

The Cross Examination of The Minister

The Issue of Procedure

In order to understand the procedure issues raised by Mr. Hylton on behalf of the Minister it is necessary to cite the ruling made by the commission on November 24, 2009. During the course of the Minister's evidence. He stated thus at page 59 of the transcript

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The gist of Mr. Hylton submission was contained in the following extracts page 4 of the transcript ran thus

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The other issue raised by Mr. Hylton runs thus at page 5 of the transcript

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Then he continued thus on page 5 of the transcript

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The ruling of the Commission was explained at page 8 of the transcript

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Then in so far as the Minister was concerned the ruling of the Commission was as follows at page 11-12 of the transcript

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Then the ruling continued thus at page 12

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Your Commissioners are empowered to determine the procedure that governs this enquiry. As it is an enquiry then procedure must be inquisitorial as distinct from the adverbial rules which govern procedure in courts of law. Inquisitorial procedures govern the proceedings of Preliminary Enquiries and Coroners Inquest but the widest application of inquisitorial procedure adduced by the Commission is embodied in the reports. So the procedures are more flexible than those which obtain in a court of law procedure is in enquiries as this pursuant to the Commission of Enquiries Act. In exercising our discretion as to who would be entitled to put questions to the Minister there were those who were directly or indirectly affected as the high officers of the Banks, Insurance Companies, the Bank

of Jamaica and Building Societies. These entities in the normal course would be represented by the courts and would be expected to give evidence in due course.

Then they are the victims of the adverse effects of the high interest policies. They too ought to be permitted to ask questions and in exceptional instances where they cannot afford course provided they are guided by the Commission; they too may be obliged to give evidence. It is against this background that course and others were permitted to question the Minister. May we add that in adversial proceedings in court of law one party succeed and the opposing party fails. In inquisitional proceedings as at this enquiry the purpose is to ascertain what happened and the reasons.

Mr. Codlin who represented the victim Mr. Michael on December 2 Levy put questions to the Minister concerning the Jamaican Redevelopment Foundation. The Minister explained that Beal Bank was the entity that took over the FINSAC portfolio and that Bank was the preferred choice and they set up JRF to handle bad debt portfolio of FINSAC. The Minister admitted that he granted annual exceptions from the Money Lending Act to JRF. Mr. Codlin questioned the act of granting these exemptions from the Money Lending Act to JRF although JRF was a Money Lender. As to the Minister's reason for granting exemptions following passage at at page 31 is in structure reads

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Question By Mr. Leighton Miller on behalf of the victim Bentley Rose.

Mr. Miller questioned the Minister about Workers Bank and the repost of Ernest and Young the forensic auditors the Minister appointed to examine the account of the Bank. Here is the answer the Minister when summarised the position at page 51 of the transcript

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Questions By Mrs. Sandra Minott-Phillips who represented JRF.

As to the Issue of delinquent borrowers and the effect they had on Banks. The following questions and answers at page 58 of the transcript

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The Minister explained that it was the non-performing loans which transferred to FINSAC at pages 59-60 of the transcript.

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The policy behind the FINSAC purchases of the non-performing loans was to endow FINSAC with the powers that bank had over the original loans.

This is how the explanation emerged in the question and answer at page 61-62 of the transcript'

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A policy of a special window for residential home was carried over to JRF and it emerged. This in the transcript at page 62,

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The Special Consideration Given to the Productive Sector extracts from the question and answer between Mrs. Minott-Phillips explained the commercial stance of the government – FINSAC. At page 65 of the transcript,

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Then it continues thus on page 66-68,

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There was another area given special consideration namely the productive sector. Here is how it was explained by the Minister at pages 75-78 of the transcript,

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Having regard to the Minister's stance on maximisation of profit by FINSAC then JRF. Your Commission were not surprised that Mrs. Beverly Lopez said she could not cooperate from FINSAC and there were complexity to us that the special window was not offered to some borrowers.

With respect to exceptional circumstances which persuade your Commissioners to permit specific question adduced with Mrs. Baker here is how the matter was dealt with at page 80 of the transcript

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Now wit respect to Mr. Baker the following extracts on page 81 of the transcript,

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Then he continues thus on the same page (page 80)

Cross Examination of the Minister on 25 November, 2009.

Before Mr. Trevor Donegal a developer and member of the FINSAC Entrepa cross-examined the Minister , the Minister concluded his evidence in chief by admitting that he gave exemptions from the money Lending Act to FINSAC, FIS(Financial Institution Services), to Refin Trust Inst. He gave full reasons for granting those exemptions on December 2, 2009 after he had an opportunity to examine relevant files and he added that exemptions were granted in 2008 by his ***** at the Ministry of Finance. See page 32 of the transcript

The gist of his initial questions was stated thus at page 6 of the transcript,

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The Minister response in part ran thus at pages 7-8 of the transcript

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Mr. Donegal response was that no member of his Association was ever accorded the general ***** outcome by the Minister in emphasising the ***** of the borrowers. Mr. Donegal start the case eloquently. Thus at pages 9-10 of the transcript

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The Minister answer in past on pages 10-11,

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Further the Minister stated at pages 16-17 of the transcript

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In demonstrating the ***** of the problem when there is a financial meltdown followed by government intervention the Minister’s response at page 23 of the transcript said

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Then Mr. Donegal posed his final question thus at page 25 of the transcript.

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The Minister’s answer was at page 26 of the transcript,

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QUESTION BY DELANO SIEVWRIGHT OF GK2000

Mr. Sievwright asked why NCB was treated differently from Eagle and Century National Bank. Here is the response at page 33 of the transcript

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The Minister continued thus at page 35 of the transcript,

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QUESTIONS FORMED BY MARLON ON BEHALF OF HIS DESEASED GRANDFATHER'S ESTATE.

His questions run as follows at page 40 of the transcript,

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After reiterating that the primary aim was to protect the deposition, the Minister said at page 40-41 of the transcript,

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The Minister further stated at pages 40-41,

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The Minister further stated at page 41 of the transcript,

QUESTIONS BY JOHN DESULME

The gist of his complain was posed thus at pages 53-54 of the transcript

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The essence of the Minister's response follows at page 55

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At this stage the following ruling was call at page 63

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At one of Mr. Desulme question was
hear***** the Minister
response on pages 64-65

QUESTIONS BY LLEWELLYN BAILEY

His initial question ran thus at page 69
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He gave a story of disastrous effects of compound interest on his borrows
of a truck owner where the initial interest rates was 60% and the minister
admitted at page 74 of the transcript that no business could survive at
such high rates of interest and at page 76 of the transcript