

VERBATIM NOTES
OF
COMMISSION OF ENQUIRY INTO CIRCUMSTANCES
THAT LED TO THE COLLAPSE OF THE FINANCIAL INSTITUTIONS
IN THE 1990s

HELD AT
THE JAMAICA PEGASUS HOTEL
81 KNUTSFORD BOULEVARD, KINGSTON 5

ON
THURSDAY, 10TH DECEMBER, 2009

PRESENT WERE:

COMMISSIONER

The Hon. Mr. Justice Boyd Carey (Ret'd)

MEMBERS

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

Hon. R.N.A. Henriques OJ, QC, LLM

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING THE EVIDENCE

Mrs. Kelley Wong-Henry - Attorney-at-law

REPRESENTING JAMAICA REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-law

REPRESENTING BANK OF JAMAICA

Mr. Michael Hylton, Queen's Counsel
Mr. Kevin Powell - Attorney-at-law

REPRESENTING DEBTOR

Melissa Cunningham - Attorney-at-law

REPRESENTING DEBTOR

Mr. Anthony Levy - Attorney-at-law

REPRESENTING MR. ERROL CAMPBELL

Mr. Lackston Robinson - Attorney-at-law

Mrs. Mitchell Shand-Forbes - Attorney-at-law

REPRESENTING MR. PATRICK HYLTON

Mr. Gavin Goffe - Attorney-at-law

REPRESENTING ASSOCIATION OF FINSAC'D ENTREPRENEURS

Mr. David Wong Ken - Attorney-at-law

REPRESENTING DEBTOR

Dr. Christopher P. Malcolm

REPRESENTING MISS SHIRLEY TYNDALL

Mrs. Nicole Foster-Pusey

GIVING EVIDENCE:

Miss Shirley Tyndall - Former Financial Secretary

1 THURSDAY, DECEMBER 10, 2009

2 ON RESUMPTION AT 2:05

3 CHAIRMAN: Good afternoon ladies and gentlemen.
4 This Commission of Enquiry is now in
5 session. Miss Tyndall would you stand
6 please and take the oath.

7 (Miss Tyndall sworn)

8 Thank you, have a seat, please.

9 MRS FOSTER-PUSEY: Good afternoon Mr. Chairman,
10 Commissioners, counsel.

11 CHAIRMAN: You may have to speak into the
12 microphone.

13 MRS FOSTER-PUSEY: Good afternoon Mr. Chairman,
14 Commissioners, Mr. Henriques, counsel,
15 all present. I appear for Miss Tyndall.

16 CHAIRMAN: Will you state your name for the record.

17 MRS FOSTER-PUSEY: I am Nicole Foster-Pusey,
18 attorney-at-law and I appear for
19 Miss Tyndall. Mr. Deperalto has
20 indicated that I should lead
21 Miss Tyndall through the written
22 responses that have been provided and I
23 will now do so.

24 CHAIRMAN: Before you start that phase, would you
25 announce counsel who are present for the

1 purpose of the record.

2 MRS FOSTER-PUSEY: For the purposes of the record,
3 Mr. Michael Hylton, appearing for the
4 Bank of Jamaica; Mrs. Sandra
5 Minott-Phillips appearing for JRF.

6 CHAIRMAN: I think he appears for more than that.

7 MRS FOSTER-PUSEY: And also Dr. Davies. Mr. Anthony Levy
8 who appears for DEBTOR, I
9 believe those are all the counsel.

10 CHAIRMAN: No, maybe I, I didn't hear the lady
11 present.

12 COMM. BOGLE: Oh, yes, she did.

13 MRS FOSTER-PUSEY: Yes, indeed, I did indicate Mrs.
14 Minott-Phillips for the JRF.

15 CHAIRMAN: Bravo. I am losing my hearing, never
16 mind, I am very sorry, I apologise.
17 Very well.

18 MRS FOSTER-PUSEY: Mr. Chairman, I will now lead Miss...

19 CHAIRMAN: Before you lead we need to know her
20 status.

21 MRS FOSTER-PUSEY: That is so, I was about to start with
22 that, Mr. Chairman.

23 CHAIRMAN: Very well.

24 MRS FOSTER-PUSEY: Your name a Shirley Tyndale?

25 MISS TYNDALL: Shirley Tyndall.

1 Q: Tyndall, oh, I was corrected in the
2 first instance. Shirley Tyndall. And
3
4 A: what's your occupation?
5 Q: I am a Pensioner.
6 A: And when did you retire?
7 Q: 2005, the 1st of May.
8 And immediately before you retired what
9 A: position were you holding?
10 I was the Financial Secretary in the
11 government of Jamaica for 16 years up to the
12 date of my retirement.
13 MR. LEVY: Mr. Chairman, we are having a problem, the
14 mike is too far away from Miss Tyndall.
15 CHAIRMAN: Would you speak into the microphone please,
16 Miss Tyndall, we have all kinds of problems
17 up here.
18 Q: So you indicated that at the time that you
19 retired you had been serving as Financial
20 Secretary for 16 years? Yes.
21 A: Now you also served on the Board of
22 Q: FINSAC?
23 Yes.
24 A: Over what period did you serve?
25 Q:

1 A: From its inception until 2007.

2 Q: And in what capacities did you serve?

3 A: From its inception I was Deputy Chairman
4 to Dr. Rattary and in 2007, after
5 Dr. Rattary died I assumed the
6 chairmanship of the Board.

7 Q: Now at the time that you assumed
8 chairmanship what remained in terms of
9 the business that was being carried out?

10 CHAIRMAN: Before you get into that, there are a
11 whole range of institutions in which
12 Miss Tyndall has interest, more than a
13 passing interest and it relates to our
14 Terms of Reference, so would you deal
15 with all the various institutions in
16 respect of which she has occupied some
17 position of responsibility.

18 MRS FOSTER-PUSEY: I am afraid I may have to defer to, and
19 ask Miss Tyndall. Miss Tyndall, in
20 terms of other bodies that were involved
21 in FINSAC, FIS, Refin, et cetera, did
22 you hold any other positions in any of
23 those other entities?

24 A: The only other Board position I held, I
25 was on the Board of the Deposit

1 Insurance when it was established and was
2 also on the Board of the Bank of Jamaica.

3 And for what period and over which years were
4 Q: you on the Board of the Bank of Jamaica?

5 I was on the Board of the Bank of Jamaica
6 because as Financial Secretary I

7 A: automatically became a member of the Board
8 of the Bank of Jamaica and I held that until
9 I retired. For Deposit

10

11

12 Insurance it was from its inception
13 until 2007.

14 Q: Thank you. Mr. Chairman, are there other
15 areas into which I need to venture?

16 CHAIRMAN: Insofar as Refin is concerned, was there
17 any position she held?

18 Q: Insofar as Refin, did you hold any
19 position?

20 A: No.

21 Q: And FIS, did you hold any position? FIS,

22 A: yes, I was on the Board of FTS. And for

23 Q: what period?

24 A: After the divestment of the major

25 activities and FINSAC was undertaken,

1 FINSAC went as a shelf company and FIS
2 was the company and that was the period
3 I was Chairman of.

4 Q: Can you recall the dates, can you give
5 an approximation of the dates?

6 A: I tell you I don't remember what years,
7 but the records of FINSAC/FIS should
8 show that, I can't recall that now
9 because that is not something I keep in
10 my head, it wasn't that important or it
11 isn't that important.

12 Q: Oh, you mean in terms of years?

13 A: Yes.

14 Q: I see. Mr. Chairman any other area that
15 I need to explore?
16 CHAIRMAN: NIBJ.

17 Q: Have you also served in any capacity on
18 the Board of NIBJ?

19 A: In the early years as Financial
20 Secretary but I came off and other
21 members of the Ministry of Finance
22 served.

