be done on the cemetery. Now to determine exactly what's there, because when we took away a sarcophagu, there was nothing underneath of it. Normally, with Bermuda graves, there's a hole in it, and we reuse it and so on. In this case, it was no evidence of the grave cuts. So that would be my suggestion, as an amplification of the project to determine really what is actually there. But that's, you know, a decision that the church would have to make, but I would advocate for something like that, because then you know, of what you speak.

**Mrs. Milligan-Whyte** 46:01 Thank you. I appreciate that.

**Justice Norma Wade-Miller**  46:04 Thank you Mrs. Milligan-Whyte.

**(Madam Chair)**

**Justice Norma Wade-Miller**  46:05 Mr. Perinchief

**(Madam Chair)**

**Mr. Perinchief** 46:05 Good morning Dr. Harris

**Dr. E. Harris** 46:10 Good morning, sir.

**Mr. Perinchief** 46:15 Dr. Harris, on page 16, of the Ombudsman's Report a grave error. She states that, on the 16th October of the year that that work was done, that Dr. Harris emailed Tucker's Point, and I'll read the quote the email. And it says, Thanks for meeting at the site yesterday, the men did a great job. And I would like to suggest that the area worked on be covered with soil and grass plugs as soon as possible. So that the cemetery looks neat and tidy. And that would appear to have been part of a process, once the remediation of the grave site was completed, to follow what was recommended by the GPS Surveyor. Dr. Triggis. Is that correct? To make it a what they described as a dignified, lawn. Could you comment on that?

**Dr. E. Harris** 47:34 I can't really say anything further than what was said there.

**Mr. Perinchief** 47:38 Okay, I'll just read from the report further, it says that the GPS Survey further recommended that the hibiscus hedge on the western side of the cemetery, be removed in order to preserve the area within the walls as a dignified lawn. And this sprays dignified lawn sets off a firestorm of umbrage and scorn, particularly from CURB and the, looks like the TTHS, that looks like a historical society. And that struck a nerve with people because it appeared that the process was started too simply remove sarcophagu, the full sarcaphagu as described, make a lawn. And I would ask what the purpose of that was, to do because it would have obliterated the existence of a cemetery had it been done that way. Do you have any comment on that?

**Dr. E. Harris** 48:43 Yes, sir as I said, the church later decided to make a planning application to put a monument in the middle of the cemetery, proper dignified obelus type of monument with inscription on it. Marking out the nature of why it was there and who the people were connected with it.

**Mr. Perinchief** 49:04 Okay, since

**Dr. E. Harris** 49:06 That's what happened in Warwick, sorry.

**Mr. Perinchief** 49:08 Right.

**Dr. E. Harris** 49:09 To a degree.

**Mr. Perinchief** 49:10 After the opposition to that process started, you say that you simply disengaged that correct? Not. Not your words but mine. And everything. After five years things have gone to a bend.

**Dr. E. Harris** 49:25 I haven't been asked for further involvement. As I said to Mrs. Milligan-Whyte should further work be decided to do, I would of course, be delighted to volunteer and help but really would pass the baton to the archaeologists at the National Museum as I'm retired.

**Mr. Perinchief** 49:48 Are you aware that the ownership has changed from Rosewood to Tucker's Point but the driving range continues to exist in this same position, golf balls are still continuing to be driven either into or over that grave site. Are you aware of that?

**Dr. E. Harris** 50:09 I don't say, one could not be aware of it, that's gonna continue to happen. And that's why the question should be raised to whether the graveyard should be moved. And this has come up before, and so it's a question of, if you don't want the golf balls, you're gonna do the graveyard or move the clubhouse, which has been suggested as well. A bit of an impasse.

**Mr. Perinchief** 50:36 Well, sir, with respect, it would be a money amount job to remove either the grave site or the clubhouse however, the driving range seems to be the irritant. And we've seen mitigation of that, in Mid Ocean Club where they presented a nice cage, which covers the grave site. I'm wonder what recommendations have you made, if any, to mitigate that problem?

**Dr. E. Harris** 51:08 Sir that was in the planning application by the church to place a monument and also to place a fencing arrangement as you're suggesting exists at Mid Ocean that was in the planning application.

**Mr. Perinchief** 51:20 Right? Thank you very much. You've commanded this commission for its work so far and are you aware that Mr. Pettingill, from the present owners, Tucker's Point, has 1. tendered an apology, 2. has tendered a plan to mitigate the situation at Tucker's Point. Are you willing to support that process maybe yourself with whatever way you could?

