**A COMMISSION OF INQUIRY**

**INTO HISTORIC LAND LOSSES**

**IN BERMUDA**

**CHAIRMAN**

**JUSTICE NORMA WADE-MILLER, JP, OBE**

**COUNSEL**

**MR. DIRK HARRISON**

**COMMISSIONERS**

**HON. WAYNE PERINCHIEF, JP**

**MS. MAXINE BINNS (via Zoom)**

**MR. QUINTON STOVELL**

**MS. LYNDA MILLIGAN-WHYTE, JP**

**MR. JONATHAN STARLING**

**TRANSCRIPT OF PROCEEDINGS**

**LOCATION: WILLOWBANK RESORT & CONFERENCE CENTRE, SOMERSET**

**WEDNESDAY, MARCH 24, 2021**

**MORNING SESSION (b)**

**MATTER NO: 044**

**JUSTICE NORMA WADE-MILLER** 0:27: Good morning, everyone. I think Commission, Counsel is ready to begin. Counsel.

**COUNSEL DIRK HARRISON** 0:38: Morning Chairman, morning Commissioners, morning Secretariat, also support staff and the witnesses, we have this morning the matter of claim number 044, claim being made by Mr. Jonathan Jervis and he makes a claim on behalf of his grandmother and it is in respect of expropriation of land in the Tucker's Town area. Could I ask that this time that the witness be invited to either swear on the Bible or affirm to speak the truth, depending on his religious conviction or any other conviction that he may have? May he be invited to take the oath or to affirm?

**MR. JONATHAN JERVIS** 1:48: I, Jonathan Jervis, swear by Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.

**COUNSEL DIRK HARRISON** 2:07: I crave your indulgence. Could I just kindly ask the Secretariat to attend to a matter brought to their attention. Mr. Symons, immediately behind the chair to the, yes, thank you. Yes, thank you.

Could you state your name, sir?

**MR. JONATHAN JERVIS** 3:17: Jonathan Nathaniel Jervis

**COUNSEL DIRK HARRISON** 3:24: And you live in what parish, sir?

**MR. JONATHAN JERVIS** 3:26: Paget.

**COUNSEL DIRK HARRISON** 3:30: You came here today to submit a claim on behalf of whom, sir?

**MR. JONATHAN JERVIS** 3:35: My maternal grandmother, Faye Whalley.

**COUNSEL DIRK HARRISON** 3:43: Now, in respect of this claim that you submit on behalf of your maternal grandmother, it is in respect, in that regard, you submitted a statement to the Commission of Inquiry, sir?

**MR. JONATHAN JERVIS** 4:03: Yes, sir.

**COUNSEL DIRK HARRISON** 4:06: And you signed that statement?

**MR. JONATHAN JERVIS** 4:08: I have.

**COUNSEL DIRK HARRISON** 4:11: Okay, and what's the date on that statement, sir?

**MR. JONATHAN JERVIS** 4:15: The statement would be the 8th March, 2021.

**COUNSEL DIRK HARRISON** 4:24: Now, that statement consists of two (2) pages, sir?

**MR. JONATHAN JERVIS** 4:27; It does, based on how it has been printed.

**COUNSEL DIRK HARRISON** 4:35: Thank you. Madam Chairman, I'm going to ask that the statement dated the 8th March, 2021 by Mr. Jonathan Jervis, I’d ask that it is tendered and admitted as Exhibit JJ1.

**JUSTICE NORMA WADE-MILLER** 4:57: The statement submitted by Mr. Jonathan Jervis dated the 8th March, 2021 is hereby entered as an Exhibit listed as JJ1, Exhibit JJ1.

**COUNSEL DIRK HARRISON** 5:11: Thank you very much. Thank you. Mr. Jervis, could you kindly read that statement for us, starting from ‘my name is’? My name is.

**MR. JONATHAN JERVIS**  5:24: My name is Jonathan Nathaniel Jervis of 29 Bostock Hill, West Paget, born 24th July, 1991 to Isabel Anton Jervis. I am the maternal grandson of Fay Smith Whalley and great-grandson of the late May Smith whose father is Walter Smith. I write in reference to the expropriated land subsequent to Bermuda Development Act No. 2:1920 that was, that my great grandmother's father, sorry, my great grandmother's father, Walter Smith, inherited, outlined in the will of his grandmother, Mrs. Joanna Talbot. Walter Alexander Smith's inheritance, shared with sister Naomi Smith, according to his maternal grandmother's will recorded 8th February, 1911, paragraph five, was Lot #4 four shown in the provided plan diagrams, stamped by the Bermuda Archives. These documents authenticate my family lineage and connection to my claim and request for inquiry.

On multiple occasions growing up, I have been told the story passed on by my maternal great grandmother, May Smith, of how her parents, the late Walter and Geneva Isabelle Smith, were forcibly removed from the property in Tuckers Town by soldiers. This story of how my family's land was expropriated was also shared with me on multiple occasions by my maternal grandmother Faye Smith Whalley, the last living child of May Smith. My great grandmother's father, Walter Smith, who was illiterate, was allegedly presented with legal documents to sign for which he couldn't due to the fact that he was unable to read and write. This particular document was presumed to outline how he and his wife's property would be handled and how they would be compensated. My greatgrandmother's mother, Geneva Smith, who was fortunate enough to be literate, was prevented from assisting her husband, Walter, in the matter in reviewing the memorandum of terms of agreement to allow for a second decision, a sound decision to be made. This decision to exclude Geneva Smith, upheld by authority figures presumed to be representatives of the Bermuda Development Company, was made due to the simple fact that Geneva was not a man. Following this unjust displacement, my family was subsequently left to live and work in the neighbouring areas. My great-grandmother, May Smith, continued to work and live in Tucker's Town working as a domestic worker in a house called Casa del Cerro. While working on the Tucker's Town property, May Smith lived on the Greenslade property amongst others in the area. My great grandmother continued to live and work in Tucker's Town as a domestic worker up until her retirement when she moved out. My greatgrandmother, May Rosalinen Smith, affectionately known as Momma May, passed away September 2011. This account summarizes to the best of my ability what Walter and Geneva Smith and their heirs experienced subsequently through expropriated expropriation of their property on the Tucker's Town area.

**COUNSEL DIRK HARRISON** 8:36: Thank you very much. Now, can I take you to a, you have documents, a plan in support of your claim, sir?