23 Q: Were you just a board member or did you
24 hold...

25 CHAIRMAN: What position?

- 1 Q: Any specific position?
- 2 A: No, I was just a board member for about
3 two or three years, not more than that.
4 I can't recall, don't hold me to
5 whatever but I know that it was in the
6 early years as Financial Secretary and
7 then I came off and someone else took
8 over, I was replaced.
- 9 CHAIRMAN: Yes.
- 10 MRS FOSTER-PUSEY: At the time when you assumed
11 chairmanship of the FINSAC Board, what
12 business was left to *be* transacted, for
13 example, I am trying to relate to was
14 the portfolio sold or was it yet to be
15 sold?
- 16 A: No, all those decisions were taken, what
17 was left was some legal matters and some
18 winding up of some very small
19 enterprize, it wasn't a major operation
20 as in the earlier years.
- 21 Q: So just to be clear, the loan portfolio
22 was already sold when you assumed
23 chairmanship?
- 24 A: Yes.
- 25 Q: Mr. Chairman, with your permission I

1 will move on to the questions.

2 CHAIRMAN: Yes, certainly.

3 Q: Miss Tyndall, you received certain

4 questions from the Commission?

5 A: Hmmm.

6 Q: And you prepared certain responses?

7 A: Hmmm.

8 CHAIRMAN: Please, I don't know if the Reporter can

9 record that sound.

10 MRS FOSTER-PUSSY: Oh, well, say yes or no, please

11 Miss Tyndall. You received certain

12 questions from the Commission?

13 A: Yes.

14 Q: And you prepared written responses to

15 those questions?

16 A: To the best of my ability, yes.

17 Q: So we will now go through and you

18 indicate what your responses were for

19 the purpose of the record.

20 CHAIRMAN: Before Miss Tyndall starts.

21 Miss Tyndall, as Financial Secretary you

22 were the Chief Technical Officer in the

23 Ministry of Finance, would you not?

24 A: Yes.

25 CHAIRMAN: You would be obliged to render advice to

1 the Minister?

2 A: Yes, that's a part of my Terms of
3 Reference as Financial Secretary.

4 CHAIRMAN: Indeed. Just one moment. Insofar as
5 the Ministry of Finance is concerned, is
6 there a department which existed dealing
7 with research into matters financial?

8 A: There is a Fiscal Policy and Monitoring
9 Unit, yes, which is there it is in the
10 Ministry of Finance.

11 CHAIRMAN: Yes, and you would of course rely on
12 their expertise?

13 A: Yes.

14 CHAIRMAN: Indeed. Very well. Let's continue.

15 MRS FOSTER-PUSSY: First question, Miss Tyndall. It has
16 been argued that strategic policy
17 decisions made by the Administration
18 played a significant role in the
19 collapse of the financial sector in the
20 mid 1990's. How do you respond to this
21 questions?

22 A: So you want me to say the response
23 that's there.

24 Q: You don't have to read it, I would
25 suppose as long as the substance of what

1 is there is indicated that would be
2 sufficient.

3 CHAIRMAN: You can speak to it.

4 A: Well, I will just say to expand on what I
5 have here.

6 CHAIRMAN: Indeed, yes.

7 A: Its just to advise the Commissioners that
8 strategic policy decisions during that
9 period in time, those were taken within the
10 context of the reforms that arose out of the
11 various structural adjustment loans that
12 the government signed with the
13 multi-lateral agencies and these loans
14 advocated globalization, deregulation and
15 liberalization. So all policy decisions
16 would have to be analyzed within that
17 framework.

18 Q: Before I go on to the second question Miss
19 Tyndall, indicate the substance of what is
20 on the -

21 CHAIRMAN: First question isn't complete, answer it
22 completely.

23 Q: - document as well as if you need to add
24 anything. In terms of the first question. It
25 says: Strategic policy

1 decisions played a significant role. So
2 perhaps you could respond as to what role,
3 if any, do believe these strategic policy
4 decisions had in the collapse of the
5 financial sector. You could just summarize
6 what you have here and if you have any
7 additional comment on that particular
8 question.

9 A: Well, the investigations into the collapse
10 of the various financial entities
11 concluded that the primary cause for the
12 collapse was poor management and
13 inappropriate management the decisions.
14 Therefore policy decisions taken in the
15 public interest could not be -- well, I
16 failed to understand the relationship
17 between policy decisions made in the public
18 interest and the collapse of a significant
19 part of the financial sector due to bad
20 management of companies, because there
21 were several companies in the financial
22 sector, for instance -- BNS never failed.
23 There were several companies in the
24 financial
25

1 sector that survived during that period.

2 Q: Thank you. Was legislative deficiency a
3 factor in the effective supervision of
4 the financial sector during the 1990's?

5 A: Yes, I would say yes, the legislation in
6 some instances with hindsight needed to
7 be improved and that is why the
8 intervention included steps to
9 strenghten both the legislative
10 framework and also to reform the
11 regulatory environment.

12 Q: Now, what was the role of the Ministry
13 of Finance in the licencing, supervision
14 and regulation of the insurance
15 companies?

16 A: The office of Superintendent of
17 Insurance and Unit Trust was a
18 department of the Ministry of Finance
19 with responsibility for the
20 administration of two specific Acts, the
21 Insurance Act of 1971 and the Unit Trust
22 Act. The head of this department, like
23 the head of a number of other
24 departments in the public sector, had
25 some autonomy in the administration of

1 department as set out in the Act. The Act
2 gives the Superintendent of Insurance
3 authority to licence,
4 supervise and regulate the industry right
5 through to the appointment of a judicial
6 manager, if there is a problem. It relegates
7 the role of the Minister/Ministry to that of
8 hearing appeals, giving directions in
9 relation to those appeals, legislation and
10 receiving reports for tabling in
11 Parliament.

12
13 Q: Now it has been argued that supervision and
14 regulation of insurance companies were
15 almost non-existent. Would you agree with
16 this statement that supervision and
17 regulation of insurance companies was almost
18 non-existent? There was regulation and

19 A: supervision of the insurance sector but it
20 was not as stringent as in some jurisdictions
21 like Canada and some states of the United
22 States, but our law was patterned off the UK
23 model which required companies to give full
24 disclosure and gave the

25

1 companies freedom to operate. The UK model
2 which we adopted produced in the United
3 Kingdom a very competitive insurance
4 industry. Now the multi-lateral supported
5 structural reforms...

6 Just one moment please. How would you have
7 CHAIRMAN: described the supervision of insurance
8 companies during that period, if you had a
9 scale of one to five, where would you put
10 supervision in that scale? Z would say that
11 there was some supervision because the Act

12 A: is quite specific about what the companies
13 should do, the reporting that the company
14 should make, and I felt that it wasn't as
15 rigid because they were operating in an era
16 where you are looking at deregulation, so
17 you wouldn't expect the Superintendent to
18 micro-manage the industry but certainly
19 there was interaction between the
20 Superintendent and his staff and the
21 industry.

22 Let me tell you why I am asking the
23 question. The Minister when he was
24 CHAIRMAN:

25

1 giving evidence as I understand him,
2 thought that the insurance company
3 played a significant role in the
4 ultimate collapse.

5 A: No, I am not saying that they didn't
6 play a role.

7 CHAIRMAN: No, I added an adjective.

8 A: Yes, I heard.

9 CHAIRMAN: I added an adjective, 'significant,' and
10 I try to choose my words careful so that
11 he was putting some emphasis on that, if
12 I might suggest it. The poor management
13 which you have, I think, identified,
14 would have been continuous, it didn't
15 just start up immediately before the
16 collapse it was going on all the time.
17 Would it not?

