

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, 12^{TR} NOVEMBER, 2009

PRESENT WERE:

Thurs Nov. 11, 2009

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

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

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REPRESENTING DEBTOR

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November 12, 2009

COMMISSIONER: Ladies and gentlemen the commission is now in session.

MR. HENRIQUES: Mr. Chairman I would like to congratulate the Bank of Jamaica for overnight preparing this schedule that I requested only yesterday afternoon, a comprehensive schedule showing the interventions and the amount of loans at the time, diligent loans, because they must have had to do some overnight work to gett same to us this morning. It gives us all the institutions that were required and I am thankful for it sir.

COMMISSIONER: Thank you very much.
Well perhaps we can get underway.
Mr. Hylton what do you have to tell us?

MR. HYLTON: If I may address sir, a little housekeeping first. I want to thank the Secretariat for the Notes of Evidence for the first day and to observe that we could save paper sir, they can give it to me electronically, they don't need to give it to me on printed copy.

1 COMMISSIONER: Be grateful for these small mercies,
2 small though they may be.

3 MR. HYLTON: Now sir, we received some papers
4 yesterday that we undertook to be ready
5 to respond to today. The questions from
6 the commission sir, covered both
7 monetary and regulatory and we therefore
8 with your leave, propose to have two
9 different persons address different sets
10 of questions.

11 COMMISSIONER: At the appropriate time.

12 MR. HYLTON: Thank you sir.
13 Questions 1 to 4 deal primarily with
14 monetary issues and I therefore propose
15 to ask Deputy Governor Halsall to
16 respond to those questions. However
17 sir, arising out of the meeting that I
18 referred to yesterday that Mrs. Anderson
19 had to go to, she had to go to deal with
20 some issues arising out of that meeting.
21 she is the witness who is here to
22 address questions 5 and following and
23 with your leave sir, I would ask that I
24 be allowed to deal with those questions
25 first so that she can deal with them and

1 leave and deal with the others after.

2 COMMISSIONER: Very well.

3 MR. HYLTON: Mrs. Anderson.

4 COMMISSIONER: Can you take the Bible in your right
5 hand the oath in your left and read the
6 oath please.

7 **MRS. ANDERSON SWORN**

8 COMMISSIONER: Thank you. Do take a seat.

9 MR. HYLTON: Now sir, the questions aren't actually
10 numbered but I am starting with the one
11 in the middle of the first page which is
12 the second quotation from the joint IMF,
13 IDB mission that begins 'optimally'.
14 Are you ready Mrs. Anderson?

15 A: Yes.

16 Q: And so Mrs. Anderson the question is,
17 the joint IMF, TDB and World Bank
18 mission expressed the view that
19 optimally in the current circumstances in
20 Jamaica the resolutions strategy should
21 aim at removing all insolvent and unviable
22 institutions through a preemptive and
23 widescale intervention. However the
24 authorities have indicated that this
approach is not now

1 politically possible and would pose
2 logistical difficulties. The Bank of
3 Jamaica's explanation for failure to
4 remove insolvent and unviable
5 institutions from the system excludes
6 the political and logistical
7 difficulties. Will the Bank explain what
8 the political and logistical
9 difficulties were?

10 A: Firstly, the Bank, I would like to make
11 the point that the Bank had no power to
12 remove insolvent and unviable
13 institutions from the system. As
14 regards the logistical difficulties
15 involved in a preemptive and widescale
16 intervention, the Bank would wish to
17 offer the following observations. There
18 were several conditions which the Bank
19 feels would have impacted on logistical
20 issues. The first of which would have
21 been the scarcity of managerial and
22 accounting expertise to act as temporary
23 managers for approximately 29 entities
24 and there fairly extensive branch
25 networks several of which were very wide

1 and which covered the entire island.
2 Additionally there was a lack of
3 appropriate legislative provisions
4 necessary to effect restructurings and
5 merges of distressed institutions. And
6 here I would refer to the BOJ's original
7 responses to question 8 in our original
8 submission. It should also be noted that
9 several of the major interventions in
10 1998 were facilitated by the passage in
11 late 1997 of the vesting provisions in
12 the Banking Act and the Financial
13 Institutions Act which allowed for the
14 restructuring of the operations of
15 financial entities and their component
16 books of business, particularly where
17 owners did not wish to be co-operative.
18 And again, I would refer the Commission
19 to the Banks response at paragraph 7(2)
20 page 27 in its original report to the
21 Commission.

22 Thirdly, the Bank also considers that
23 the level of financial support and
24 logistic capacity required in order to
25 successfully execute a preemptive and

1 widescale intervention was not then
2 available to the government. And we note
3 that in any intervention there would have
4 been the need for major coordination of
5 the groups, and I would give a few
6 examples of the type of preparation that
7 was necessary before any intervention
8 could take place. There was the need for
9 preparation of the requisite technical
10 assessments and reports to be provided
11 both to the Minister and to Cabinet
12 sporting the decision to move to
13 temporary management and these cannot be
14 -- the significance of this should not be
15 diminished, because I think I made the
16 point in my earlier testimony that we
17 were now dealing with a very new
18 situation; the country had never faced
19 something like this before, and certainly
20 the laws did not allow for intervention
21 except in the circumstance of insolvency
22 which had to be beyond doubt. And so the
23 significance of these technical
24 assessments were very critical. There

1 2 was also the need for the -- and this
3 4 fell mainly to the supervisory agency.
5 6 The need for the assessment of potential
7 8 firms and expert individuals which had
9 the necessary expertise, independence and
10 the staff resources to be able to act as
11 agents of the temporary manager. And here
12 Mr. Chairman I make the point that the
13 Minister by law is the
14 temporary manager, but to discharge the
15 functions of temporary management he
16 would have appointed specific agents and
17 in most cases the determination was made
18 that this would have been best carried
19 out by accounting firms and therefore we
20 had to do specific searches and reviews of
21 the accounting firms to ensure not only
22 that they had the expertise but that
23 there was no obvious conflict of
24 interest. So for instance you would not
25 have recommended the appointment of an
accounting firm that had normally been
the external auditor for the group of
companies which were being impacted by
temporary management

1 or the specific financial entity that was
2 being intervened. And this did create
3 problems at times because Jamaica does not
4 have an enormous quantity of accounting
5 firms that have the extensive staff
6 resources that would be necessary to deal
7 with a major intervention. Additionally,
8 the Central Bank had to be involved in the
9 recruitment and negotiation in terms of
10 contracting the appropriate
11 professionals; they act as agents of the
12 temporary manager and this in some
13 instances would have taken quite a bit of
14 time. There was also the issue of dealing
15 with detailed logistics and planning for
16 the intervention and this would have
17 involved planing with the staff of the
18 agents to ensure that the take over would
19 be effected in the most effective and
20 least disruptive manner. This would have
21 involved the Bank of Jamaica also
22 ensuring that security arrangements were
23 made for the synchronised taking of
24 physical control of bank premises,
25 records and assests

1 throughout the entire network of the
2 banks. And so this would have involved
3 not only the head offices and main
4 branches, but all branches of banks
5 wherever they operated in the island.
6 This would have also involved us ensuring
7 that the team of agents included
8 technology experts to take charge of the
9 technology, infrastructure of the banks,
10 security firms to ensure that bank
11 premises were now being secured by new
12 security personnel. Locksmiths to change
13 locks to ensure that access could not be
14 gained to premises by previous management
15 or previous board members, actual guard
16 personnel. So the planning of an
17 intervention went from the very broad
18 issues to very minute details and we had
19 to deal with some very practical issues.
20 We even in the intervention of entities
21 that had islandwide networks had to
22 ensure that there was necessary
23 transportation arrangements in place to
24 ensure that all of the agents would have

1 arrived at the premises of the
2 intervened entities at the same time.