**MR. JONATHAN JERVIS** 8:48: Yes, I do.

**COUNSEL DIRK HARRISON** 8:52: And that document consists of how many pages, sir?

**MR. JONATHAN JERVIS** 8:58: It consists of four (4) pages, including a map of lots.

**COUNSEL DIRK HARRISON** 9:07: Could you repeat that for me, including…

**MR. JONATHAN JERVIS** 9:11: It’s four (4) pages, including a map of lots, of reference to land area, thank you.

**COUNSEL DIRK HARRISON** 9:31: Thank you. The Plan submitted by the witness, Madam Chair, which includes a map, I’d ask that the four (4) pages be tendered and admitted as Exhibit JJ2.

**JUSTICE NORMA WADE-MILLER** 9:53: The plan consisting of four (4) pages which records the plot of land is hereby entered as Exhibit JJ2.

**COUNSEL DIRK HARRISON** 10:09: I'm just going to ask you, Mr. Jervis, after the document is projected on the screen, just kindly indicate to us exactly what you wish the Commissioners to take away from you showing us this plan, kindly.

**MR. JONATHAN JERVIS** 10:35: Would you like me to answer that now or you're…

**COUNSEL DIRK HARRISON** 10:40: I'm sorry, you could wait a moment. I'm just waiting on the document to be projected on the screen. Thank you very much, sir.

While the document is being uploaded, sir, I’ll just ask you some other questions. Now, in respect of the information which you have contained in your witness statement, could you tell the Commission as a source of that information, sir?

**MR. JONATHAN JERVIS** 12:26: The information you’re referencing is Joanna Talbot's will and the land plot or separate information?

**COUNSEL DIRK HARRISON** 12:35: No, I'm asking you, irrespective of your statement given, could you tell me from whom did you receive that information that you are able to reduce it into writing and submit a claim to the Commission of Inquiry?

**MR. JONATHAN JERVIS** 12:51: Okay, thank you. The information which I received came from multiple sources, from my grandmother and my late grandmother, just through anecdotal storytelling of their history and their life story. Also through the Commission of Inquiry historian, participant Ms. Leyoni Junos.

**COUNSEL DIRK HARRISON** 13:24: Thank you. Now in respect of the information upon which you have placed reliance, what, what does it mean for your family and yourself being here today, speaking about the expropriation of land associated with your great, great grandparents?

**MR. JONATHAN JERVIS** 13:54: It means acknowledgment of what has happened, also offered or opportunity to actually understand what actually happened, understanding the time in which it occurred, the individuals who were directly there who no longer are with us. With the information that I've provided, it outlines or explains how the reference or mentioned plot of land was inherited by my great grandfather, Walter Smith. However, the trail, or the paper trail I should say, of what happened to that land actually is unknown to myself and hasn't been seen. understanding the story, it would be great to gain some clarity of actually what occurred and if what occurred was actually fair and just

**COUNSEL DIRK HARRISON** 15:04: Thank you very much. Now the anecdotal stories and or any other story by way of oral history that has been shared with you to the extent of the unfair treatment of your great grandfather, that is, great grandfather once removed or twice removed.

**MR. JONATHAN JERVIS** 15:33: My great-great grandfather, that's my grandmother’s grandfather.

**COUNSEL DIRK HARRISON** 15:40: Okay. Now, let us just start with a document that is projected on the screen. This is one of the four (4) pages you referred to earlier which is a map in for Exhibit JJ2. Is that correct, sir?

**MR. JONATHAN JERVIS** 15:55: Yes.

**COUNSEL DIRK HARRISON** 15:58: And in respect of the map displayed on the screen, sir, is there any particular thing you'd like to bring to the attention of the Commissioners about this map?

**MR. JONATHAN JERVIS** 16:09: I would like to bring attention to, of course, the stamp component and the date on which it was stamped which is 1910. Also, cross referencing that to the date in which Joanna Talbot's will was, I believe it was recorded, which was one year following this stamp date.

**COUNSEL DIRK HARRISON** 16:43: Sorry, can you point out to us where the date is, where's the date on the stamp?

**MR. JONATHAN JERVIS** 16:48: The date is located, if you scroll down to where the stamps are, at the bottom of the page, it is the…

**COUNSEL DIRK HARRISON** 17:01: Secretariat, could you take us to the bottom of the page where the stamp is? Could you kindly enlarge it, Secretariat?

**MRS. LISTER (Secty)** 17:25: Hi Counsel, Mrs. Lister here, that is the largest that the image will allow us to go.

**COUNSEL DIRK HARRISON** 17:31: Thank you very much, Mrs. Lister. You just have a year, not a date, is that correct, Mr. Jervis? Just above the *’s’* in the word Archives, there is 1910, but there's no month or day? Is that correct?

**MR. JONATHAN JERVIS** 17:53: That is correct.

**COUNSEL DIRK HARRISON** 17:58: Now, in respect of this map that you have provided to the Commission of Inquiry in support of the claim, in respect of the map, based on your understanding, what has been handed to you, oral history or any other anecdotal note, what area of the map represents what your great grandfather owned, all of it or a part of it? Could you just assist us in that regard?

**MR. JONATHAN JERVIS** 18:30: To be specific it will be Lot #4, based on paragraph 5 and that will be on the upper region.

**COUNSEL DIRK HARRISON** 18:50: May I ask you to minimize it more please? Thank you. Yes, could you repeat that for me? Lot #4.

**MR. JONATHAN JERVIS** 19:08: Yes, in the upper region of the map.

**COUNSEL DIRK HARRISON** 19:17: Yes, do you see where the cursor is now, that plus sign?

**MR. JONATHAN JERVIS** 19:22: Yes, I do.

**COUNSEL DIRK HARRISON** 19:24: Could you just guide us in terms of how to move the cursor in terms of the perimeter of the area you refer to, sir? Is it along the lines? I wish to get some guidance from you to determine by using the cursor if we could point out to the Commissioners the area that you are making reference to

**MR. JONATHAN JERVIS** 19:57: That will be the perimeter on which the cursor is moving, along the lines of Lot #4 between that #3, and I believe that to be Lot #5.

**COUNSEL DIRK HARRISON** 20:15: Thank you very much. Now, could you just share with the Commissioners the basis on which you submit that this area delineated with a number 4, that this area was previously owned by your great grandfather?