18 A: Well, let me say something. Now, I
19 can't remember at this point in time
20 like exact dates when exact things
21 happened but I will say that yes, there
22 was poor management but the poor
23 management started when Mutual Life
24 acquired Royal Bank of Canada -- don't
25 ask me what year then that was sold

1 to NCB and Mutual Life assumed the management
2 of NCB because the Board, et cetera of NCB
3 was then conducted by Mutual Life. That was
4 also the era when the companies went into
5 various investments: hotels, agriculture...
6 Non-core business?

7 CHAIRMAN: Yes. The point is that they would have valued

8 A: their investments following the accounting
9 principles but sometimes they would value it
10 at cost and sometimes they would value it at
11 market value depending on how -- that is what
12 came out when we studied the thing -depending
13 on how it suited them at the time, then there
14 was this regulatory arbitrage, because what
15 they did was, they would move assets around
16 between various segments in the group, so I
17 wouldn't say the insurance companies
18 alone...

19 No, no.
20 -- were responsible for it, but yes, they
21 played a role. The Superintendent of
22 CHAIRMAN: Insurance, it probably would have
23 A:

24

25

1 been difficult for him because he would
2 have been relying on reports from their
3 investment managers, risk managers and
4 actuaries which he would then send but
5 he could probably describe that more to
6 you precisely what happened.

7 CHAIRMAN: Oh, he is coming, we hope, but we could
8 see, you were the chief technical
9 officer so we have to ask you as well.

10 A: Remember the Superintendent of Insurance
11 was a relatively autonomus department.

12 CHAIRMAN: Maybe but he is an officer in your
13 department.

14 A: So I say the Ministry of Finance would
15 not micro-manage the Superintendent's
16 office.

17 CHAIRMAN: Nonetheless he is an officer in your
18 department, would he not?

19 A: Yes, he is, but his relation to the
20 office of Financial Secretary related
21 more to my functions as Accounting
22 Officer in the Ministry, his regulatory
23 and supervisory role was prescribed by
24 the Insurance Act of 1971.

25 MRS FOSTER-PUSEY: So I think the question then

1 Miss Tyndall is: Would you be able to
2 instruct the Superintendent of Insurance
3 as to what decisions he should take in
4 respect of registration or any action to
5 be taken against an insurance company?

6 A: No, I could not because it would have
7 been contrary to...

8 CHAIRMAN: We accept that, I don't think you need
9 that, that is not our business.

10 Q: Thank you, Mr. Chairman. Now
11 Miss Tyndall, what in your view are the
12 factors which cause the financial crises
13 of the 1990's?

14 A: Now in 1996 the Insurance sector
15 representatives approached the
16 government and requested assistance to
17 address problems which had emerged in
18 that sub-sector and which had spilled
19 over into the commercial banking sector,
20 the Minister of Finance established a
21 team to determine the extent and the
22 nature of the problems and develop
23 appropriate solutions. The team's
24 report was captured in the Ministry
25 Paper #13 of 1998 that was tabled in

1 Parliament and it identified the
2 mismatch of assets and the liability
3 maturities; the diversification away
4 from core business; high operating cost;
5 financial conglomerates; those were the
6 four major things that were identified.

7 Q: Could you expand on what you meant by
8 the financial conglomerates.

9 CHAIRMAN: Just one moment, I might have missed
10 something. The Ministry Paper was?
11 A: Ministry Paper #13 of 1998.
12 CHAIRMAN: 1998. Thank you.

13 MRS FOSTER-PUSEY: When you referred to financial
14 conglomerates as one of the causes,
15 what exactly do you mean?

16 A: The groups of financial entities emerged
17 really to take advantage of the
18 regulatory arbitrage (in respect of
19 taxes and reserve requirements) between
20 commercial banks, merchant banks, et
21 cetera, and between different types of
22 financial institutions. Major life
23 insurance companies began to own banks,
24 and I tell you Mutual Life bought Royal
25 Bank which became Mutual Security Bank

1 then they bought into NCB, okay. Then there
2 was some relationship between Citizens Bank
3 and Life of Jamaica, I don't know who owned
4 whom, whether it was Life of Jamaica that
5 owned Citizens Bank or Citizens Bank owned
6 Life of Jamaica, but there was also that
7 relationship. Now, as part of this trend
8 major life insurance entities began to own
9 banks, banks owned hotels, major investments
10 in other areas of productive activity like
11 farming, et cetera. When faced with liquidity
12 problems, these life insurance companies
13 would induce the banks to provide loans
14 16 often on favorable
15 terms and in excess
16 17 of legal lending
17 limits.

18 Q: Thank you. Now the next question: The
19 Bank of Jamaica and **its** submission
20 identified the insurance companies as a
21 major factor, and I think Mr. Chairman
22 had asked...

23 CHAIRMAN: Just one moment.

24 COMM ROSS: **Miss** Tyndall, did the prevailing
25 economic circumstances have anything to

1 do with the problem from the research that
2 was conducted at the time?

3 A: What I have is the Ministry Paper, I think
4 you will probably have to go to the Ministry
5 of Finance to get the information on the
6 research and the factors that assisted in
7 that research, the researchers coming to
8 that, to their conclusions.

9
10 CHAIRMAN: Was there any input from international
11 agencies like the IFM, IDB, World Bank? Not
12 at this stage, no.

13 Q: What year in particular are you
14 referring to?

15 A: You are asking, I can tell you when the
16 Ministry Paper was, it was in 1998. Now the
17 insurance companies came to the Ministry in
18 1996 so it was somewhere between '96 and '98.
19 So see you can't pin me down to exact dates,
20 times and issues for something that occurred
21 10,13 years ago when I am out of the system
22 and I haven't got access to the information.
23 I am just trying to get an idea because

24
25 Q:

1 we have documents from those agencies
2 dating back as far as 1995 and they did
3 mention other factors than the ones that
4 you have listed here.

5 A: The only information I have available to
6 me at this time was the Ministry Paper
7 which is a public document and which I
8 got from Parliament. I mean it's not
9 fair to expect me to answer questions in
10 details going back 13, 14 years ago from
11 memory because a lot of it would be
12 guessing.

13 MRS FOSTER-PUSEY: Mr. Chairman, Commissioners, do you
14 still need a response in respect of
15 whether the insurance companies was a
16 major factor, I think you Mr. Chairman
17 had in fact asked Miss Tyndall questions
18 to that effect earlier.

19 CHAIRMAN: For the moment we are content.

20 MRS FOSTER-PUSEY: So I will move on then.

21 CHAIRMAN: If you are advised later we will return
22 to the question and to Miss Tyndall.
23 Thank you. Miss Tyndall, questions now
24 concerning money supply and inflation
25 and interest rates. For the period 1990

1 to 1995 money supply averaged 33.2%,
2 inflation averaged 38.9%, interest
3 rates averaged 49.2% and from that outline
4 of facts now you are asked the following
5 questions: 1. Would you characterize these
6 outcomes as extraordinary by global
7 standards? 2. What informed the policy
8 choices at the time which occasioned these
9 outcomes? And what was the impact of the
10 these outcomes on the business community at
11 the time particularly within the context of
12 debt/equity ratio?

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4 15

16 Continued...

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3 MISS TYNDALL: Well, from where I sat some years ago, I
4 would not be comparing Jamaica's
5 performance by global standards. I
6 would be comparing Jamaica's performance
7 against countries at a similar stage of
8 development as ours. Unfortunately, I
9 have not got any data to say yea nor nay
10 as far as this is concerned, because you
11 will appreciate I'm a private citizen
12 now, I live at home and I have no place
13 to store books and things like that.

14 Q You are saying you don't have that
15 information...

16 CHAIRMAN: Just one moment. Because I suspect that
17 we are going to hear this thing
18 repeated. Now, this Commission wrote
19 you, Miss Tyndall, did they not and

20 furnished you with a copy of the terms
21 of reference?