3 COMMISSIONER: Commander raid.

4 A: In fact Mr. Chairman, I recall that in
5 one major intervention the newspapers
6 referred to our action as having been
7 discharged with military precision and I
8 took that as a measure of the success of
9 the preparations that the Central Bank
10 had made prior to the intervention.
11 Agents would have to be all at the doors
12 of the premises armed with orders signed
13 by the Minister to ensure that they
14 received entry to the premises. We also
15 had to ensure we had Central Bank
16 officers manning the phones so that when the agents were at
17 the door we would be on the phone calling
18 the senior officers at every branch
19 location to advise that
20 the agents are there, they are there
21 with the statutory authority and that
22 they should be granted entrance to the
23 premises. There was of course
24 significance administration,
administrative arrangements that had to

1 be dealt with regarding the
2 coordinated public statements on the take
3 over, communications to impact its staff
4 of the entities, as well as related
5 actions regarding the agents work
6 programme which would have included
7 removal of directors, management and any
8 other suspect employees. Work permits
9 were also another issue that had to be
10 dealt with where agents were being
11 brought in from overseas, in some
12 instances if a local auditing firm had
13 been engaged to act as an agent of the
14 temporary manager but they had not have
15 the full range of expertise necessary to
16 deal with all of the operations they
17 would have made arrangements with their
18 overseas associated firms which would
19 have provided the necessary expertise and
20 officers and so work permits would have
21 to have been arranged, accomodation and
22 all of that sorted out. Preparations
23 would also have had to be made for
24 applications to the court under
25 temporary management provisions under

1 2 their various statutes. And very
3 4 critically arrangements had to be put in
5 6 place for defending the inevitable legal
7 8 challenges from owners of the intervened
9 firms and other affected parties. Taking
10 all of that into account Mr. Chairman,
11 the Bank remained of the of the view that
12 a simultaneous intervention action across
13 all of the distressed firms, and these
14 were approximately 29 institutions in the
15 financial sector, would have been beyond
16 the financial and administrative capacity
17 of the authorities as well as the
18 requisite expert resources. The
19 authority,s view was also that a
20 widespread intervention in the financial
21 sector which would have involved a two-
22 week shutdown and this was a specific
23 recommendation of the IMF, World Bank,
24 IDB team that visited Jamaica at that
25 time and made a verbal recommendation as
such. It would have been fundamentally
destabilizing on the financial system and
it certainly would have had the

1 potential for placing the country in
2 turmoil because of the size of the
3 system, the fact of the sub-optimal
4 levels of financial literacy and the
5 concentration of the nation's savings in
6 the banking and insurance sectors of the
7 system. It was certainly the view, and I
8 think as it turned out that view was
9 correct that a full widescale
10 intervention at one time would have led
11 to contagion among financial
12 institutions, bank runs and possibly even
13 social unrest.

14 In this regard we have also noted that
15 the Fund's 1996 report in fact noted that
16 the authorities would need to be prepared
17 to take concerted action in the event that
18 moral suasion alone did not result in
19 viable institutions or should a crisis of
20 confidence develop that could place in
21 jeopardy otherwise sound institutions.
22 The Bank was of the view that the
23 authorities substantially implemented the
24 second best
25 comprehensive strategy referred to in

1 the said IMF report. And I would here
2 note that the key element of this second
3 best comprehensive strategy involved the
4 removal of those entities that placed
5 depositors' funds in jeopardy including
6 near deposits offered by insurance
7 companies; saving those institutions that
8 could be made viable through placement of
9 new management and
10 supported by the removal of non-performing
11 loans from their portfolios or through
12 mergers either voluntary or facilitated
13 with limited government support,
14 maintaining in operation, and
15 strengthening those that because of their
16 importance in the payment system were
17 regarded as being too big to fail.
18 Providing temporary liquidity support for
19 some financial institutions that may have
20 been subject to runs in the event of
21 systemic shock. Another consideration
22 would have been that such a broad-brush
23 approach without the requisite vesting
24 power which the minister did not get until
25 much later in

1 the following year would have
2 illiminated the possibility of a
3 voluntary resolution via merger or
4 transport a willing purchaser. The
5 resolution strategy taken was however
6 substantially in keeping with the second
7 alternative approach detailed by the IMF
8 in their report and the authorities did
9 attempt to priortorise the interventions
10 which took place between 1997 and 1998
11 following the IMF`s November 1996 report.

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CONTINUED.....

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November 12, 2009

10:00 a.m.

MRS. ANDERSON: As to the proposed differential treatment among depositors the authorities did not accept the multilaterals' recommendation that protection should be focused mainly on small depositors as the differential treatment would have sent an incorrect signal to the market and it could have possibly precipitate capital flight. The fact that we had no significant capital flight, the fact that we were able to manage the interventions with relative stability and very little evidence of any bank runs I think would have lent support to the approach taken by the authorities at the time. The Bank would also wish to refer the Commission to its answer at question 17 of the full report in which the bank indicated the factors that resulted in Jamaica avoiding a systemic crisis. The BOJ reported to the Commission that it

was the view of the Central Bank and the Government at the time that a major factor underpinning Jamaica's ability to sustain continued confidence in the financial system was the decision to not accept or act on the recommendation of the multilaterals to effectively close the financial system for two weeks.

MR. HYLTON: Mrs. Anderson, the question also asked the Bank to explain...

COMMISSIONER: Just one second, please.

MR. ROSS: Could you just explain for us please the difference between temporary management and vesting. We are not quite understanding.

A In relation to vesting, this was a power that the laws later granted to the Minister where the shares of the Bank would be vested in him and at that point he would have authority to deal with the sale of the shares to a willing buyer as against temporary management where the law empowers him to take control of the management of the entity but he is still subject to the determination of the

Court after the prescribed period has expired as to how the entity should be dealt with eventually and a report would have to be made to the Courts with specific recommendations from the agents of the temporary manager based on the assessed condition of the entity as to whether it should be returned to the owners and directors or whether we should move to close the bank eventually.

Q Mr. Chairman I wonder to the extent that it is a legal question if I could add something...

COMMISSIONER: Yes.

MR. HYLTON: ...to the answer?

COMMISSIONER: Go ahead.

MR. HYLTON: When Century was taken over under the temporary management regime one of the things that happened is that the Board of Directors remained in place and so there was an issue before the Courts as to what were the powers of the board vis-a-vis those of the Minister and that issue actually had to go all the way to

the Privy Counsel. The vesting situation, as shareholder the Minister can change the board so that issue was resolved. That's another difference between the two.

A Thank you.

COMMISSIONER: Just one second, sir. May I just ask this question since Mrs. Anderson has to run off. I understood her to be saying that the TDB experts made a recommendation really for a wholesale, a widespread preemptive action and she gave us the reasons why that was impossible, so be it. The question I wish to ask you is why then it was not considered necessary to attack, if I can use the word attack, one or two -and that is my first question. It's really in two parts, but anyhow.

A And my response Chair, is that that was in fact the approach that was taken. The authorities sought to prioritize the interventions and certainly we went after the most critical, first. You may recall based on the documentation that

we sent in that Century, in fact, the entire Century group was intervened during 1996. I think Workers, I have failed to bring my schedule with me and my memory is not always the very best in term of...

COMMISSIONER: Mrs. Anderson, Mr. Ross has a question.

MR. ROSS: In '98?

A Yes, along with several others, the Eagle group I think was '97 and I thing the Eagle intervention came right after the Minister acquired the vesting powers but certainly the point that I wished to have made and I am sorry that it wasn't clear, is that while the authorities determined that an all at once wholesale intervention was logistically unfeasible we did, the authorities did move to intervene major financial groups in a successive manner.

MR. HYLTON: You had said two parts, Mr. Chair.

COMMISSIONER: Well, my other aspect was -- my memory is a little faulty. I read a lot of reports which the Bank puts out annually and I must confess I got the impression

they are rather bland reports. Correct me if I am wrong, but during this period was it indicated in any of those reports (a), that the TDB had made this suggestion and whether, what the Bank thought of it or anything along those lines?