**MR. JONATHAN JERVIS** 20:39: The basis in which I speak is a response in a reference to Walter Alexander Smith's inheritance shared by his sister, Naomi Smith. This is recorded in his maternal grandmother's will which was recorded on 8th February, 1911 and this is Miss Naomi Talbot referencing paragraph #5 provided in the plan that’s in front of us right now.

**COUNSEL DIRK HARRISON** 21:09: Alright, thank you very much. I will go through it shortly. Could we see the other documents that form part of Exhibit JJ2? The witness had indicated that it consists of four (4) pages to include a map

That document that we just saw, that you took us through, the map that you would agree that's one of the four pages, sir.

**MR. JONATHAN JERVIS** 22:13: Yes, I believe that is page 1A.

**COUNSEL DIRK HARRISON** 22:24: Yes, but this is a will, but we haven't come to the will yet. So, just ask you to bear with us, some teething pains.

**MR. SYMONS (Secty)** 23:06: Counsel I believe the map itself comprises of one page, while it is attached to the will which will comprise of four pages, three (3) pages.

**COUNSEL DIRK HARRISON** 23:17: Three (3) pages. Thank you very much. Thank you,

Madam Chair, just to indicate in terms of the reference to JJ2, I just ask that the correction could be made that it actually refers to the map which we just saw, which is part of JJ2, and the will which the witness is going to reference especially in relation to paragraph 5. I just ask that the notation could be made, so that's reflected for JJ2. Thank you

**JUSTICE NORMA WADE-MILLER** 24:03: Refers to the will, plus what, Counsel? And the map?

**COUNSEL DIRK HARRISON** 24:12: We just saw the map, Chairman, JJ2 and I am just indicating earlier the witness had indicated and I had said 2, that JJ2 comprised of a plan and a map. I am now asking, Madam Chair, that the reference could be made that JJ2 is represented by a map as also a will.

**JUSTICE NORMA WADE-MILLER** 24:56: So noted, Counsel.

**COUNSEL DIRK HARRISON** 25:01: Thank you very much. Could you Secretariat, could you return to the Exhibit JJ2 and Mr. Jervis, I'm going to ask you to just point out to us, paragraph 5 that you're making reference to, as it relates to the map which we saw earlier. Once a document is projected on the screen, thank you.

**MR. JONATHAN JERVIS** 25:33: By which mechanism would you like me to point it out, will it be using mouse or…?

**COUNSEL DIRK HARRISON** 25:40: I am going to ask you if you could just provide some guidance to the person operating the cursor. Just direct the Secretariat member.

**MR. JONATHAN JERVIS** 25:56: Please, paragraph #5 starting with: I devise to my two (2) grandchildren, Walter Alexander Smith and Naomi Mabel Smith.

**COUNSEL DIRK HARRISON** 26:16: Could I just ask you to, do you have a copy? Yes, please. Could you read it for us, please? Just before you go read it sir, what, whose will is this?

**MR. JONATHAN JERVIS** 26:33: This is Joanna Talbot of Tucker's Town.

**COUNSEL DIRK HARRISON** 26:36: Could you just take us to the, take us to the top of the document first and then we can return to paragraph 5. Take us to the top, please. The beginning of the document. Yes, could you read paragraph..

**MR. JONATHAN JERVIS** 27:08: One?

**COUNSEL DIRK HARRISON** 27:14: No, I think that’s ‘I Joanna Talbot’.

**MR. JONATHAN JERVIS** 27:18: Yes, and finish at ‘will’?

**COUNSEL DIRK HARRISON** 27:24: Yes, please read, please read from the very start to paragraph 5 for us, thank you.

**MR. JONATHAN JERVIS** 27:28: You're welcome.

1. I, Joanna Talbot, of Tucker's Town in the Parish of St. George in the Island of Bermuda, widow relict of the late James Talbot, hereby revoke all wills and testamentary dispositions heretofore made by me and declare this to be my last will.
2. I direct all my debts and funeral and testamentary expenses to be paid as soon as conveniently may be after my decease.
3. I devise to my daughter Princess Jennings Smith (the wife of Alpheus Smith of Tucker's Town, aforesaid branch pilot) her heirs and assigns the two lots or parcels of land in Tucker's Town, aforesaid distinguished as numbers One and Nine on the map or plan annexed to this will and coloured dark green. But should my said daughter predecease me leaving issue, I devise the said parcel of land to such of her issue as shall survive me and if more than one equally between them as tenants in common. But should my said daughter predecease me leaving no issue, I devise the said lot or parcel of land to those of her brother and sisters who shall survive me, equally between them as tenants in common
4. I devise to my daughter Lydia Ann Smith (the wife of Richard Thomas Smith of Tucker's Town, aforesaid planter) her heirs and assigns the lot or parcel of land in Tucker's Town aforesaid distinguished as number Five on the said map or plan hereto annexed and coloured light green. But should my said daughter predecease me leaving issue, I devise the said lot or parcel of land to such of her issue, as shall survive me and I more than one equally between them as tenants in common. But should my said daughter predecease me leaving an issue, I devise the said lot or parcel of land to those of her brothers and sisters who shall survive me equally between them as tenants in common.
5. I devise to my two grandchildren, Walter Alexander Smith and Naomi Mabel Smith (the children of my daughter Serena Cordelia) their heirs and assigns as tenants in common the lot or parcel of land in Tucker's Town aforesaid distinguished as number Four on the said map or plan hereto annexed and coloured pink. But should either of my said grandchildren predecease me leaving issue, I devise his or her share of the said lot or parcel of land to such issue, and if more than one equally between them as tenants in common. But should either of my said, grandchildren predecease me leaving no issue, I devise his or her share of the said lot or parcel of land to the survivor of them. But should both of my grandchildren predecease me leaving no issue, I devise the said parcel or land to those of my children who shall survive me equally between them as tenants in common.

**COUNSEL DIRK HARRISON** 30:52: Thank you. Now, Mr. Jervis, this is the paragraph you make reference to that relates to the map you showed us earlier, which is also part of Exhibit JJ2?

**MR. JONATHAN JERVIS** 31:08: It is.

**COUNSEL DIRK HARRISON** 31:10: Thank you very much. Now are you in possession of any deeds to show ownership?

**MR. JONATHAN JERVIS** 31:22: No, I'm not.

**COUNSEL DIRK HARRISON** 31:26: Did you by way of, were you advised as to what, if anything, happened to the deeds or if any deeds ever existed?