22 A I don't remember if I got the terms of
23 reference, I remember getting the
24 questions.

25 CHAIRMAN: No, prior to any questions being given

1 to you. It is because of some reaction
2 why we had to send questions. You don't
3 recall getting the terms of reference or
4 being provided with it an early stage?
5 A Probably. I don't remember, but I know
6 I got a letter which I replied to
7 telling them that I have demitted office
8 as financial secretary, I am a private
9 citizen and I wouldn't have these
10 information, I would just be replying
11 from memory, what I can remember and
12 that was the reply I sent to the
13 Commission.

14 CHAIRMAN: Yes. Miss Tyndall, you do think that
15 this Commission is terribly important in
16 historical terms in Jamaica, do you not?

17 A I have no views on this, Commissions.
18 I'll tell you Mr. Chairman. At this
19 point in time...

20 CHAIRMAN: Yes.

21 A ...I am a pensioner who is sitting at my
22 house, minding my own business and doing
23 what I want to do.

24 Q Well we are happy that you are happy in
25 retirement, but regrettably you held and

1 occupied a very high position in this
2 country and your actions to some extent
3 has affected the lives of many people
4 and this Commission is charged with the
5 responsibility of examining the
6 circumstances. Now what I want to ask
7 you is this. Having received from us a
8 copy of this, of our terms is a request
9 that you speak to it. Your approach is
10 I'm a pensioner and I don't remember
11 anything. Would that be a correct
12 assessment of the situation?

13 A What I am saying to you to Mr. Chairman
14 and what I am saying to this Commission
15 is, I have not got resources or data in
16 which to do this type of analysis and as
17 a private citizen, who is going to
18 supply me with the resources to get the
19 research staff to answer these
20 questions?

21 CHAIRMAN: Yes. Now, since you regard this as an
22 important Commission, not to be
23 dismissed as having no purpose, do you
24 suppose as a former Financial Secretary
25 that if you phone up the Ministry and

1 say, can I get so and so that they would
2 not allow you to have a sight or look or
3 whatever?

4 A Please. I don't ask serving public
5 servants now to provide me either with
6 information or to work for me because
7 what I would have to do is to get some
8 researchers to sit down get this
9 information and analyze it. I don't
10 even own a calculator. I left all of
11 those when I left the work.

12 CHAIRMAN: Very well, thank you very much. Thank
13 you. Yes, Miss?

14 MRS. FOSTER-PUSEY: Yes, Miss Tyndall, you had commenced
15 responding to the question in respect of
16 money supply, inflation, interest rates
17 and you had spoken to your view in
18 respect of comparing Jamaica's position
19 with global standards, you had already
20 responded to that.

21 A Uhmm.

22 Q Now the next question was...

23 CHAIRMAN: Would you mind responding so that the
24 reporter can note it. I hear the sounds
25 I am not phonetic if you don't mind,

1 growth in money supply to 10.7% and the
2 first question...

3 CHAIRMAN: I'm sorry, we can't pass things over
4 just like that, I don't think. The
5 response to the question was, I don't
6 know?

7 MRS. FOSTER-PUSEY: Which of the questions, Mr. Chairman.

8 CHAIRMAN: What was the impact?

9 MRS. FOSTER-PUSEY: What was the impact of these outcomes on
10 the business community at the time,
11 particularly within the context of the
12 debt/equity ratios?

13 CHAIRMAN: And the answer was?

14 MRS. FOSTER-PUSEY: My understanding is that she did not
15 have the information.

16 A Yes. I say I cannot speak to part C of the
17 question as I do not have the information.
18 Yes?

19 CHAIRMAN: 20 MRS. FOSTER-PUSEY: Yes, Mr. Chairman.

Moving on to the

21 following question. In 1996 Government
22 drastically reduced the growth in money
23 supply to 10.7%. The first question is,
24 what occasioned this policy reversion at
25 the time and was the magnitude of the

1 adjustment injurious to the economy? So
2 this is in respect of the reduction of
3 the growth in money supply.

4 A And I will say monetary policy resides
5 with the Central Bank. This question
6 should be directed to that institution.

7 CHAIRMAN: Thank you.

8 MRS. FOSTER-PUSEY: And the other question was, what was the
9 impact of this reduction on consumer
10 spending, business turnover and cash
11 flow? Are you able to say Miss Tyndall?

12 A No, because I don't keep information on
13 business turnover and cash flow in the
14 private sector.

15 Q Now, did this lead to increases in
16 losses in the private sector and
17 ultimately to an increase in bad debts
18 and overall extraordinarily high levels
19 of loan loss provisioning?

20 A I don't know because I never worked in a
21 bank.

22 Q What if any, do you perceive as the role
23 of government policy in the difficulties
24 experienced by the financial sector in
25 Jamaica in the mid...

1 CHAIRMAN: Sorry, but you were on the Board of the
2 biggest bank in Jamaica, BOJ?

3 A I was on the Board of the Bank of
4 Jamaica, Mr. Chairman, but the Board of
5 the Bank of Jamaica don't sit down and
6 discuss whether the private sector was
7 making losses et cetera, et cetera. Not
8 certainly while I was on that Board so I
9 couldn't and I certainly even if you had
10 a discussion at that time I would not be
11 expected to remember the details of that
12 discussion. That is 12,13 years ago.

13 Q Mr. Chairman, I think the last part of
14 the question, what if any, do you
15 perceive of the role of government
16 policy in the difficulties experienced
17 may have been addressed earlier by one
18 of the earlier questions, so I'll just
19 press on then.

20 CHAIRMAN: What question was that?

21 MRS. FOSTER-PUSEY: The question that says, 8 (d). What if
22 any, do you perceive as the role of
23 government policy in the difficulties
24 experienced by the financial...

25 CHAIRMAN: That's the one you are reading now and

1 you say it was answered already?

2 MRS. FOSTER-PUSEY: Yes, but I am saying, Mr. Chairman...

3 CHAIRMAN: I am asking, which question?

4 MRS. FOSTER-PUSEY: Number one, Mr. Chairman.

5 CHAIRMAN: Uhhh, go ahead.

6 MRS. FOSTER-PUSEY: I'll move on then, Mr. Chairman.

7 Number 9, Miss Tyndall. Former

8 Executive Chairman of FINSAC, Dr.

9 Gladstone Bonnick in a paper entitled

10 "Storm in a Teacup or Crisis in

11 Jamaica's Financial Sector " presented

12 at the Caribbean Centre for Monetary

13 Studies in 1998 opined that the

14 principal causes of the problems in the

15 sector were: **"Too many small banks and**

16 **insurance companies, poor credit management,**

17 **diversification into non-banking areas, poor**

18 **portfolio management and flaws in the**

19 **investment mindset of domestic entrepreneurs**

20 **in the sector. "** Is this perspective and this

21 is the question now, Miss Tyndall. Is this

22 perspective too myopic in assessing the true

23 import of the confluence of factors which

24 occasioned

1 the difficulties experienced by the
2 financial sector in the mid 1990s and
3 beyond or is it reflective of your own
4 thought processes? That's the question.

5 A Well, I agree with Dr. Bonnicks. I do
6 not think it is myopic because Dr.
7 Bonnicks would have been speaking from
8 the position where he had information
9 before him.

10 Q But you agree with it?

11 A Yes, I certainly agree with him.

12 Q The next question. Again, Mr. Chairman,
13 I think there is an overlap here. One
14 factor routinely advanced to explain the
15 genesis of the crisis was a weak
16 legislative framework for the sector.
17 Such weakness was manifested not only in
18 terms of limited control over entry into
19 the sector but also in terms of
20 inadequate institutional support to
21 monitor and regulate players and the two
22 subquestions were, what were the reasons
23 which in your judgment precluded a more
24 proactive legislative intervention? What
25 in your judgment was the impact of the

1 failure to adequately develop the
2 appropriate institutional framework to
3 monitor and regulate the system? And Mr.
4 Chairman, we had indicated that at
5 questions two and four before there had been
6 a response to the issue of the legislative
7 framework, the nature of that legislative
8 framework.