4

COMMISSIONER:

You mean public reports, sir?

Yes, the Banks, public reports, annual reports.

A

COMMISSIONER:

Well the annual reports -- are you speaking about the examination report?

The annual reports?

A

COMMISSIONER:

Or the annual reports of the Bank?

The Bank, the yearly reports.

MR. HYLTON:

The reason why I ask Mr. Chairman, is that there are reports to the Minister, there are reports to the public, there are different reports, sir.

COMMISSIONER:

I must confess that I am an ignoramus. We got masses of paper and my pig-headed report, BOJ so I don't know what designation to give it.

Report on all of them.

MR. HYLTON:

The Annual Reports, Mr. Chair, would

seek to give a general overview on the state of the industry and they would have also given appendices which detailed financial performance ratios for the industry and the various sectors.

However, the examination reports for the individual entities were not only shared with the entities themselves and discussed with their management and boards, but these were directly provided to the Minister of Finance as is required under law. These reports could not be shared with the public and the Bank is legally constrained from providing that type of information to the public.

But I also made the point that we do provide the public with information in terms of, on a quarterly basis, in terms of the balance sheet data that is provided by each entity to the Central Bank, this is published by the Central Bank on a quarterly basis, and we also provide a wide range of performance ratios which the public can use to

inform their decisions as to where they place funds or where they invest funds.

MR. HYLTON: Mr. Chairman?

COMMISSIONER: Yes.

MR. HYLTON: If I could just mention at top 14 of this bundle' there is one of those examination reports, there is both types.

COMMISSIONER: The question I was asking wasn't directed at the, obviously to the report that went to the Minister, that's between the Bank and the Minister. I was concerned about what I refer to as the BOJ Annual Report which is information to the public at large, informed observer who is interested to know what is the economic health or whatever in the country from The Bank's perspective. Would the Bank be concerned about resolution strategy, because there was a problem.

A Yes.

COMMISSIONER: That aspect wouldn't get itself in the Report to say, well now this is the situation and the Bank...

Q

Response?

Well, I think certainly, sir, in trying to ensure that there is continuing stability and calm in the system, if the Bank were to have gone public with all of the issues under discussion with the multilaterals and details as to resolution strategy, I would have to conclude that we would not have had stability in the system and recall that we were operating in an environment at one point where the slightest rumour could have unsettled the system. I recall being overseas on official business and getting a frantic call that there had been some rumour had gone around and as it turned out it was unfounded at the point, but a perfectly sound entity had started to suffer a run and public statement had to be issued by the Minister at that point to try to calm the situation.

I appreciate the point you are making regarding information to the public but at the same time I think you have to

balance the need for absolute transparency with the need also to be able to maintain stability because even for the resolution strategies to be successful they could not be successful if the entire system was in turmoil.

COMMISSIONER:

Well, I can see you had to toe a very fine line.

A

It was a very fine line and I will tell you that a mean, the Bank was at times bombarded with queries from people that we knew, from people that we didn't know, and we just could not give any information relating to specific entities but as I said we had and continued to do, publish quarterly data which is a means by which people can inform themselves. Of course, this data is possibly more significant to the sophisticated investor and that is why in our response to the final question in the main report we had mentioned the issue of continuing financial education as a very critical issue that needs to be addressed because people have to have

the fundamental elements to be able to understand what a financial statement is showing but also just to understand when they should be where.

COMMISSIONER: Thank you.

MR. HYLTON: Mrs. Anderson. you have explained the political, the logistical difficulties, the question also asked the Bank to explain political difficulties, are you able to?

A I would have to say that the Bank of Jamaica would not be in a position to address that aspect of the question.

Q Moving on to the...

COMMISSIONER: One second.

MR. ROSS: It certainly strikes us, and we can certainly appreciate the difficulties and challenges but it just seems that there must be other reasons to explain the delay in dealing with the problems. You have mentioned before that for sometime prior to 1996 the Bank had been making recommendations with regard to taking action against institutions I presume that you would not make those

recommendations without considering the implication of those actions. I know you can't answer the question, but it does seem as if there must have been other issues than simply logistical or even legal of considerations that were delaying the action.

A Well remember...

There was a cost to those delays.

A .Oh, absolutely. The logistical difficulties I alluded to would have involved taking action against all problem entities at the same time and certainly I can tell you even from the standpoint of the supervisory resources, the supervisory resources of the Central Bank were certainly not unlimited and the issues that were being dealt with in terms of intervened entities would have been dealt with by a fairly small senior group of persons.

The enormous pressure and stress that that very small group of persons had to go under. I will tell you that the stress was enormous and even in dealing with the

intervention of one large group it meant that we were involved in interminable meetings, the hours were dastardly. I normally did not see my house in the daylight because I left very early in the morning and came back extremely late at night; 12 o'clock was not an unusual hour. My family certainly did not see me and this was multiplied across, as I said, the very small group of professionals that had to deal with it and you will appreciate that in order to ensure total confidentiality of the issues and the actions that was a requirement. So, to deal with the wide scale intervention of everything at one time certainly it would have been a problem. But in our earlier more expansive report we had also mentioned the specific problems that created lapse of time in dealing with individual entities and you will appreciate that because this was a brand new situation and I hardly think that anybody would have taken the closure of a major

financial entity lightly even when the Central Bank had come to a firm conclusion that this entity was in major problems and in fact based on our assessment it was insolvent, the authorities to whom we reported would have required that they got independent verification of this which also lengthened the time. The initial response to several instances would have been to ask for mitigation by the owners, the introduction of new capital and we went through several iterations of this where owners would initially refuse to even accept the fact of the difficulties that the entities were in. I recall specifically instances where they finally agreed to the authorities bringing in external consultants to verify the conclusions of the Central Bank.

COMMISSIONER:

That is called denial.

A

Absolutely, sir, absolutely. They agreed to the specific consultants who should be brought in. They agreed that

they were properly qualified and had the experience to do the necessary things and when the findings did not come out as they felt it should have, then the whole problem started again. I mean there were many, many meetings where the authorities tried to get corrective action taken. Numerous undertakings were made and they were not adhered to. The conditions just were not met. And it is amazing when I think back on all of these things just how many chances they were given to do the right thing. In some instances they even came up with fictitious buyers and we had to do major investigations to realize that these people were really fictitious, that the so called capital that they were purporting to bring in was equally fictitious. Some turned out to be loans to the original shareholders. It was an enormous scam in some instances and all of that helped to lengthen the period until the final decision was made. I would say that from a strictly technical

standpoint if action had been taken at the point where the Central Bank's initial recommendation was made, certainly the solvency hole would have been much smaller at that point, but I can also understand the need for substantiation of the Central Bank's position by independent professionals or certainly the need that the authorities felt for that action to be taken especially since many of the owners did in fact launch legal challenges to the action when they were taken and some of them even went to the Privy Counsel. So I hope I have answered your question, Mr. Ross.

Q

There is one question I would like to ask you. That last point is it usual that Governments in other jurisdictions would seek for independent verification of a position advanced by a regulator? Do you expect Federal Reserves or whoever it is to second guess the Federal Reserve?

A

Well they do operate under different

statutes. They do operate under different statutes and I think at one point in our submissions to Parliament we had even requested that a provision be provided in law that would allow for intervention even before the entity had lost total value, so in fact intervention could have taken place before the company was fully insolvent; both to save value for the owners and depositors, but also to reduce the final cost to the Government and eventually to taxpayers. Parliament did not agree with the recommendation, with the proposal and in fact, as I recall the then Opposition raised strong constitutional issues in relation to the taking away of property and the final determination of Parliament in any event was that the -- certainly in terms of vesting of shares and overall intervention could not take place unless the entity was in fact insolvent.

MR. BOGLE:

My question is, bearing all that in mind, what have we put in place now to

prevent such a thing from happening in the future, that delayed period, what have we got in place now?