**Dr. E. Harris** 51:54 Well, yes, sir, and as I already have mentioned, in terms of the planning application, I had mentioned to the church that I was willing to assist in funding the monument, and to helping to raise the money for it. I'm willing to do so again. And so yes, sir.

**Mr. Perinchie**f 52:15 Well, my last question, you on several occasions, I believe were asked by this commission to assist. I believe by several letters, which you either avoid or did not wish to respond you weren't willing to assist. Is there a reason for that and eventually we had to actually subpoena you to be here, sir, can you speak to that?

**Dr. E. Harris** 52:43 Yes, sir. I think you're mistaken there. In the first case, I was actually at the Mayo Clinic for a month when your first thing came in, and I was able to get back before the virus. I then said I didn't, Your letter said, did you wish to have understanding to have stamped. And then underneath of it, we can subpoena you? Well, it's two different things there. I certainly didn't wish to have standing. So automatically, that seems to have put me into line to be subpoenaed. I also suggested in my in my letter, that I was willing to come before the committee as an expert witness on the general question of other lands appropriated for Bermuda, which I have a lot of knowledge. And in the case of Ireland Ireland, I was given the full deeds 15 years ago in London, and bought them back to Bermuda. So we know the chapter in first about that. I know a great deal about this, but I was not asked, and I noticed in one of your submission I was entirely left off the list of Bermuda Historians. So sir,

**Mr. Perinchief** 53:56 Right, so that's the answer, so the answer is yes.

**Dr. E. Harris** 53:58 I'm willing to help.

**Mr. Perinchief** 54:00 Your willing to help, yes. That's the ultimate objective that I was trying to achieve. And that'll be the end of my question sir. Thank you very much.

**Dr. E. Harris** 54:11 Thank you, sir.

**Justice Norma Wade-Miller** 54:11 Thank you, Mr. Perinchief. Mr. Starling.

**(Madam Chair)**

**Mr. Starling** 54:16 Good morning Dr. Harris.

**Dr. E. Harris** 54:17 Good morning, sir.

**Mr. Starling** 54:17 I've got a few questions, but I'll try to be concise. My first one, I'm going to piggyback of Commissioner Forth. And I'm going to steal a line from our learning Counsel. And ask the Chair to crave your indulgence while I read from the Ombudsman's report. On page 15, and 16 of a grave error and I'm saying that for anyone watching online the grave error is online so you can follow my line of questioning. There's a paragraph that goes it is quite surprising that neither Dr. Triggs thought of contacting the department before making the recommendation to remove the tombs. Nor Dr. Harris thought of checking before implementing it. They had to have known given their experience with other projects, that the department is charged with ensuring that archaeological assessments are done, even when the site is not a historically preserved area of HBM. and presuming that's what HBM or the abbreviation or listed building. I am informed that it is the very nature of archaeology to remove, even destroy relics in order to study them. Unfortunately, this recommendation was not resisted by other voices. I was hoping you would be willing to take the opportunity to respond to that point about you not seeming to be aware about the department's role in archaeological assessments based on what you just said about the lack of legislation for doing just that.

**Dr. E. Harris** 55:54 Yes sir,as I said, there is very little coverage for it, there is a bit in the Planning Act, and I could have done a better job in terms of the Tucker's Town ceremony.

**Mr. Starling** 56:07 Okay, thank you.

**Mr. Starling**  56:11 In testimony that was verbally given, I believe, by the trustees from Marsden Church. Regarding the ground penetrating radar study, which is quite an interesting study, I recommend people review that. They said that the GPR study was restricted to just six feet around the perimeter of the walls. And that was an order by the owners of the property I believe Rosewood. Can you speak to the reasoning behind this? Was that true?

**Dr. E. Harris** 56:42 I said, I think there was a limited. Obviously, we could have done a lot more. But it comes back to Mrs. Milligan-Whtes' question that as far as I'm sorry, a greater survey should be done. But then the actual excavation should be done because the ground penetrating radar only shows you that there is an anomaly in the ground. It doesn't tell you what it is. It doesn't ridge it goes right through bones, for example. So it it has to be what they call ground truthing, and you have to do the excavation if you want to do it. And again, if one was to, in my view, pay full respects to people in the graveyard and the descendants, you would do that type of archeological survey so you know exactly what you got what you're talking about, if it turned out to be that the graveyard was very extensive beyond the walls and going into the drive

**END OF TRANSCRIPTION AT 56:42**