9 CHAIRMAN: The question is not the same.

10 MRS. FOSTER-PUSEY: Is not the same? Well let me see what.

11 CHAIRMAN: One was dealing with insurance company
12 and one is much wider. They were not the
13 same.

14 MRS. FOSTER-PUSSY: Miss Tyndall, what were the reasons

15 which in your judgment precluded a more
16 proactive legislative intervention. It
17 says, there was a weak legislative
18 framework for the sector. I suppose
19 this means the entire financial sector,
20 Mr. Chairman...

21 CHAIRMAN: But, of course.

22 MRS. FOSTER-PUSEY: ...covering banks, insurance companies et
23 cetera. So it is saying now, what were the
24 reasons which in your judgment precluded a
25 more proactive legislative

1 intervention. Of course, meaning the
2 passing of law in my understanding. Do
3 you know of anything that prevented a
4 more proactive passing of legislation in
5 respect of dealing with the sector?

6 A You will recall, earlier, I stated that
7 the whole financial.

8 Q Please speak into the mike?

9 A Earlier I stated that the financial
10 sector crisis occurred in a time when
11 the structural adjustment reforms were
12 taking place and the guiding principle
13 behind the structural adjustment reforms
14 deregulation, liberalization. When the
15 crisis occurred the first and we
16 realized that the members of the
17 industry was practising, had certain
18 practices which were not the best
19 business practices, then the government
20 of the day as far as I recall put
21 together a team which is also stated in
22 Ministry Paper 13 of '98 to come up with
23 some fast track legislation to deal with
24 the problems that emerged.

25 Q So you are saying that it's a question

1 of structural adjustment and
2 deregulation that would have been formed
3 what was the legislative intervention at
4 the time?

5 A Yes, because really nobody was going
6 into micro -- recall, you know, that
7 Jamaica is not the only country that had
8 a financial crisis at that time. It was
9 preceded by the Far East, it was
10 preceded by -- there was also the crisis
11 in Mexico and after we dealt with our
12 problems the crisis emerged in Latin
13 America, okay, so we are not...

14 Q Singular?

15 A ...singular.

16 Q Now the other part of the question said,
17 what in your judgment was the impact of
18 the failure to adequately develop the
19 appropriate institutional framework to
20 monitor and regular the system?

21 A I don't know if I would say the impact
22 of the failure, what failure?

23 Q In your view there wasn't a failure to
24 adequately develop the institutional
25 framework?

1 not too late to deal with the outcome of the
2 state of the legislation as it was then?
3 Thank you.

4 CHAIRMAN:

5 MRS. FOSTER-PUSEY: Although it seems to be a mixture of
6 comment and question -- I don't know --
7 factor and opinion. What will be your
8 response, Miss Tyndall?

9 A How can you provide a solution before
10 the problem?

11 Q Please speak into the mike?

12 A You see, the problem I am having with
13 the question is, you are asking me why a
14 solution was not provided before the
15 problem arose and I don't see how you
16 can provide -- a solution is designed.

17 CHAIRMAN: No, I am sorry. I don't think you have
18 -- you were aware that there were
19 problems, were you not Miss Tyndale?

20 A From we started having problems with the
21 bank, yes.

22 CHAIRMAN: So you would be aware that there were
23 problems?

24 A Yes.

25 CHAIRMAN: And therefore the question I posed. By

1 the time you got around to legislating
2 fast track, 'the horse had long bolted.'

3 A Mr. Chairman?
4 CHAIRMAN: Yes?

5 A In order to...

6 CHAIRMAN: Do you agree or you don't agree?

7 A In order to bring legislation to the
8 table you have to have drafting
9 instructions which take some time. You
10 have to go to legislation committee
11 which take some time and then you have
12 to go to the Parliament for it to be
13 voted on and then the Governor General
14 assent to it. Is not...

15 CHAIRMAN: I am sorry, you are giving an answer and
16 we are seeking answers. If what you are
17 saying it takes a mighty long time to draft
18 legislation, please say so. We are not
19 quarreling with anybody, we are trying to
20 obtain information and what we want, if you
21 once slant on it because you were an
22 important person at the
23 time. If we can't ask persons who were
24 there who on earth will we ask?

25 A Excuse me, Mr. Chairman. I did not know

1 cetera?

2 A The problems that you would wish to fix
3 with that drafting of that legislation.

4 Q Mr. Chairman, Commissioners, do you
5 require any further exploration of that
6 issue?

7 CHAIRMAN: No, we are trying to digest some things,
8 just one moment, please. Miss Tyndall,
9 you sat on the Board of the Bank of
10 Jamaica, did you not?

11 A Yes.

12 CHAIRMAN: Yes. And the Board would receive
13 reports of these banks because it is the
14 Bank of Jamaica, Central Bank which
15 monitored banks?

16 A Yes.

17 CHAIRMAN: So you would receive the report of these
18 banks and therefore you would be aware
19 of the situation affecting banks, would
20 you not?

21 A I was aware of the situation affecting
22 two specific banks which the Bank of
23 Jamaica and the Ministry of Finance were
24 dealing with. One was Blaise, I think
25 was the name of the bank, I am not sure

1 and the other one was Century, prior to
2 the insurance companies coming to us.
3 And we were dealing with those specific
4 issues.

5 CHAIRMAN: When would that be, can you say?

6 A Whenever it happened. Please, don't
7 hold me to those dates, Mr. Chairman.

8 CHAIRMAN: If you don't know the date just say so.

9 A That's what I said.

10 CHAIRMAN: But please don't respond in that way to
11 the Commissioners? Yes, Mrs. Pusey?

12 MRS. FOSTER-PUSEY: Yes, Mr. Chairman. Next question,
13 Miss Tyndall. As the financial sector
14 continued to experience unprecedented
15 growth it became increasingly apparent
16 that the Ministry of Finance had a
17 serious capacity shortfall in terms of
18 its supervisory responsibilities. This
19 manifested itself in woefully this
20 manifested itself in respect of the
21 supervision of insurance companies. And
22 the question is, why wasn't this
23 capacity shortfall addressed in a timely
24 manner? I think I'll pause at the first
25 aspect. So this question is relating to

1 the Ministry of Finance's capacity to
2 supervise especially insurance
3 companies?

4 A We did not realize how serious the
5 problem was until 1996 when the
6 insurance sector themselves came to the
7 Ministry of Finance to seek assistance.
8 So the office of the Superintendent of
9 Insurance as I said before was expected
10 to employ the -- it was expected that
11 the insurance companies would employ the
12 relevant skills for governance and
13 therefore the office of the
14 Superintendent or Insurance Supervisor
15 role did not require that they equipped
16 themselves to micro-manage these
17 institutions. The reliance was on
18 lawyers, actuaries, accountants,
19 auditors, investment and risk managers
20 to properly man those institutions and
21 administer their business. As you will
22 note from the 1971 Insurance Act, the
23 report from the Insurance Companies in
24 respect of solvency was to be supported
25 by actuary evaluations of the insurance

1 companies to the office of the
2 Superintendent of Insurance. As far as
3 I am aware, when the office of the
4 Superintendent of Insurance got the
5 information they had available to it
6 external actuarial services to assist in
7 the revaluation of these reports. So
8 you would not go to say build a super
9 structure in an institution in a time
10 when you had serious return resource
11 constraints in managing the Government's
12 budget.