A Well, we certainly have greater powers in the law. As I said the Minister does have vesting power. The Central Bank now has the power to take temporary management. We have much more stringent capital requirement, provisioning requirement, but in terms of the legal apparatus, I think certainly we have stronger provisions in place now. Therefore if The

Q Bank of Jamaica should realize that one of the financial institutions is in an insolvent situation the Bank would be in a position to act much more quickly in a shorter period of time than maintained previously?

A I would have to say, yes.
So what about the fact that the

Q shareholders could also, and the board could also make it difficult for the Bank?

A That would still be a practical problem.

Q It would be.

A It would still be a practical problem, but it is one that we would I imagine just have to deal with.

MR. HENRIQUES: Mrs. Anderson, are you familiar with the banking laws of the Bahamas?

A Not particularly.

Q Do you know that cases were reported, the Swiss Security Bank, where the Central Bank is of that group, the Governor can issue a suspension licence, suspend the licence and simultaneously put in a receiver and they have 14 days, the owners and the bank, to respond and if they don't respond satisfactorily then he revokes the licence and in the meantime gets external auditors to verify his actions and they can act very quickly, but they don't have the logistic problems you have because it is the one bank, we do not.

A Exactly and also they have the power to revoke which we do not have.

Q That's the Governor has those powers. Suspend, await your answer and revoke.

A Right. But as you know in Jamaica we still do not have that power. I think in the Bahamas they have the power to actually issue and revoke. We don't have that power.

Q By the way, the owners did take it to the Privy Counsel and lost.

A Yes.

COMMISSIONER: Part of our terms Mr. Hylton, is that we are supposed to make recommendations, are we not?

MR. HYLTON: Yes, Commissioner. Some may say the most important point.

COMMISSIONER: Well there is somebody here who can make a suggestion to us that we will take into consideration.

MR. HYLTON: I just observed, sir, that Mrs. Anderson, she just said she didn't remember fully at the start, but the last question she had answered when she first gave evidence related to the future and she gave some amount of detail of things that she talked about.

COMMISSIONER: Yes, yes, I do recall her saying so, very well. Well this is one

recommendation that is required.

MR. HYLTON: Yes, sir.

COMMISSIONER: Could we suggest it?

MR. HYLTON: Yes, sir. May I continue, sir?

COMMISSIONER: Indeed.

MR. HYLTON: The first question we were addressing Mrs. Anderson, just to remind you -well, I think you had answered about the political.

A Yes, yes.

Q The next question is, as indicated in the Bank of Jamaica supervisory reports, "**The breaches of the financial system legislation regulations as well as the insolvency of The Workers Bank Group and the Century Group have been documented in a series of supervision reports. Notwithstanding these institutions were allowed to remain in operation with enormous Bank of Jamaica funding: Century National Bank \$4.379 billion, Eagle Commercial Bank, \$10.872 billion and NCB \$1.223.1 billion.**"

Would you care to comment on that?

1 November 12, 2009

2 MR. HYLTON: You care to comment on it?

3 A: I will begin by again making the point
4 that the power to intervene by temporary
5 management was not with the Central Bank
6 and in fact remained with the Minister
7 until 2002.

8 The generalized considerations that
9 applied with respect to withholding
10 liquidity support were dealt with in our
11 original submission to the Commission I
12 think, Question 6, which sought to
13 explain the issue of liquidity support
14 and such a decision would have to have
15 been a decision to withhold liquidity
16 support, certainly for an entity
17 experiencing severe liquidity problems
18 which could have led also to insolvency
19 would have eventually been a decision to
20 close the entity and so such a decision
21 would have had to be taken, not only
22 with the knowledge but full concurrence
23 of the government given the fiscal and
24 social consequences that would have
25 followed and I would also make the point

1 that at that point we did not have a
2 deposit insurance scheme in operation
3 and so the full impact of any loss to
4 depositors would have been taken by the
5 government based on its decision to
6 protect depositor.
7 The decision also has to be seen in the
8 context of the specific state of the
9 entities and the approach by the
10 authority to treat with each problem
entity. And

here I would again refer

12 the Commission to Pages 13 and 14 of our
13 original detailed response at which the
14 BOJ indicated the difficulties
15 experienced by the Central Bank in
16 having licensees close before their
17 insolvency reached huge levels.

18 Q: I think that is at paragraph (e),
19 Mr. Chairman.

20 COMMISSIONER: Yes.

21 Q: May I continue, sir?

22 COMMISSIONER: Certainly.

23 Q: The next question, Mrs. Anderson .

24 MR. ROSS: Just to be clear, at that time the Bank

25
to

of Jamaica did not yet have the power

1 place institutions under temporary

2 management?

3 A: No it didn't?

4 MR. HENRIQUES: Mrs. Anderson, where you have a
5 combination of circumstances like mis-
6 management, insolvency, breaches of
7 statutory regulations, all these
8 combinations, do you think that
9 liquidity support should have been given
10 in those circumstances?

11 A: Well, I would think that where you have
12 the combination of all of those factors,
13 the Central Bank would have long before
14 made a recommendation as to the final
15 action that should be taken. However,
16 since we didn't have the power to take
17 the action itself, we certainly would
18 have had to -- any action we took would
19 have had to be with the concurrence of
20 the authority.

21 MR. HENRIQUES: Implicit in what you are saying, if you
22 had the power you would not have given
23 liquidity.

24 A: Well, implicit in what I am saying if we
25 had the power we would very likely have

1 acted earlier.

2 MR. HYLTON: The next question I think refers to that
3 one, by saying what is this situation,
4 meaning I take it, the continuation of
5 keeping open these institutions, not a
6 dereliction of the fiduciary, legal and
7 moral responsibilities of the authority?

8 A: By the 'authority' here I would have to
9 restrict myself to the Bank of Jamaica,
10 and I would have to say that the Bank
11 has explained the considerations that
12 would have informed the intervention and
13 regulatory and resolution actions. The
14 Bank takes the view that the situation
15 of financial sector crisis was a new
16 situation for the authority for which as
17 stated in our report, the appropriate
18 legislative and institutional framework
19 was not in place. In the circumstance
20 the Bank does not believe that there was
21 a dereliction of duty and that the
22 decisions were made on the basis of the
23 information available. The existing
24 circumstances and the existing
legislative framework with the under-

1 taxpayers from an estimated 15% of GDP
2 to some 40% of GDP. Can the
3 authorities justify placing this
4 additional financial burden on the
5 taxpayers of the country?

6 A: In answering, I make the assumption that
7 the 15 and 40% referred to were figures
8 taken from the IMF Report that was
9 earlier referred to. We have not been
10 able to confirm the 15% estimate
11 referred to in the question, we note
12 however that the IMF Report did refer to
13 a 20% estimate of the impact of the
14 combined insolvency in the insurance and
15 banking sectors and here we refer to
16 page 5 of the Executive Summary of that
17 report. It is also noted throughout the
18 report that the estimate for the
19 Insurance Industry was not based on any
20 firm data as this was unavailable from
21 the Office of the Superintendent of
22 Insurance; rather, the estimate by the
23 IMF was based on the actual request for
24 government assistance made to the
government by distressed insurance

1 entities themselves and this request
2 for assistance was a total of \$19 Billion
3 Jamaican dollars at that point.
4 The Fund further indicated in its report
5 that despite the significant size of
6 these requests from the insurance
7 companies, in the Fund's estimation the
8 amount of \$19 Billion, would have been
9 insufficient to remove the insurance
10 entities from their deficit position. And
11 here I refer to Page 13 of the IMF
12 Report. The Bank of Jamaica would have
13 been in a somewhat better position
14 arising from the fact that unlike the
15 situation with insurance entities, data
16 was received on an ongoing basis from
17 banking entities and would also have been
18 ascertained from on-site examinations
19 which are carried out on a sample basis.
20 However the BOJ's
21 findings ultimately rely on the
22 integrity of the data provided to the
23 Bank and to the examiners which was in
24 many instances questionable.
25 The Bank has, at question 5 above,