**MR. JONATHAN JERVIS** 31:34: I was made to understand that the deeds would be held by the law firms or companies that facilitated the exchange of, the agreements or the expropriation of land subsequent to the Bermuda Development Act, the Commissioners of which participated. Their review served as a conveyance based on the Bermuda Development Company Act, and those law firms…

**COUNSEL DIRK HARRISON** 32:23: Did the information which I shared with you, were you advised or anyone else, in relation to whether the law firm, whichever firm that was, returned those deeds to the family.

**MR. JONATHAN JERVIS** 32:39: I was advised that the family did not receive the deeds following the expropriation. I'm not aware of who is actually in possession of the deeds.

**COUNSEL DIRK HARRISON** 33:00: Thank you. Now your understanding is that, did your understanding give you some guidance as to the expropriation of your great grandfather, that there was expectation after he was removed, that he would receive anything in return?

**MR. JONATHAN JERVIS** 33:26: There's been no communication or understanding of compensation as far as I know to be true or factual.

**COUNSEL DIRK HARRISON**  33:50: Can I ask you to repeat that for me. Do you. are you aware whether any compensation was received by your grandfather?

**MR. JONATHAN JERVIS** 33:58: I'm not aware of any official record of such compensation. No.

**COUNSEL DIRK HARRISON** 34:05: Thank you very much. Now in respect of the claim which you have submitted today, are there any other documents which you wish to draw to the attention of the Commissioners?

**MR. JONATHAN JERVIS** 34:18: I would like to draw the attention to, I believe I submitted my birth certificate, my grandmother's birth certificate, my mother's birth certificate in connection to Walter Smith, along with my great-grandmother's obituary which outlines her connection to her parents, just connecting…

**COUNSEL DIRK HARRISON** 34:46: So, thank you, the purpose of submitting the birth certificates, you submitted them to show what sir, age or is there any other information that you wish to bring to the attention or Commissioners?

**MR. JONATHAN JERVIS** 35:01: It brings to the attention of my lineage, my connection to Mr. Walter Alexander Smith. It also shows age and context and also connection.

**COUNSEL DIRK HARRISON** 35:16: Okay, thank you very much.

**MR. JONATHAN JERVIS** 35:18: You're welcome.

**COUNSEL DIRK HARRISON** 35:21: Thank you, I'm going to take them to the, take you now to the birth certificates. But unfortunately, I am going to advise you and I'm also, by way of sharing with the Commissioners, your birth certificate, sir, unfortunately you won't be able to rely on it. The laws generally don't allow you to tell your own age, only your mother could do so or the documents, you can't give evidence as to your age even with your own birth certificate. So we will rely on you sharing the Exhibit in the birth certificates of the other relatives, but not your own.

**MR. JONATHAN JERVIS** 36:02: Does that interfere with my statement? It starts with my birthday.

**COUNSEL DIRK HARRISON** 36:10: That’s fine, but even that in itself, respectfully, you are told you're born that day, you actually don't know, someone told you, your mother that you're born or your grandmother, actually, you can't. You can't give evidence of your birth.

**MR. JONATHAN JERVIS** 36:28: Thank you for clarification.

**JUSTICE NORMA WADE-MILLER** 36:29: Counsel, if I may, his grandmother is here and so if you require someone to speak to it, maybe his grandmother might be able to speak to it.

**COUNSEL DIRK HARRISON** 36:41: Thank you very much. We will do so then, Madam Chair, in respect of his birth certificates, his birth certificate. Until then, I would ask that we project the other birth certificates and then we will allow his grandmother, if she would be so minded, to assist us in that regard.

**JUSTICE NORMA WADE-MILLER** 37:03: Thank you.

**COUNSEL DIRK HARRISON**  37:10: I'm sorry, can this document be rotated? I'm unable to, sir, okay, what was it first? Let's go through the birth certificates you have there, sir. What is the first one you have?

**MR. JONATHAN JERVIS** 38:15: The first birth certificate I have is of my maternal grandmother, Miss Fay Julia Ann Whalley.

**COUNSEL DIRK HARRISON** 38:24: Okay, let us, I'm sorry, could you just start with the one that's projected on the screen, of Isabel Edith May Smith?

**MR. JONATHAN JERVIS** 38:33: Yes, that's my mother, Miss Isabel Edith May Smith.

**COUNSEL DIRK HARRISON** 38:44: That’s your mother. And this document, where did you receive it, sir.

**MR. JONATHAN JERVIS** 38:47: I received this from my maternal grandmother, Ms. Fay Julia Ann Smith Whalley.

**COUNSEL DIRK HARRISON** 38:54: And she's seated in the, the well of the, thank you very much.

**MRS. LISTER (Secty)** 39:45: Counsel, Mrs. Lister here, I'm just checking. Were you waiting for the Secretariat to do something?

**COUNSEL DIRK HARRISON** 39:50: No, I'm waiting on the application by the Chairman to be considered for this document projected on the screen to be admitted as Exhibit JJ3. Thank you.

**JUSTICE NORMA WADE-MILLER**  40:16: JJ3. The certificate of grandmother, Mrs. Isabel Edith May Smith.

**MR. QUINTON STOVELL** 40:34: I think that’s Mr. Jervis’s mother

**JUSTICE NORMA WADE-MILLER** 40:38: That's his mom? Yes, yes, thank you. Entered, Counsel.

**COUNSEL DIRK HARRISON** 40:54: Thank you very much. Could we have the next one please, Secretariat? Now what is this, sir?

**MR. JONATHAN JERVIS** 41:58: This is the birth certificate of my maternal grandmother, Ms. Fay Julia Ann Whalley.

**COUNSEL DIRK HARRISON** 42:11: And her surname is, sir?

**MR. JONATHAN JERVIS** 42:15: Her surname is Whalley. Her maiden name is currently Whalley. That's the name of my late grandfather, Michael Whalley.