13 Q So your response to this issue of --
14 first of all would you say that there is
15 a view that the Ministry of Finance had
16 a serious capacity shortfall in terms of
17 its supervisory responsibilities, would
18 you agree with that statement?

19 A No, I wouldn't say that at the time,
20 because yes, we -- the supervision of
21 insurance took place within a structure
22 and there was a structured -- there is
23 legislation there which stated how the
24 Superintendent of Insurance should
25 operate.

1 environment where the non-regulation of
2 such entities had the potential to
3 undermine the efficiency and longevity
4 of the financial sector and necessitated
5 an urgent policy intervention? And
6 finally, what were the reasons for the
7 protracted policy response?

8 A I don't understand the opening statement
9 because I don't understand what were
10 these unsupervised institutions. As far
11 as I know, during the period supervision
12 was by the Bank of Jamaica, because the
13 Bank of Jamaica supervised the banks,
14 the Superintendent of Insurance which
15 supervise Insurance and Unit Trust, the
16 Registrar of Providence Societies
17 Corporative and Friendly Societies,
18 those societies supervised like building
19 societies, credit unions, et cetera.

20 Q So I think, Mr. Chairman, that aspect of
21 the unsupervised institutions perhaps
22 would require a little clarification.
23 And the other part of the question is,
24 it's a little difficult to go back to it
25 because it says, do you consider the

1 policy so muted and protracted
2 particularly in an environment where the
3 non-regulation of such entities had the
4 potential to undermine the efficiency?
5 Well I think the response that they were
6 regulated would perhaps, you know,
7 overreach that aspect of the question.
8 Now moving on to the other question.
9 Despite the acknowledged weak
10 legislative and supervisory environment
11 which existed, the Government of
12 Jamaica as a matter of policy supported
13 the more direct involvement of the
14 Banking sector in the productive sector
15 arguing that such involvement was vital
16 for investment and growth. What were
17 the policy imperatives that informed
18 this view?

19 A Well personally I do not recall the
20 policy to which you refer. As far as I
21 understand the Bank service the entire
22 spectrum of the economic activity and so
23 are vital for investment and growth.
24 What would have been expected would be
25 that the banks would lend to those

1 sectors.

2 Q And that was your expectation or in your
3 understanding is that what?

4 A That is what I would understand. Just
5 thinking from it and taking a practical
6 view of the situation. You are not
7 expecting the banks to go and say invest
8 in a hotel but you would expect them to
9 lend to the private sector for
10 investment in a hotel. Now the next
11 question. During the stewardship of the
12 then BOJ Governor, G Arthur Brown,
13 limits of 20 percent of capital in any
14 one entity other than financial
15 institutions and 40 percent of capital
16 for all investments were set. And then
17 it said nonetheless you have argued that
18 the banks were reckless by spreading
19 themselves too thinly and becoming
20 involved in a range of activities
21 outside their basic area of competence,
22 suggesting that they should have
23 maintained their focus on core business.
24 However the model adopted by the GOJ was
25 not novel and has been used successfully

1 in Germany, Japan and France. And the
2 question now is. How would you characterize
3 the role of these financial conglomerates in
4 the period immediately preceding the
5 financial sector collapse and in the
6 immediate aftermath?
7

8 Continued...

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2 A 3:05 P.M. (CONT'D)

3 Can I go back to the statement? I don't
4 remember making this statement.5 Nonetheless, you have argued - I don't
6 remember making that argument.

7 Q Okay, so you are not arguing that...

8 A I don't recall making such a statement.

9 Q Firstly.

10 A In the second...

11 Q In respect of the role of financial
12 conglomerates in the period preceding
13 the financial sector collapse, would
14 have anything additional to say to what
15 you had said earlier? In respect of the
16 financial conglomerates?17 A I have answered that question somewhere
18 earlier in the thing.19 Q There is another part of the question
20 that refers to the role of these
21 financial conglomerates in the
22 aftermath. Can you speak to what the
23 role of these financial conglomerates
24 would be in the immediate aftermath of
25 the crisis?

- 1 A What I recall is that after the crisis
2 the walls were put so there was no room
3 for these institutions to pass assets
4 around on their books. There was a fire-
5 wall between the operations of each of
6 these institutions.
- 7 Q I see.
- 8 A Each of these...
- 9 Q And then it says: What in your view was
10 the reasons for its failure in Jamaica?
11 So this would relate back to the model
12 adopted by the GOJ.
- 13 The question is: What in your view was
14 the reason for the failure of the model
15 adopted by the Government of Jamaica and
16 to what extent could this be reflective
17 of inadequate supervision of insurance
18 companies by the Ministry of Finance or
19 a protracted none action on
20 recommendations made by the Bank of
21 Jamaica?
- 22 A I can't answer that question because I
23 don't know what it refers -- I don't
24 know the factors that it refers to.
- 25 Q May I move on then, Mr. Chairman?

1 CHAIRMAN: Sure.

2 Q Now the next question: How would you
3 assess the tenure of Jacques Bussieres
4 as Central Bank's Governor and could you
5 discuss the possible impact of his
6 repeated and oft public criticism of and
7 opposition to financial conglomerates?

8 A As far as I am concerned, Mr. Jacques
9 Bussieres, was an excellent Governor.
10 His experience with Canadian banking
11 standards influenced his style and
12 approach to the financial sector and the
13 Central Bank. And the reason why I am
14 saying this is in this day and age where
15 you have financial crises all over the
16 world, the only country that is not
17 tainted so far is Canada. So the
18 Canadian banking standards are solid.

19 Q Now the second part of it was: Could you
20 discuss the possible impact of his
21 repeated and oft public criticism of an
22 opposition to financial conglomerates?

23 A Well, from where we sat...

24 CHAIRMAN: Each question must follow. Excellent
25 though Mr. Jacque Bussieres, was he

1 didn't make Jamaica excellent.

2 (LAUGHTER)

3 A I am not here, Mr. Chairman, to speak to
4 Mr. Bussieres' impact on Jamaica. You
5 asked me a specific question in relation
6 to his tenure at the Bank of Jamaica and
7 I have made...

8 CHAIRMAN: Miss Tyndall, you are here to answer any
9 questions to put to you by this
10 Commission.

11 AUDIENCE: Here! Here! Indeed.

12 CHAIRMAN: The reason why these questions had to be
13 put is because of the failure on your
14 part to speak to the Terms of Reference
15 with which you were furnished that
16 necessitated if this Commission was were
17 to go forward that we had to formulate
18 questions. But that is not to be taken
19 as meaning that only the questions which
20 were put to you in this form are the
21 questions you will be asked is to
22 answer, you will be asked to answer a
23 great many more questions, I fear. So
24 please understand clearly what the
25 position is. You occupied a very serious

1 position in this country, the people of
2 Jamaica, want to know what it is you are
3 saying with regard to all these things
4 that took place during your tenure. So
5 would you be good enough to respond to
6 the questions to the best of your
7 ability, knowledge and memory.

8 A I cannot assess the impact of Mr.
9 Bussieres on Jamaica, because I had
10 never at any time tried to.

11 Q The other question is: To what extent do
12 you believe that these criticisms helped
13 to undermine confidence levels in the
14 domestic financial sector?

15 A I was not conscious that his criticism
16 undermined confidence in the sector. It
17 was my view that the overdrafts which
18 the banks utilised from the Central Bank
19 and the institutions lack of liquidity
20 that undermined the confidence in the
21 sector.

22 Q Now the other question...
23 CHAIRMAN: Just one moment.

24 Yes, Mr. Chairman.

25 CHAIRMAN: Mrs. Pusey, we are minded to take a ten-

1 minute break.

2 MRS. FOSTER-PUSEY: Yes, Mr. Chairman.

3 CHAIRMAN: To allow things to get back to normal.

4 We will rise for ten minutes.

5 (LAUGHTER)

6 Convened at 3:10 P. M.

7 Reconvened at 3:25 P.M.

8 CHAIRMAN: May we resume? Please take your seats

9 ladies and gentlemen.