1 provided its view on the preemptive
2 widespread intervention proposed by the
3 multilateral agencies. The considerations
4 in making a determination as to the
5 appropriate approach were set out in that
6 response. The financial burden on
7 taxpayers was to some extent unavoidable
8 in the context of
9 maintaining financial system stability and
10 ensuring the safety of not only depositors
11 but also of insurance policy holders and
12 pensioners. The situation I would have to
13 say was also further exacerbated by the
14 fact that the multilateral institutions
15 did not initially provide the expected
16 financial support necessary to assist
17 Jamaica through the crisis. The Government
18 was therefore forced to proceed on the
19 basis of using FINSAC paper, Government
20 undertakings and guarantees to stabilize
21 the system. This action resulted in the
22 rapid build-up of fiscal obligations that
23 were consistently rolled over resulting in
24 the compounding of interest

1 costs to the Government from
2 interventions in 1996 until 1998.
3 In 1998 multi-laterals finally
4 determined on providing assistance to
5 the Government in paying down the FINSAC
6 debt after the approach of the
7 authorities was demonstrated to be
8 effective in achieving the objective of
9 maintaining stability and orderly
10 resolution.

11 Q: That Mr. Chairman, are the answers to
12 these questions from the panel.
13 COMMISSIONER: Thank you very much.

14 MR. ROSS: I am not sure exactly who this question
15 should be directed to, but I just want
16 -- it seems to me that the Bank was
17 certainly constrained on the
18 Supervisory side in terms of the actions
19 that it could take. However, I don't
20 know to what extent it was constrained
21 on the Economic Policy side because
22 certainly actions that were taken there
23 or maintained must have added to the
24 cost and the difficulties of
25 institutions.

1 A: And you refer specifically to the over-
2 draft?

3 MR. ROSS: The interest rate policy in effect.

4 A: And I think in her earlier response on
5 Tuesday Mrs. Halsall did indicate that
6 the interest rates in play at the time
7 would have had an impact on the actual
8 cost, but I think she also made the
9 point that they could not be blamed as
10 the determining factor.

11 MR. ROSS: I am just asking as a general question
12 because as you said it has an impact on
13 cost and the question is, where do we
14 find the perfect balance in the cost
15 benefit trade-off, I am just wondering,
16 given the constraints of the
17 Supervisory side whether perhaps more
18 latitude on the Policy side might have
19 helped to reduce the eventual cost of
20 the episode?

21 A: And not being a monitoring policy
22 specialist, I think it would not be safe
23 for me to venture there.
24 COMMISSIONER: Fair enough. Mr. Nelson?

25 MR. NELSON: Thank you, sir.

1 Mrs. Anderson, you mentioned
2 confidential information amongst your
3 group of Bank of Jamaica personnel
4 during the time that you were working
5 long hours, not being at home until day
6 light and so on and so forth. I would
7 like to ask, was part of that
8 confidential information the fact that
9 Workers Bank was insolvent, that is to
10 say, by not announcing to the public
11 while people were continuing to lodge
12 money and continuing to save with
13 Workers Bank, the confidential
14 information was depriving people of
15 information which they needed to have?

16 A: I think I sought to explain earlier that
17 the Bank is legally constrained from
18 providing certain types of information
19 or making certain types of information
20 public. We operate under a very
21 specific confidentiality constraint in
22 our banking and financial laws. I am
23 sorry I don't have the laws at hand.

24 Q: But you are saying that that extends
25 to...

1 sought to provide performance
2 indicators in addition to the actual
3 4 figures so that persons could seek to
5 6 inform themselves as to the specific
7 8 performance of the individual entities.
9 And I am sure that that might not be a
10 comfort to persons who do not understand
11 the information and certainly I believe
12 that that was one of the reasons that the
13 decision was taken to introduce a Deposit
14 Insurance Corporation and certainly the
15 coverage provided would have been geared
16 more towards the smaller depositors than
17 the larger sophisticated depositors and I
18 would believe that it was also the reason
19 for the decision to ensure that in the
20 intervention process all depositors were
21 fully protected whether the protection was
22 extended via an actual pay-out to the
23 depositors or through the facility of
24 having stronger institutions assume the
25 assets and liabilities of the distressed
entities. So that the
depostitors themselves did not suffer a

1 loss.

2 COMMISSIONER: Thank you.

3 MR. ROSS: If I could just make an observation, I
4 think your question goes to a very
5 important issue, and I think we talked a
6 little about it awhile ago where it's
7 extremely important that the regulator
8 be able to take action before
9 institutions become radically insolvent
10 because although there is deposit
11 insurance, there is a limit on that and
12 it won't cover everybody and perhaps
13 when we are looking at recommendations
14 and so on, we need to look at a regime
15 which would allow for either preemptive
16 action or certainly action immediately
17 that insolvency occurs so that the
18 public is protected from placing their
19 monies in what could be a deep whole.

20 A: And I think that is an admirable
21 approach to take. I would make the
22 point, however, that even in the best
23 run systems, and I am not suggesting
24 that the US is the best run because
25 certainly the events of the last two

1 years have, I think, proven that they
2 are not, and you know luckily for the US
3 they have the resources to be able to
4 extend massive intervention funds to
5 their distressed banks which by
6 themselves have helped to bring down
7 almost the entire world financial
8 system, so.

9 MR. HYLTON: Mr. Chairman, I think that it would be
10 appropriate for me to refer to a section
11 here. The witness talked about a legal
12 constraint, I think I should say, sir,
13 that Section 34(d) of the Bank of
14 Jamaica Act provides that the officers
15 of the Bank in their supervisory
16 capacity shall not disclose information
17 regarding the operations of any
18 commercial bank or specified financial
19 institution to any person other than
20 Minister, Governor, certain officers,
21 JIDC, Financial Secretary, specified
22 persons, not the public.

23 COMMISSIONER: I hope Mr. Nelson has heard that.

24 MR. NELSON: Yes, I appreciate that.

25 But still Mrs. Anderson, you testified

1 day before yesterday I believe it was,
2 that the Bank of Jamaica could make
3 recommendations to the Minister, so even
4 if the Bank itself could not make the
5 announcement to the public, I would like
6 to ask whether -- you speak of there
7 being no dereliction of duty on the part
8 of the Bank of Jamaica, whether the Bank
9 of Jamaica was not in dereliction of
10 duty if it did not recommend to the
11 Minister that this announcement be made
12 to the public that the bank was
13 insolvent?

14 A: No, I would not agree with such a
15 conclusion.

16 Q: You wouldn't agree?

17 A: No, because, the Bank's role is to
18 recommend to the Minister on actions
19 necessary in relation to problem
20 entities and problem situations and
21 those recommendations were made
22 copiously. As I said before, the Bank
23 has no power to actually take certain
24 actions but we certainly made
25 recommendations. I could never believe

1 that the Bank of Jamaica would have been
2 derelict in its duty if it did not
3 recommend to the Minister that the
4 Minister make public the fact of an
5 insolvency which would at that time have
6 thrown the entire system into uproar and
7 turmoil. No Mr. Nelson, that would not
8 have been dereliction of duty on the
9 part of the Bank of Jamaica, but then
10 that is my opinion.

11 Q: So I would like to ask, if that is the
12 position, your position, or the position
13 of the Bank of Jamaica, that to make
14 that announcement, while people were
15 still putting money in the bank...
16 COMMISSIONER: Political speech. Keep to the question
17 please.

18 Q: I am putting in the framework. To make
19 that announcement while people were
20 putting money in the bank and continuing
21 to save with the bank, would have caused
22 a problem in the banking system, if by
23 doing that, if by taking that position
24 you, the Bank of Jamaica, was not being
25 complicit in the irregularities and

1 indeed the illegalities of Workers Bank?