**JUSTICE NORMA WADE-MILLER** 42:25: Counsel, for the record.

**COUNSEL DIRK HARRISON** 42:26: Thank you and where did you receive this document?

**MR. JONATHAN JERVIS** 42:30: My maternal grandmother provided it for me to use.

**COUNSEL DIRK HARRISON** 42:42: Madam Chair, I'm asking that this document, Certificate of Birth for Fay Julia Ann Whalley…

**JUSTICE NORMA WADE-MILLER** 42:59:How do we spell the last name please, Counsel?

**COUNSEL DIRK HARRISON** 43:01: I will ask the witness to assist us kindly.

**MR. JONATHAN JERVIS** 43:08: W H A L L E Y, Whalley

**JUSTICE NORMA WADE-MILLER** 43:16: And she is your grandmother?

**MR. JONATHAN JERVIS** 43:19: Yes, my mother's mother.

**COUNSEL DIRK HARRISON** 43:23: I would ask that this document be tendered and admitted as Exhibit JJ4, thank you.

**JUSTICE NORMA WADE-MILLER** 43:36: So, Mrs. Julia Ann Whalley, grandmother, is entered.

**COUNSEL DIRK HARRISON** 43:50: I'm sorry, Madam Chair. Madam Chair, it’s Fay Julia Ann.

**JUSTICE NORMA WADE-MILLER** 44:14: The certificate of birth of his grandmother, his mother's mother, Fay Julia Ann Whalley, entered as JJ4.

**COUNSEL DIRK HARRISON** 44:32: Thank you and the, the birth certificate, your own birth certificate, Mr. Jervis, that was handed to you by your maternal grandmother. You have that there, sir?

**MR. JONATHAN JERVIS** 44:53: Yes, sir. I have an electronic copy of that.

**COUNSEL DIRK HARRISON** 45:24: Secretariat, do you have a copy of that document? Is your grandmother able to speak to the document or is she able to come forward?

**JUSTICE NORMA WADE-MILLER** 46:12: One moment please, Counsel, she's being asked.

**COUNSEL DIRK HARRISON** 45:24: Thank you.

**JUSTICE NORMA WADE-MILLER** 46:38: She has to be sworn or affirmed.

**MRS. LISTER (Secty)** 47:11: Would you like to give an oath on the Bible or affirm?

**MRS. WHALLEY** 47:13: What would the affirmation be?

**MRS. LISTER (Secty)** 47:15: The affirmation would be you will not use the Bible, you just raise your right hand.

**MRS. WHALLEY** 47:36: I will use the Bible.

**MRS. LISTER (Secty)** 47:29: Please place the Bible in your right hand, state your name for the record and say, repeat after me.

**MRS. WHALLEY**  47:47: My name is Fay J.A. or Julia Ann Whalley, I swear by Almighty God that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.

**MRS. LISTER (Secty)** 47:55: Thank you very much.

**COUNSEL DIRK HARRISON** 47:59: Could you please state your name, madam?

**MRS. WHALLEY** 48:02: My name is Fay Julia Ann Whalley

**COUNSEL DIRK HARRISON** 48:09: Now, do you know Mr. Jonathan Jervis.

**MRS. WHALLEY** 48:13: Yes, he is my grandson.

**COUNSEL DIRK HARRISON** 48:17: Thank you. And he's seated next to you, madam?

**MRS. WHALLEY** 48:23: Yes, on my right hand side, yes.

**COUNSEL DIRK HARRISON** 48:26: Thank you. The apple of your eye, and what is his mother's name, madam?

**MRS. WHALLEY** 48:35: Isabel Edith May, change of name, Furbert.

**COUNSEL DIRK HARRISON** 48:44: Thank you. And the certificate of birth of Mr. Jervis that is projected on the screen, you gave him a copy of that document, madam?

**MRS. WHALLEY** 48:57: Yes, I did. Good job I saved everything.

**COUNSEL DIRK HARRISON** 49:03: Thank you so much for that. Now, before I ask any other questions, Madame Chair, could I ask that this document is tendered as an Exhibit?

**JUSTICE NORMA WADE-MILLER** 49:17: Very well, it's a certificate of birth of Jonathan N. Jervis, Exhibit number, Counsel?

**COUNSEL DIRK HARRISON** 49:40: Crave your indulgence, crave your indulgence, please. Madame, may I ask kindly that that document be tendered and admitted as Exhibit FW1. FW1, FW1, the initials of the witness, Madame.

**JUSTICE NORMA WADE-MILLER** 50:46: So entered, Counsel.

**COUNSEL DIRK HARRISON** 50:50: Thank you. Now, Mrs. Whaley, is it Miss or Mrs. Whalley, forgive me,

**MRS. WHALLEY** 50:57: It is Whalley, not Whaley, two 'l's.

**COUNSEL DIRK HARRISON** 51:01: Whalley, my apologies, madam. Thank you very much. And I will try not to make that mistake again. Is it Miss or Mrs?

**MRS. WHALLEY** 51:11: Mrs. My husband just passed in January. I will stay Whalley.

**COUNSEL DIRK HARRISON** 51:15: My condolences to you. My condolences to you. Now, you have heard your grandson this morning speaking about the part of the family history that has brought him here on your behalf to submit this claim. Is there anything that you'd like to share with the Commissioners at this time?

**MRS. WHALLEY** 51:43: Thank you, sir. I think he's doing a good job. I just would like to know, most of the time it’s maybe hearsay, but, because most of our people have passed. It’s just passed down information.

**COUNSEL DIRK HARRISON** 52:08: Okay, and what does this occasion mean for you, having him sit here and tell the story of what has been passed onto you from generation to generation? What does this moment mean for you?

**MRS. WHALLEY** 52:23: It's quite interesting and I'm getting to know the history of Bermuda and what happened in the past. And what happened in the past, if there was a law, I, I guess it just happened. So whatever the law is of the land, you're just subject to it. You just take it or you can research into it and get more detail and really find out what is owed to you. Because what has been taken from you should be given back to you some way or the other. So I'm learning along with you all.

**COUNSEL DIRK HARRISON** 53:13: Thank you so much. Now, are you able to tell us or share with us based on what has been passed onto you over the years, do you know physically what, if there's any building or anything that exists on the site? Were you ever told first and foremost, were you ever shown first and foremost where the area that your relatives lived?

**MRS. WHALLEY** 53:53: I know that in Tucker's Town the area that my grandmother lived was on the curve going to Public Wharf, I know that much.

**COUNSEL DIRK HARRISON** 54:08: But the actual area that Lot 4 occupies, you're not certain where that is?

**MRS. WHALLEY** 54:13: That, that’s in Harris Bay on the south shore on the Talbot area, not sure…. Basically I knew quite a bit about Tucker's Town, but I really could not tell you.