10 Miss Tyndall, you are still on your

11 oath. Thank you.

12 Yes, Mrs. Foster-Pusey?

13 MRS. FOSTER-PUSEY: Mr. Chairman, Commissioners, we had

14 reached we were about to go to question

15 18.

16 CHAIRMAN: Yes.

17 MRS. FOSTER-PUSEY: And this is continuing a question

18 relating to Jacque Bussieres.

19 Further did his oft expressed wish for a

20 substantial reduction in the quantum of

21 financial institutions reflect a

22 deliberate policy of contraction to

23 facilitate the existing supervisory

24 capacity at the Central Bank and the

25 Ministry of Finance or was it truly

1 Certainly I have no information that
2 would lead me to accept the point of
3 view implicit in the question.

4 Q So just to pause there. You are saying
5 that it's not your understanding that he
6 wished for it to contract so that the
7 number would be within the capacity of
8 the Central Bank and the Ministry?

9 A No, if I recall discussions, is not
10 necessarily with Mr. Bussieres somewhere.
11 It is that there were some of the
12 institutions that were very small and
13 could not last in the environment,
14 could not survive in the environment you
15 know, within the whole environment.

16 Q So that's your understanding of the view
17 that he was putting forward in respect
18 of too many?

19 A Yes.

20 Q Now moving on to the other question.
21 As a response to crisis the
22 administration guaranteed all
23 liabilities, replaced bad loans with
24 government debt and assumed control over
25 institutions and collateral on loans.

1 This ultimately led to the financial
2 crisis costing between 20-40 percent of
3 GDP. And the first question is.
4 What was the degree of involvement of
5 the multilateral agencies in the
6 resolution of the financial crisis?
7 A Now the Ministry of Finance, the
8 Governor of the Central Bank and I had a
9 several meetings in Washington and
10 Kingston with the IMF, the IDB and the
11 IDRB...
12 Q Can you just say what IBRD stands for?
13 A The World Bank.
14 Q Okay.
15 A And the IDB is the international...
16 Q Yes, I think a lot of us have heard
17 about IDB but not necessarily IBRD.
18 A Yes, in respect of financial crisis.
19 A Yes.
20 Q They provided us with advice on how to
21 approach the crisis, drawing on their
22 experience with financial crises in
23 Mexico and Latin America. In addition
24 after the intervention, the IDB financed
25 a study drawing on the Canadian

1 experience that was the basis for
2 strengthening the regulatory framework
3 for the insurance industry. They
4 financed the project to manage and prepare
5 for divestment, real estate and other assets
6 acquired by FINSAC from the distressed
7 institutions. A study was also commissioned
8 from a trio of experts formerly from the
9 Harvard Institute of International
10 Development. Their study formed a frame of
11 reference for FINSAC's efforts and was
12 entitled "Building a Healthy Financial
13 System in Jamaica". This study should be in
14 the records of FINSAC. Although not a
15 multilateral, the international consulting
16 firm of
17 McKinsey and Company were also engaged to
18 assist in the restructuring of the sector.

19 Now the World Bank had a sector loan that
20 facilitated further reform of the sector by
21 proposals to establish the financial
22 Services Commission,
23 strengthen banks supervision and
24 coordination of the activities of the

1 regulators, the MOF, the Deposit
2 Insurance in a Regulatory Policy
3 Council. This included the harmonization
4 of prudential norms across the
5 financial sector.

6 Q Okay, thank you. So that refers to the
7 degree of involvement in multilateral
8 agencies in the resolution of financial
9 crisis. The other aspect of this
10 question is:

11 To what extent was the Government of
12 Jamaica concerned about the potential
13 cost of the proposed intervention as
14 well as the possibly of moral hazards
15 such as intervention strategy would
16 engender?

17 A The GOJ as any responsible institution
18 would, was concerned about the potential
19 cost of the intervention. However, this
20 had to be balanced against the economic
21 and social cost of the total collapse in
22 the financial sector. It was very clear
23 that this would not be allowed to occur
24 again given the modernization of the
25 supervisory and regulatory framework and

1 the establishment of the Deposit
2 Insurance Scheme. Again, the Financial
3 Services Commission, the Regulatory
4 Policy Council between the BOJ, FSC and
5 MOF. All these went together with a
6 public education programme.

7 Q So in terms of the projected cost what
8 would you say?

9 A The cost of the intervention was an
10 estimate. Right? Current global events
11 have shown that it is difficult to
12 precisely estimate accurately and make
13 timely interventions.

14 Q Okay. So that dealt with the...

15 A You have the US example and the UK
16 example.

17 Q No, you have to keep your voice up.

18 A You have the UK example and the US
19 example.

20 Q Thank you, Miss Tyndall.

21 Now the final part of that
22 question is:

23 in retrospect do you believe that this
24 strategy of intervention was appropriate
25 and is a long term fiscal impact a

1 necessary price to pay for such an
2 intervention?

3 A Yes. I believe that the strategy was
4 appropriate because the thousands of
5 depositors in Jamaica, whose deposits
6 were saved and we now have a stronger
7 and more effective financial sector than
8 we had then.

9 CHAIRMAN: One moment, please.

10 MRS. FOSTER-PUSEY: Yes, Mr. Chairman.

11 COMM ROSS: Miss Tyndall, it has been said that the
12 cost of Jamaica's financial sector
13 intervention is one of the highest in
14 the world; the size of it relative to
15 GDP. In light of that do you still think
16 was the most cost-effective way of
17 going about solving the problem?

18 A Yes Mr. Ross. Because if the small
19 depositors who have their little savings
20 in a bank would lose those -- because
21 that was the other side to the coin.
22 it's either you give the depositors a
23 hundred percent of their deposits or you
24 give them a percentage of their
25 deposits. Now if you were to give them

1 a percentage of their deposits --
2 Jamaica is a country that requires
3 external capital inflows to assist us in
4 our investment. What would happen to
5 people say in UK, the US that send home
6 their savings for saving in the bank
7 sector if they had lost their money? Do
8 you think that they would be sending
9 home their deposits?

10 Q I don't think you quite understood the
11 question. I wasn't questioning the
12 policy of savings of the depositors.
13 What I was asking was whether the way we
14 went about doing that and the tremendous
15 cost that we occurred in doing that
16 could there not have been a cheaper way
17 of achieving the same objective?

18 A I am not aware of what that cheaper way
19 is, Mr. Ross.

20 CHAIRMAN: Miss Tyndall, from your response it
21 appears that the depositors -- because
22 you mentioned them fairly often -- was
23 the major consideration?

24 A The depositors and the people who went
25 into these companies and bought

1 insurance policies, they would have to
2 be because it was their life-savings
3 that was put in the these in
4 institutions.

5 COMM ROSS: But Miss Tyndall, on the other side of
6 that equation are the borrowers because
7 those are the assets that the
8 Institutions would be relying on in
9 orders to meet their obligations to the
10 deposits?

11 A Yes, sir.

12 Q And so, one has to ask the question
13 whether the handling of those loans was
14 done in such way as to maximize their
15 value? And that surely must have a very
16 significant impact on the overall cost
17 of the intervention.

18 A The loans that FINSAC acquired were the
19 non-performing loans. Those were the
20 loans where people signed a contract
21 with the bank and did not make their
22 payments on time and so they were deemed
23 non-performing. Now if they were not
24 paying the loans why shouldn't the
25 government be trying to get repayment of

1 it's the recovery of their value?

2 MRS. FOSTER-PUSEY: Recovery of their value.

3 A From the advice we got, yes. Because we
4 got advice from like - if I recall
5 FINSAC got advice from I think, McKinsey
6 and Company and also OCWEN in how we
7 disposed of the bad loans. Don't hold me
8 to it because that is what I believe. I
9 had never really bothered myself with
10 the debtors.