2 A: No, Mr. Nelson, because the Bank has to

3 work within its legal powers and as I

4 mentioned if a bank is in problems...

5 COMMISSIONER: One moment please. I am not sure we are

6 at adversarial positions here you know.

7 Q: No, no, not adversarial, sir..

8 COMMISSIONER: But it looks like...

9 Q: The urgency in my voice is to do with

10 the importance of the aspect?

11 HER LADYSHIP: I wasn't worried about your voice, I am

12 more concerned about the content of what

13 you are saying because you are

14 suggesting an adversarial situation.

15 Q: Perhaps I could rephrase. I don't think

16 you should conclude that there was any

17 mens rea...

18 COMMISSIONER: I don't think the Commission is

19 concerned about that. So let us keep to

20 our terms of reference.

21 Q: Whether you were not concerned, put it

22 that way, that by taking that position

23 that it shouldn't be announced or it

24 shouldn't be recommended that it be

25 announced?

1 COMMISSIONER: Mr. Nelson, the Bank operates under the
2 Act and a section was read to you, can
3 you take it any further than that?

4 Q: The section is clear, sir, that the Bank
5 cannot?

6 COMMISSIONER: So where you go going to go with it?

7 MR. NELSON: But the position as explained before is
8 that the Bank can recommend to the
9 Minister but the witness is saying...

10 COMMISSIONER: She said she made recommendations.

11 MR. NELSON: No, no, sir, that is not what I
12 understand her to be saying. She's
13 saying they did not make the
14 recommendation because their position
15 was that if they made such a
16 recommendation and it was acted upon it
17 would cause confusion in the banking
18 system, so they didn't make the
19 recommendation.

20 A: We didn't make the specific
21 recommendation that you are proposing
22 that should have been made. There is no
23 requirement in law, in statute, in
24 practice, in procedure for such a
25 recommendation to be made and I made the

1 point that certainly in my opinion, that
2 such a recommendation would be highly
3 inappropriate for the Central Bank to
4 make in terms of its regulatory function.
5 Certainly in terms of its regulatory
6 function, the Central Bank was very
7 concerned about the condition of the
8 various entities and it was on that
9 basis that reports were made and
10 recommendations were made for actions to
11 be taken; beyond that Mr. Nelson the
12 Central Bank cannot go.

13 Q: So, all right, there is no provision in
14 the law for you to make such a
15 recommendation, that is it in a
16 nutshell?

17 COMMISSIONER: You can ask her lawyer.

18 MR. NELSON: Thank you sir.

19 COMMISSIONER: Are you finished.

20 MR. NELSON: Yes, sir.

21 COMMISSIONER: Oh, I I thought you had paused for
22 breath or something.

23 Any questions from any other counsel?

24 That seems to be unless you want to
25 re-examine.

1 MR. HYLTON: No, sir, I don't. Might she be released
2 for the rest of the day?

3 COMMISSIONER: Indeed, please.

4 MR. NELSON: May I just say, sir, that I have written
5 to my good friend, Mr. Hylton, and
6 copied to Mrs. Kelly Wong, a request for
7 a copy of a document from which a
8 witness, Mrs. Gayon Hosin read to the
9 enquiry yesterday. I could pass up to
10 the panel copy of it?

11 MR. HYLTON: Can I just indicate, sir, I was handed
12 the letter this morning, it is not a
13 problem in a sense.

14 COMMISSIONER: I was going to ask whether it was a
15 problem or not, okay, I was going to put
16 it this way, do you need a ruling from
17 us?

18 MR. NELSON: If my friend is saying that it is not a
19 problem, in other words, he is going
20 provide it, then there is no need.

21 HER LADYSHIP: Let us march boldly on.

22 MR. HYLTON: May I now call Mrs. Halsall please.

23 COMMISSIONER: Well, since it is almost the time,
24 perhaps we could take the break now, Mr.
25 Hylton, rather than her going up and

1 breaking. So will adjourn for for 15
2 minutes for the break.

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CONTINUED....

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1 (MRS. HALSALL RECALLED)

2 COMMISSIONER: You may have a seat.

3 MR. HYLTON: Mr. Chairman, if I may now recall Mrs.

4 Myrtle Halsall.

5 MRS. HALSALL: Morning.

6 (RE-EXAMINED BY COUNSEL)

7 (MRS HALSALL SWORN) -- 11:15 A.M.

8 MR. HYLTON: Mr. Chairman, we will now return to the

9 start of the questions from the

10 Commission...

11 COMMISSIONER: Yes.

12 MR. HYLTON: ...and address the first one.

13 Mrs. Halsall, the first question asked
14 reads: The Central Government
15 Expenditure increased from \$13.018B in
16 the fiscal year 1991/1992 to 102.947
17 billion in 1999/2000. Over the period
18 GDP grew marginally between .5% in 1991
19 to 2.5 percent% in 1995 per annum
20 becoming negative in the years 1996,
21 1997, and 1998. Growth in Private Sector
22 credit moved from 16.45 percent in 1990
23 to 16.9% in 1990 to 16.9% in 1998. How do
24 the authorities justify the increases in
Central Government expenditure by

1 intervention into the institution. So the
2 institution is closed, therefore, the
3 private sector credit is no longer a part
4 of the credit of the institution, only the
5 credit of the remaining institutions would
6 be included. So that is the reason for the
massive decline in

8 1996/97; '97/98.

9 Q If I may go on then to the next
10 question.

11 COMMISSIONER: Yes. She has answered to...

12 MR. HYLTON: To what extent were the increases in the
13 fiscal expenditure financed through
14 borrowing both in local currency and in
15 foreign currency?

16 A Although the figures show increases in
17 expenditure up to the collapse of the
18 financial institutions, the revenue was
19 also increasing and increasing at a
20 faster rate so the expenditure was
21 financed largely through revenue. The
22 government was running surpluses in
23 those years, 1991 up until '95/96. The
24 government would still be borrowing
25 during the period because there would be

1 institutions that they would have
2 intervened and so on.

3 MR. HYLTON: Mr. Chairman, we have actually
4 calculated the numbers and we can
5 present the Commissioner if you wish,
6 with a table with the revenue
7 expenditure surplus for the period.

8 COMMISSIONER: I think that would be helpful. Thank
9 you.

10 MR. HYLTON: The next question...

11 MR. HENRIQUES: Before you go on I would like to ask
12 her one question. Mrs. Halsall, when you
13 say 'revenue' does that include foreign
14 borrowings?'

15 A No. The taxes...

16 Q When you say revenue what that
17 included?

18 A What they would have collected - mainly
19 taxes.

20 Q Mainly taxes?

21 A Yes.

22 Q So when you use it in that term -- in
23 answering the question you are talking
24 about taxes?

25 A Mainly taxes; largely taxes. The

1 foreign borrowing would be classified as
2 financing.

3 Q As financing?

4 A Right.

5 Q Because the question asked: To what
6 extent were the increases?

7 A In the expenditure.

8 Q Yes.

9 A The increases in the expenditure - let
10 us look at 1996/97 onward when they were
11 running a deficit. If they collect
12 less revenue, that is mainly taxes and
13 some capital transfers, and they spend
14 more than they collect then they would
15 end up with...

16 Q So they would be borrowing during that
17 time?

18 A So therefore they would need to borrow
19 to finance that deficit. So every time
20 they run a deficit they would need to
21 borrow to cover that deficit both from
22 abroad, foreign financing or in the
23 local market, domestic financing.

24 MR. HYLTON: The next question relates that increase
25 in expenditure to monetary policy and

1 asks: How did the actual increases in
2 Central Government expenditure impact
3 liquidity in the system and how did it
4 influence the monetary policy pursued by
5 the Bank of Jamaica?