**COUNSEL DIRK HARRISON** 54:33: Thank you very much. Now, thank you, I'm just going to return to your grandson now to allow him to continue his presentation. You may sit there if you wish to provide support to him or you may return to your seat. It's a matter for you.

Now, Mr. Jervis, is there any other document that you wish to rely on by way of submission of the claim to the Commission of Inquiry?

**MR. JONATHAN JERVIS** 55:19: I believe the last document which will actually connect me to Walter Smith would be the obituary of my late grandmother, great grandmother, Ms. May Smith, that was provided and there is more of it in, I guess, anecdotal description of speaking to her parents and her children and grandchildren.

**COUNSEL DIRK HARRISON** 55:47: Okay, thank you. We’ll refer to, we’ll go to that document, that set of documents now, thank you. Is this the document you referred to, sir?

**MR. JONATHAN JERVIS** 56:26: Yes.

**COUNSEL DIRK HARRISON** 56:19: It consists of how many pages, the obituary?

**MR. JONATHAN JERVIS** 56:30: It consists of 1, 2, 3 pages, sir, not including the last page of pictures. Actually four pages. There is, I'm sorry, when you say pages, pages of the document or pages as presented because it's two pages per page.

**COUNSEL DIRK HARRISON** 56:59: As presented, just ???, the total document consists of how many pages to include pictures?

**MR. JONATHAN JERVIS** 57:08: Three (3) pages

**COUNSEL DIRK HARRISON** 57:13: Thank you very much. Madame Chair, I would ask that the three (3) pages of this document, the obituary for May Rosaline Smith, I’ll ask that it is tendered and admitted as Exhibit JJ5**.**

**JUSTICE NORMA WADE-MILLER** 57:43: Counsel, you or the young man, can you repeat the name on the obituary?

**COUNSEL DIRK HARRISON** 57:50: Could I ask, it’s May Rosaline Smith. The obituary, the document consisting of three (3) pages, I’m asking that it is tendered and admitted as Exhibit JJ5**.**

**JUSTICE NORMA WADE-MILLER** 57:58: Thank you. The document, Obituary of May Rosaline Smith , consisting of three (3) pages is hereby entered as JJ5 Exhibit**.**

**COUNSEL DIRK HARRISON** 58:15: I kindly ask the witness to read the document for us, thank you.

**MR. JONATHAN JERVIS** 58:33: May Rosaline Smith, who was better known by everyone as “Momma May”, was born in Tucker's Town, Bermuda, the daughter of Geneva and Walter Smith, the younger sister of Evelyn. She was among the last original residents of Tucker's Town to leave when the community was infamously relocated to the Devil's Hill area. She said she remembered playing by herself because everyone else had moved already. She also remembered when the soldiers came and they had to move. Unlike the rest of the community, however, she moved back to Tucker's Town to Casa del Cerro where she was employed and lived for almost thirty more years, certainly making her the last member of the original community to leave when she moved to Cottage Hill, Crawl in 1981.

The community was close-knit and like the other young children, Momma May received her education at Talbot’s School. She had a good relationship with her mother and from her learned how to cook, sew and knit. She in turn was the mother of two sons and five daughters, Hilgrove, Philip, Janice, Marion, Fay, Burnette and Mavis. She had an especially close relationship with her niece Pearl Taylor who was not much younger than she was. The family remembers that she rode a bicycle and at times would put a stick across the front and tow either Pearl or Fay either to or from Tucker's Town and their home at Oleander Circle, Devil’s Hole.

Momma May married Thomas Smith and they lived at Oleander Circle and for a time on Somersall Road. Both were employed, as were most of the Devil's Hill residents, in the hotel, golf club or homes in Tucker’s Town. Momma May began her employment at Harrington House but soon accepted employment by the Bertles family a Casa del Cerro in Tucker's Town, not far from her actual birthplace. She was the housekeeper and cook and was organized and efficient. As a cook, she often planned menus for up to a month and with the budget she was given was able to determine the quantities and supplies needed to have the home fully stocked and all meals prepared and served with the efficiency of a first-class restaurant. As the housekeeper, the rooms were serviced and laundry was always done in a timely manner. Her scheduling of the home maintenance and groundskeepers ensured that the building and grounds were well maintained and manicured. She set high standards and expected others around her to do the same.

Momma May was a strong, maternal presence and her name will live on as three of her granddaughters and a grandson have May as part of their names. When she spoke to her grandchildren, she did not often have to speak twice. When she did, she also knew how to use her shoe! Each new grandchild had their turn sleeping in the junior bed in her bedroom and all begged to lick the mixing spoon after she made anything. She taught her grandchildren the importance of spirituality in their lives as she made sure they were in Marsden Methodist Church Sunday School every Sunday morning and worshipping in St. Philip's every Sunday afternoon. In 1966, Momma May took Bible studies with Aunt Joan Page. She was eventually baptized and joined and became a faithful member of the St. George's Seventh Day Adventist Church. "Until Then" was her favourite hymn and John 3:16 was her favourite text. Blue was her favourite colour. Many of her grandchildren still hold her spiritual values and continue looking forward to the coming of their Saviour.

When Casa del Cerro was sold in 1981, Momma May moved to Cottage Hill, Crawl with her daughter Burnette and her family and she transferred her church membership to the Midland Heights Seventh Day Adventist Church. She was very active in the Community Services Department and as an usher and Deaconess and she worked tirelessly cleaning the church and tending the church garden. She was even in the church choir. Sending cards became her personal ministry. She remembered everyone's birthdays and anniversaries and you could depend on receiving a card from her.

Momma May loved life. Among the lessons that she said she learned in life was to be obedient and listen to parents and teachers. She had a good laugh and a sense of humour and this was seen even into her senior years. The family remembers that she enjoyed listening to Del Delker albums, cutting clippings from the newspaper, knitting, reading and gardening. She ate bread with jam after her dinner and many of her grandchildren still like marmalade because of her.

For the last few years, Momma May was lovingly looked after by her daughter Fay and son-in-law Michael and she became a resident of a Lorraine Rest Home in Warwick. Her granddaughter Pauline, while working during the evening shift, was the last family member to see her alive on Sunday night, September 11. She fed, bathed and dressed her and Momma May called her for her kiss before she left the room. Momma May was found the next morning in a non-responsive state and did not regain consciousness.