11 COMM BOGLE: Miss Tyndall, you mentioned that the
12 decision was to let the depositors have
13 one hundred percent of their deposits
14 and interests accrued on those deposits
15 because...

16 MRS. FOSTER-PUSEY: I think as to the interest aspect, Mr.

17 Chairman...

18 A I did not say, 'interest' I said
19 'deposits'. As to the interest I cannot
20 speak.

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1 programme to explain to the depositors
2 that they would not be getting one
3 hundred percent of their money. That
4 has been from its inception because as
5 far as I recall the Deposit Insurance
6 scheme was patterned off the Canadian
7 scheme.

8 COMM. BOGLE: My question now is, in order to reduce
9 the amount of money that was needed at
10 the time, could we have taken a posture,
11 just a posture, of the Deposit Insurance
12 scheme whereby we paid one hundred
13 percent up to a certain amount and then
14 a percentage of the balance in order to
15 reduce the level of public debt?

16 A That's a model I suppose, but I
17 wouldn't...

18 Q So it wasn't explored at all?

19 A All models were explored but what you
20 found was that the depositors were very
21 aggressive and they wanted back their
22 money.

23 CHAIRMAN: Do I gather from what you have said that
24 really the major consideration was that
25 depositors should be healed?

1 the results of that but I know that that
2 was put in place.

3 MRS. FOSTER-PUSEY: The next question, number twenty, Miss

4 Tyndall, the next question posed to you
5 reads as follows: Part of the FINSAC
6 intervention policy was to restore
7 solvency to troubled financial
8 institutions by way of the issuance of
9 bonds and transfer of a large portfolio
10 of non-performing loans to FINSAC.
11 However several entities had found
12 themselves in an illiquid position and
13 were forced to encash their bonds at
14 severely discounted rates with a few
15 willing financial intermediaries. This
16 effectively meant that the issuance of the
17 bonds which limited only a part of the
18 request for assistance submitted by the
19 entities were being redeemed at a fraction
20 of the its face value thereby compounding an
21 already troublesome scenario. Further in
22 2001/2 these noninterest bearing bonds were
23 replaced with interest bearing Government
24 securities coupled with reductions in
25

1 the cash reserve and liquid assets
2 ratio. Nevertheless, most of the
3 liquidity released is still being
4 channeled into Government debt
5 instruments, rather than productive
6 lending.

7 First question, how would you, in
8 retrospect, assess the efficacy of this
9 intervention strategy?

10 A It posed a problem because I would not
11 know what the intervened institutions
12 did with the bonds that were given to
13 them, I wouldn't know.

14 Q In your judgment, if the mechanism was
15 more efficiently administered, could
16 some of the troubled institutions have
17 been saved?

18 A I also have a difficulty because I
19 cannot . . . I cannot pass judgment on

20 these activities that I really don't
21 know enough about.

22 Q That is the question of their encashing
23 their bonds at severely discounted
24 rates?

25 A I don't know enough about it so I

1 couldn't very well say how it was
2 administered, I don't know how it was
3 administered, I wouldn't have those
4 details, because that would not have
5 been administered from the Ministry of
6 Finance.

7 Q Anything further Mr. Chair?

8 CHAIRMAN: Well Ms Tyndall was Deputy Chairman of
9 FINSAC, she's not exactly a stranger to
10 these things.

11 Q Do you know whether they encashed their
12 bonds at severely discounted rates?

13 A That would have been a management
14 decision at FINSAC, this is not
15 something that would come to the Board
16 of FINSAC, how the intervened
17 institutions....

18 Q ...deal with their bonds?

19 A Yes.

20 Q You are not aware of how they dealt with
21 them?

22 A No.

23 CHAIRMAN: The reason why I mentioned it, you were
24 at FINSAC, perhaps you can help.

25 Q Moving on to number twenty-one, there

1 were 15...

2 CHAIRMAN: Just one moment. Have you been able to see
3 the transcript of the evidence given by the
4 Minister?

5 A No.

6 CHAIRMAN: I am not suggesting anything is wrong
7 with it, you know, the reason why I am
8 asking is, my recollection is that the
9 Minister mentioned something called an
10 Oversight Committee which had been set
11 up.

12 A I mentioned it too.

13 CHAIRMAN: I know, but the Minister said it didn't
14 work, do you know anything about that?

15 A I would suggest that you ask Mrs. Lopez
16 and....

17 CHAIRMAN: I am asking you.

18 Q Do you know whether it worked?

19 A No, I wouldn't, this was a question
20 where that Oversight Committee was
21 working with the people who were
22 handling the loans on a day-to-day
23 basis, so I would not know whether it
24 worked or not.

25 Q Was there any report, etcetera, made to

1 you in respect of the outcome of this
2 Oversight Committee?

3 A I don't recall.

4 CHAIRMAN: Who set up the Oversight Committee, do
5 you know?

6 A I would probably think it might have --
7 I really don't know, it could have been
8 a Cabinet decision, I don't know. When
9 I say I don't know, I don't recall, its
10 not something that I would keep in the
11 back of my head.

12 CHAIRMAN: But the Oversight Committee would report
13 to whom, the Board?

14 A I don't know, I honestly don't know.

15 CHAIRMAN: Very well, you do not need to stick with
16 honesty, I accept honesty all along.

17 Q The next question, there were 15 deposit
18 taking institutions under the
19 supervision of the BOJ in 2005, down
20 from forty-six in 1997. This has been
21 adjudged by critics as being reflective of
22 the demise of the indigenous
23 financial sector entrepreneur.
24 The first question is, what are your
 views on this

1 contradiction/consolidation of the
2 deposit taking institutions and it says
3 how would you respond to your critics?
4 A The reduction from forty-six to 15 was a
5 consequence of the failures, FINSAC
6 support given, and the market response.
7 The objective was to get a properly
8 functioning financial sector which we
9 now have so the intervention was proven
10 to be a success.
11 Q And there was a part of the question
12 that said, do you consider this, the
13 Bussieres vision being realized?
14 A No, I don't; the consolidation and the
15 reform of the sector came out of
16 specific studies that were done that
17 advised the policy decisions, it was not
18 one man's decision.
19 Q Next question posed to you Miss Tyndall,
20 in 2002 the bad debt portfolio under the
21 control of FINSAC was sold to Jamaica
22 Redevelopment Foundation, a subsidiary
23 of Beal Bank, a wholesale bank
24 specializing in the secondary market of
25 the US. This has been a source of

1 considerable controversy with
2 accusations of punitive rates of
3 interest being used to drive several
4 persons and businesses into bankruptcy
5 or other forms of financial distress and
6 so the first question is...

7 CHAIRMAN: This is going to take a long time, I
8 would suppose.

9 Q This question Mr. Chairman...

10 CHAIRMAN: Will take a long time?

11 A I would suppose so, indeed there are
12 several aspects of this question
13 Mr. Chairman.

14 CHAIRMAN: Yes, and we don't want to tie her out,
15 Miss Tyndall, so what I am suggesting is
16 that we adjourn, take a break, give her
17 a rest so that she can return refreshed
18 and re-invigorated when we resume in
19 January.

20 Q Indeed Mr. Chairman. Has a date been
21 set, Mr. Chairman?

22 CHAIRMAN: The session resumes on January 12 at
23 9:30 a.m.

24

25 MRS. FOSTER-PUSEY: Thank you very much.

1 HER LADYSHIP: Well, the Commission stands adjourned
2
3 until January 12. We wish you all go
4 home safely and have the best Christmas
5 you can possibly have having regard to
6 the circumstances of *the case*.
7 A D J O U R N M E N T

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