6 A Let us look at the two periods. The
7 first period between 1991 up to 1995/96,
8 as we say they were running surpluses
9 and in the end the government would have
10 excess balance so they would deposit
11 those excess balances in the Central
12 Bank and that would help monetary policy
13 in the monetary policy contraction if
14 that is the stance we had at the time.
15 So the overall impact on monetary policy
16 would therefore have been positive in
17 the Central Government. Instead of
18 keeping the excess balances outside to
19 create additional demand, they would
20 deposit it in the Central Bank to aid in
21 liquidity management.

22 In the second period which is the period
23 of the crisis, the government as I say,
24 would need to be borrowing at this time
25 to assist in the resolution of the

1 institutions. As Mrs. Anderson would
2 have reported, there were several
3 institutions with significant overdrafts
4 in the Bank of Jamaica which was paid
5 out over this period.

6 Q Well did it impact monetary policy?

7 A Well...

8 Q Or influenced monetary policy, what's
9 the position?

10 A The fact that the government was
11 borrowing, it was not borrowing to spend
12 and add additional liquidity in the
13 system. Some of the borrowing, a large
14 part of it was borrowing to bring into
15 the Central Bank, into the system, so it
16 would not have had a monetary impact,
17 negative more monetary impact.
18 I am not saying that the government were
19 not -- they expended, I cannot speak to
20 government expenditure, I just know that -
21 - the part of it that I am speaking to is
22 the part that would impact on monetary
23 policy. The other aspect of their
24 expenditure I cannot speak to at this
-- time, I just know some part of it

1 was in order to make some corrections as
2 a result of the intervention.

3 MR. ROSS: Sf I am understanding correctly then,
4 certainly in the first half of the '90s
5 fiscal services would have helped
6 monetary policy in terms of tightening
7 liquidity?

8 A Yes.

9 Q And in the second half of the 1990s the
10 borrowing that government was doing
11 would also have helped because it was
12 aimed at repaying overdrafts that had
13 been issued to financial institutions
14 that were being taken over and...

15 A Well, that is the part of the borrowing
16 that we can identify. Some of it would
17 be for other recurrent expenditure.

18 MR. ROSS: Good.

19 MR. HYLTON: The next question is much more

20 extensive, Mrs. Halsall. It indicates
21 that the joint IMF, IADB and World Bank
22 mission expressed the view that "It has
23 been our experience that no resolution
24 strategy can be successful in restoring
25 a financial system to soundness in the

1 absence of a sound economic framework
2 that is consistent with achieving a
3 sustainable and low rate of inflation as
4 well as external viability. Jamaica's
5 current policy mix of fiscal laxity,
6 monetary restraint, and exchange rate
7 stability is, in our view, not
8 consistent with achieving such
9 macroeconomic objectives". The question
10 continues: "Still the BOJ maintains that
11 the monetary and fiscal policy mix that
12 was pursued was correct. Would you
13 justify the BOJ's position?"

14 A Just let me agree with you, the quote
15 here that all Central Banks would agree
16 that fiscal laxity is not consistent
17 with achieving a sustainable and low
18 inflation and external viability. This
19 is true regardless of whatever monetary
20 policy regime that is being pursued.
21 However it is also generally accepted
22 that fiscal laxity is more detrimental
23 to the goal of low inflation. And if
24 the Central Bank simultaneously pursues
25 a loose policy, loose monetary policy,

1 2 then we would have dire consequences
3 4 in the economy. So it is important that
5 6 the context in which the policies are
7 8 being pursued be examined. In the period
9 leading up to the collapse, that is
10 1990/1991 and '94/95 this could not be
11 characterized as fiscal laxity. As you
12 would have seen the government was
13 running surpluses in that period. But if
14 we focus on just the fiscal accounts
15 alone without looking at the other
16 variables, one could conclude that BOJ
17 should have pursued a loose monetary
18 policy, but I would have indicated on
19 Tuesday that there were severe
20 challenges, post-liberalization, and that
21 was one of the reasons why -despite the
22 fiscal running surpluses, there were
23 other problems that were being faced in
24 the economy that monetary policy needed
25 to deal with. As I mentioned inflation
was very high, very high in the period,
as I mentioned going as high as 102 on a
twelve-month basis in April 1992. During
that year we had

1 depreciation of roughly 61 percent;%. So
2 notwithstanding the fact that fiscal was
3 running surpluses, we had these other
4 challenges and therefore monetary policy
5 needs to act with that. Remember in
6 discussing the termination of monetary
7 policy, interest rates, there are wide
8 range of things that we have to examine
9 in order to try to do the tight monetary
10 policy. So the tight monetary policy
11 stance in the time was therefore to
12 contract aggregate demand and to bring
13 the aggregate spending in line with
14 supply conditions we think was the
15 correct posture to take. And the quote
16 in the joint IMF/IDB/World Bank
17 statement was done in 1996 and it was
18 on the subject of resolving the
19 financial sector distress, therefore,
20 the views could not be referring to
21 monetary and fiscal policy mix leading
22 up to the collapse of the financial
23 institutions but rather looking at the
24 deficit subsequent to the collapse.
25 Q I don't know if any questions arise from

1 IDB's Reports and most economic
2 assessment, for a system to work
3 efficiently you need to have a stable
4 environment and that is one of the things
5 that we have to -- and for you to have
6 uncontrollable devaluation, because once
7 the exchange rate -- if you could say the
8 exchange rate -- for you to have equation
9 of demand and supply, it needs to move
10 from five to ten, then that would be
11 easy, but in our system, the system that
12 we operate in, once the exchange rates
13 start moving, if you don't do something
14 to stop it just continues to move because
15 -- and I can give you a recent example.
16 In the collapse of the financial
17 institutions in late 2008 where lines of
18 credit, foreign lines of credit was cut,
19 most of the businesses started demanding
20 foreign exchange to ensure that they meet
21 their payments six months down the line.
22 So not only was the system being
23 bombarded for foreign currency for
24 current
25 payments, people were saying, well I

1 don't know what is going to happen in
2 the next six months so let me pay the
3 bill, get the money now that I need to
4 pay the bill in six months time, but the
5 resources are getting smaller and
6 smaller. So what is happening? The
7 exchange rate started moving. I think we
8 moved by about twenty percent; in a
9 matter of two quarters. So that is what
10 happens when you don't -- that is some
11 of the things that can happen. And even
12 during that period we were putting funds
13 in the system.

14 MR. ROSS: Some people might say that's part of the
15 market.

16 A Well, remember...

17 Q You see, currency volatility is a part
18 of the flight of...

19 A Yes. But you see, the persons in
20 capital market, they are not going to
21 lose but you have to think of the common
22 citizen where they will be bombarded
23 with significant inflation and they will
24 pay the price. I mean the person who is
25 buying and selling is making money. The

1 persons who have the foreign exchange,
2 if their costs go up they demand more
3 for their foreign exchange, so they
4 don't lose; The person who is doing the
5 trading -- and people make money, a lot
6 of the exchange rate movement is done
7 just buying and selling; just trading
8 between dealers and that is the sort of
9 thing that happens when you leave the
10 system to meet its equilibrium.

11 MR. ROSS: But there is a cost to defending.
12 Interest cost is up, I think it was \$60B
13 this year. Everyone who pays tax is
14 paying that cost, so there is a cost
15 whichever route you go.

16 A Yes. And you...

17 Q Which is lower?

18 A Well, as I said on Tuesday, once the
19 exchange rate starts move and going up
20 -- if you look in the series that we
21 would have provided, it doesn't come
22 back down, but over the period when we
23 take the demand based on the shock that
24 has hit the system, the shock, papers of
25 interest rate come back down. The

1 six-month rate was down at 12%
2 percent;% in the middle last year and on
3 its way down until we had that shock. So
4 interest rates will come back down as it
5 is happening now. So you have look at
6 which is the more long-lasting impact,
7 and I said on Tuesday we have done
8 significant research in this area, it is
9 not just a 'whim and fancy', it is based
10 on research not only what happens in
11 other jurisdiction but understanding the
12 Jamaican economy. Because another
13 institution, another well-developed
14 institution on a large capital market can
15 allow that to happen and it happens at
16 the margin. In Jamaica our capital market
17 is very thin; very few players determine
18 what happens to exchange rate, and so
19 therefore the Central Bank cannot sit by
20 and allow that to happen. When we take
21 interest rate action, it is something
22 that we agonize over and we look at all
23 possible impact that can occur but we
24 also look at the impact of not taking any
25 action and allowing the

1 exchange which people who probably
2 don't have a problem with financing their
3 expenditure can say, let the exchange
4 rate meets its own equilibrium but not in
5 this type of economy.