In our conversations, we realize that no one had a bad experience or a negative thing to say about Momma May. She was a loving woman, a spiritual giant and the link that held our family together. We will always miss her and will always treasure our many memories that we have of her in our lives. Her nephew, Bernard Smith, gave her a quote that she really liked and that she shared with some family members: "Other things may change us, but we start and end with family.”

Momma May is survived by her son Hilgrove Smith and daughter Fay Whalley, daughter-in-law Thelma Joell, sons-in-law Michael Whalley and Burand Hill; grandchildren Shirley Nosakhere-Fountain, Natalie Talbot, Alex Smith. Clement Smith, Monroe Smith, Roslyn Amory, Pauline DeShield, Edwin Smith, Charles Watson, Ronald Smith, Eric Smith, Isabell Jervis, Shawn Smith, Kim Williams, Paul Douglas, Anthony Fubler; twenty great-grandchildren, nieces Pearl Taylor, Brianna Riley, Audrey Hayward, Roseclaire McGowan, Verna Perinchief; nephews Cyril ‘Humphrey’ Smith and Hughie Smith; special friends, Villa Tucker, Alfred Smith, John Thompson, the Midland Heights Seventh Day Adventist Church family and numerous other relatives and friends. She was predeceased by her children Philip Smith, Johnny Smith, Marion Smith, Burnette Hill and Mavis Douglas.

**COUNSEL DIRK HARRISON** 1:06:13: Thank you very much. Now could I take you, Mr. Jervis, back to your statement and kindly ask if you could assist us. In your statement which is Exhibit JJ1, on the first page and I read: “My great grandmother's father, Walter Smith, who was illiterate was allegedly presented with legal documents to sign for which he could’nt do due to the fact that you are unable to read and write. The particular document is presumed to outline how he and his wife's property would be handled and how they would be compensated. My great grandmother's mother, Geneva, Smith who was fortunate enough to be literate was prevented from assisting her husband Walter in the matter in reviewing the memorandum of terms of agreement to allow for a sound decision to be made.” Now, in respect of that extract that I read, sir, could you share with us and shed any more light in respect of that statement? That extract?

**MR. JONATHAN JERVIS** 1:07:39: The extract in which you are referencing has been passed on by my great grandmother and my grandmother and my mother speaking to the fact of how my great grandmother's father, Walter Smith, was unable to properly, I guess advocate, for himself due to his lack of literacy. And the loss of the land at the time prevented his wife from stepping in and providing support in which she was competent in doing so as a literate individual. I do not know or I'm also not aware of actually what occurred when it came to the dissemination of the property or what happened to the property following this presumed incident. However, it will be interesting to see the paper trail of what actually happened because there is words of property on Knapton Hill and its connection to Walter Smith, but there is nothing that I can speak to, a fact of what the connection is there. But there is presumed something to do with Knapton Hill and the family living there or portion of the family living there, oh, outside the family.

**COUNSEL DIRK HARRISON** 1:09:29: Thank you. Thank you very much. Is there any other document or any other comment you wish to make to the Commissioners at this time in closing?

**MR. JONATHAN JERVIS** 1:09:42: I believe these are all the documents in which I've submitted in hopes to gain clarity and answers.

**COUNSEL DIRK HARRISON** 1:09:55: Thank you very much for that. Thank you to the two of you for the presentation. Madame Chair and Commissioners, I have no further questions at this time.

**JUSTICE NORMA WADE-MILLER** 1:10:08: Thank you, Counsel. I’ll just find out from Commissioners if they have any. Go ahead please, Mr. Stovell.

**MR. QUINTON STOVELL** 1:10:19: Good morning Mr. Jervis and Mrs. Whalley. I'm certainly glad to have you here today. I just have a couple of questions and I think you kind of alluded to it earlier, but I was a bit unclear in the fullness. Have your family ever made any attempts to revisit the family's ancestral land?

**MRS. WHALLEY** 1:10:53: I don't understand. To revisit?

**MR. QUINTON STOVELL** 1:10:56: Have you, have you, has anybody ever had, made the effort to go and see or visit the location of the property that was expropriated?

**MR. JONATHAN JERVIS** 1:11:12: And this is lot number 4?

**MR. QUINTON STOVELL** 1:11:13: Yes.

**MR. JONATHAN JERVIS** 1:11:14: My understanding is that my great grandmother lived in Tucker's Town for thirty years and my eldest uncle, Adam Smith, lived with her for a portion of his childhood. All of my uncles and aunts and my granny frequented Tucker's Town area and before it was fully developed, where it is right now, today. I can assume or presume that they had to cross paths with the specific property. I'm not sure if they actually were ever aware of the property actually being that Walter Smith’s inherited land, their grandfather, and he subsequently lost his land due to the Bermuda Development Act. So I'm not aware of any barricades or walls or fences that may prevented them from having access to the roads or the property referenced in lot number 4. However, myself, in my generation, I haven't had access to those properties as it is private property and this is the first mention, as far as I'm aware, of an opportunity to inquire on these facts. And through this process, I've learned of lot number 4 and I've been able to learn of Joanna Talbot's will and the names of my ancestors which I was not aware of before this process, right up into, I believe, slavery, of the birth, not the birth records, the marriage records, oh, from the church, records speaking up until, I believe I submitted it to the Commission originally just speaking to the names which then brought attention to the bill. So it's been more of new information to a lot of people in the family.

**MR. QUINTON STOVELL**  1:13:14: Okay, staying sort of on that topic, if I may address you, Mrs. Whalley, you had mentioned something about property in the proximity of the Public Wharf. Were you referring to where you think that the family's property may may be?

**MRS. WHALLEY** 1:13:39: That's where the homestead was. That's where the homestead was, on the corner as you go down to Public Wharf.

**MR. QUINTON STOVELL** 1:13:48: Okay.

**MRS. WHALLEY** 1:13:49: And my granny always liked, she loved gardening and she always had match-me-if-you can trees there and up to today, you used to see a lot of match-me-if-you can trees there.

**MR. QUINTON STOVELL** 1:14:06: Okay, and the reason I ask that because that is a public road.

**MR. JONATHAN JERVIS** 1:14:13: That being said, um, my mom actually said she used to spend her lunch, she’s a nurse, my mother, a public health nurse assisting with the pandemic, so she is a hero, but in her younger years, nursing years when she worked for King Edward, she spent her lunches actually at Public Wharf. I've been there a few times as a child with her as well. This is a nice place to sit off and relax, really, so I have been there as a younger person.

**MR. QUINTON STOVELL** 1:14:44: Okay. I think that's it for me, Madame Chair.

**JUSTICE NORMA WADE-MILLER** 1:14:48: Thank you. Thank you, Commissioner.

**MS. LYNDA MILLIGAN-WHYTE** 1:14:50: Good morning.

**MRS. WHALLEY** 1:14:53: Morning.

**MS. LYNDA MILLIGAN-WHYTE** 1:14:55 I wonder to what extent you have taken an opportunity to search the Government Registry Office or the Vestry in the church.

**MR. JONATHAN JERVIS** 1:15:13: Through Ms. Leyoni Junos, actually, I was able to, it was through the Registry of something, Marriages or Deaths, I can't, I'm not quite certain which of those Registries it was, but I was able to see the names of Walter Smith, Joanna Talbot, the Joanna Talbot, actually, it's written here. So, it was connecting James Talbot with his father Baker Talbot. James Talbot is Joanna Talbot’s husband, they were married in 1849 and it goes back to the parents’ occupation, whether they were a slave or if they were actually a working free individual and it’s got symbols that speaks to that, whether they are a slave or free. And then it goes down to all of the children of Joanna and James Harrington Talbot, John Samuel Talbot and daughter Serena Cordelia Talbot. She's the daughter of Joanna and James and the wife of Frederick Ellis Smith, married 1879, which then produced Joanna, Joanna was the mother of Walter Smith who then was the father of my grandmother's mother, May Smith. So I was able to gain access to it through the PDF that Miss Junos had. However, I don't actually own that PDF or have it in my own possession, but I was able to trail the family lineage relevant to the conversation about Walter Smith, but then also further from there, his parents and their parents.

**MS. LYNDA MILLIGAN-WHYTE** 1:17:26: Okay, thank you. Thank you.

**JUSTICE NORMA WADE-MILLER** 1:17:34: Thank you, Mrs. Milligan-Whyte.

**MS. MAXINE BINNS** 1:17:40: Hi Mr. Jervis, just a point of clarification. In your statement, you make reference to the Bermuda Development Company No. 2. Are you, well I want to know how you got to that reference in relation to your great grandmother's father, Walter Smith's inherited property. What's the connection with, are you trying to infer that because of that Act that gave the power to expropriate land, that we should make that connection with Walter Smith losing his land and the deed subsequently?

**MR. JONATHAN JERVIS** 1:18:27: Yes, if, I don't have the Act currently in front of me as I use, I accessed it online. However, the Bermuda Development Company Act, I believe, ties in with Bermuda’s, I'm assuming Tourism Strategic Plan, in developing Bermuda and gaining more money for the country, and through the Act, a Commission was put forth, Commissioners consisting of individuals named inside the Development Company Act with the last names of current functioning companies in Bermuda and law firms that will speak to the Act and also its obligations and the powers the Act has and also the objective of that.

**MS. MAXINE BINNS** 1:19:21: But did you in your research come across any of your relatives’ names in relation to the petition that was signed or any connection to the Bermuda Development Company in the acquisition or expropriation of land, any connection there, were any of your relatives listed as being a part of that petition?

**MR. JONATHAN JERVIS** 1:19:50: The petition I haven't seen or have access to that just as yet.

**MS. MAXINE BINNS** 1:19:57: Just how did you get to this connection?

**MR. JONATHAN JERVIS** 1:19:58: The connection would have to do with the date and time which my grandparents, great grandparents, their removal of or from the property and also the connection of the date of the Act. So it'll be more of the time period in which what was going on at the time? That's what I presume to be.

**MS. MAXINE BINNS** 1:20:25: But you can't confirm that?

**MR. JONATHAN JERVIS** 1:20:30: I'm not sure. I would like to gain that information.

**MS. MAXINE BINNS** 1:20:41: I think that's it. I just wanted to find out for point of clarification whether or not that's what we could look at if we are trying to tie in this matter with those petitioners that actually signed the…

**MR. JONATHAN JERVIS** 1:20:55: That’s a possibility, that would be nice to see. But my connection is more or less the date and the purpose of the Act and the context of the region of the land and which we're mentioning.

**MS. MAXINE BINNS** 1:21:09: Yeah, that's the only question I had.

**JUSTICE NORMA WADE-MILLER**1:21:26: Counsel, that's all the questions from Commissioners. I don't know if grandmother, Mrs. Whalley, has anything to add and I don't know if there's anything arising from the question that you wish to explore.

**COUNSEL DIRK HARRISON** 1:21:42: Nothing arising from me, Madame Chair. I'm not certain that grandmother, she says her grandson is doing a good job. I don't know if she wishes to add anything else.

**JUSTICE NORMA WADE-MILLER** 1:22:02: Mrs. Whalley, do you wish to add anything to what has been said?

**MRS. WHALLEY** 1:22:07: Not really. I think Jonathan's doing a good job with his research. I, like I said, I knew years ago that family members were looking into it but they said if they had to pay the tax to Government, they couldn't afford it. So they just left it alone.

**JUSTICE NORMA WADE-MILLER** 1:22:32: Thank you. I think that's all she wishes to say, Counsel, so I leave it in your hands.

**COUNSEL DIRK HARRISON** 1:22:39: Thank you very much. That's the evidence therefore, Madame, in respect of this claim, 044.

**JUSTICE NORMA WADE-MILLER** 1:22:53: Thank you, Mr. Jervis and Mrs. Whalley. That's the end of your evidence and the matter of course in due time, we will be considering it and see what comes of your evidence. Okay, thank you both. Thank you.

**MR. JONATHAN JERVIS** 1:23:10: Thank you,

**MRS. WHALLEY** 1:23:11: Thank you.

**JUSTICE NORMA WADE-MILLER**1:23:12: Counsel, we're going to take the morning break now and resume at one o'clock. We will adjourn and resume at 1:30 pm. Counsel.

**COUNSEL DIRK HARRISON** 1:23:31: Very well, Madame Chair. Thank you all.

**END OF TRANSCRIPTION MARCH 24 (MORNING SESSION A) AT 1:23:53**