Continued

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1 November 12, 2009

2 MR. ROSS: If the International Fisher Effect which
3 is the theory surrounding interest rate
4 and exchange rate relationships is the
5 action that would have been directed at
6 achieving that, "I am wondering if this is
7 inevitable because it's the differential
8 in interest rates which persuades people
9 to go with one person versus the other.
10 When your interest rates come down it's
11 an incentive to move and capital may well
12 flow the other way. And if you look at
13 Jamaica's experience we have had pretty
14 steady movement in the exchange rate in
15 one direction over a very long period of
16 time which makes me wonder whether -you,
17 know, we have had very little economic
18 growth; we haven't had the stability that
19 we have wanted although ostensibly our
20 policies have been aimed at, the actions
21 that we have taken, have been directed at
22 achieving that, but I just wonder
23 whether, you know, at some point in time
24 we were not going to have

25

1 to either allow the market to take its
2 course or maybe look at some other
3 regime which doesn't require this kind
4 of intervention to maintain stability.

5 A A lot of it you know, what happens for
6 example in Barbados is a totally
7 different culture from what happens in
8 -- the Barbadian community will do
9 anything to ensure that they have a
10 fixed exchange rate, that is their
11 culture. In Jamaica it is just not the
12 same. The people who have the money
13 they hold the handle that they will
14 always tell you and they demand their
15 pound of flesh. It is a very difficult
16 situation to work in especially when you
17 have a very thin market with few
18 players holding earnings of foreign
19 exchange. You know your theory works
20 well in say the US, Canada, the UK
21 because their currency is an
22 international reserve currency. If we
23 could pay our external bills in Jamaican
24 dollars we wouldn't have a problem.

25 Q That is the problem, we can't, so we

1 need to accept that?

2 A In the last 6 months or so exchange rate
3 has been pretty stable and one would say
4 after that 10% move that -- but it is
5 really a lot of moral -- and suasion
6 does work you know -- (Laughter) -- but
7 it worked because of the credibility of
8 the Central Bank. The Central Bank met
9 every two weeks. I mean this is not
10 necessarily published but we meet with
11 even people who we don't supervise. We
12 meet with securities dealers just to
13 enlist their support so that they can
14 speak with their clients. We meet with
15 the bankers, we meet with the Cambio
16 dealers so that they can pass the
17 message on to their clients and say, hey
18 we are in a problem let us try and work
19 with it such that we have. And I mean
20 we have to call them in every two or
21 three weeks to give them another pep
22 talk because you know their clients will
23 say no, no, no I am not selling my
24 dollar for 88.95 I want 89.50. So it
25 does work but it works to a point but

1 they want to ensure that the other
2 things in the economy also work and not
3 only the -- so the Central Bank can only
4 hold that for a time, but they are
5 watching to see what is happening, the
6 fiscal, and the promise of the IMF
7 programme is you know, will help to keep
8 it. So it is a whole myriad of issues
9 that you have to grapple with.

10 COMMISSIONER: How did the Stewart initiative impact on
11 all this, or was it too early or too
12 late or what? What did they do, if,
13 anything?

14 A That was in SO's f think.

15 MR. HYLTON: '91.
16 COMMISSIONER: It was when things were not happy?

17 A Yes, '91.
18 COMMISSIONER: Did that achieve anything because

19 obviously they used that as morale
20 suasion?

21 A Well I think we still had a vibrant
22 capital market stil going. I mean
23 parallel market still going. The
24 Stewart initiative was a good morale
25 suasion you nuh, and it only worked for

1 a time.

2 COMMISSIONER: You can't persuade the drug dons to help
3 you at all?

4 A We wouldn't want to deal with
5 those. (Laughter)

6 MR. HYLTON: Mr Chairman, in addition to the
7 specific questions asked on the
8 document, there is a question that you
9 had asked today which this witness would
10 also address, would you wish her to
11 address it now?

12 COMMISSIONER: Well perhaps I had better leave mine for
13 the moment, or counsel might ask it.

14 MR. HENRIQUES: Mrs Halsall, do I understand you to say
15 you agreed with the observations of the
16 IMF which was read to you?

17 A That fiscal laxity is not consistent?

18 Q Yes.

19 A Yes.

20 Q So that when they say that Jamaica's
21 current policy mix of fiscal laxity,
22 monetary restraint and exchange rate
23 stability is in our view not consistent
24 with achieving such macro-economic
25 objectives, do you agree with that

1 statement or was the IMF wrong?

2 A When you have fiscal laxity -- and let
3 me read your statement again.

4 COMMISSIONER: It is a mix you nuh.

5 A Fiscal laxity, monetary restraint and
6 exchange rate stability. If you have
7 fiscal laxity you cannot have a
8 expansionary monetary policy, that only
9 worsens the problem. So to have -- if
10 there is laxed fiscal policy you have to
11 have some compensation.

12 Q What I am asking you, do you agree with
13 that statement by the IMF or you
14 disagree with it? That the mix that you
15 had at the time was not consistent with
16 achieving macro-economic objectives;
17 that is what it says.

18 A At the time?

19 Q It says here, 'Jamaica's current policy
20 mix of fiscal laxity, monetary restraint
21 and exchange rate stability is in our view
22 not consistent with achieving such maco-
23 economic objectives. Do you agree with
24 that statement, or was the IMF wrong?

1 A The current policy here refers to
2 1995/96.

3 Q Yes, it was November 1996.

4 A Remember leading up to the collapse, and
5 as I said at the start there was no
6 fiscal laxity at the time.

7 Q But wasn't there a collapse by 1996?

8 A By 1996.

9 Q There was the collapse?

10 A Yes, and there was some fiscal laxity.

11 Q And this report is the 27th of
12 November, 1997?

13 A Right.

14 Q I want to know if you agree with that
15 statement? This is the observation the
16 IMF, IDB made.

17 A In theory yes, if you do have fiscal
18 laxity and monetary restraint, exchange
19 rate stability, to the extent that
20 fiscal laxity is dominant then I would
21 agree totally with the statement.

22 Q They put three things, three elements
23 not just mix and laxity.

24 A They say the mix but they did not say
25 how the mix.

- 1 Q No.
- 2 A But it all depends. If you have a
3 compensation, if monetary policy is
4 compensated for the fiscal and results
5 in exchange rate stability and lower
6 inflation, lowering of inflation, then I
7 think that we have to meet the correct
8 mix of policy. Because if you say for
9 example a fiscal laxity and loose
10 monetary policy that would not result in
11 exchange rate stability and therefore we
12 would not be be achieving our
13 macro-economic objectives.
- 14 Q So you agree with the statement as an
15 observation?
- 16 A I cannot agree in total because it does
17 depend on how the mix, whether the
18 fiscal is the larger part; but in theory
19 fiscal laxity by itself is not
20 consistent with a sustainability in
21 lowering inflation.
- 22 Q They talk about a mix yuh nuh, three
23 things they say.
- 24 A At the time 1996...
- 25 Q Yes.

1 2 very dominant that is where we have a
3 4 problem, you nuh, I mean when it is very
5 6 dominant, but I don't think in 1996 we
7 8 did have - inflation was on its way down
9 at that time 96/97. The inflation
10 - in the '96 the BOJ signal rate had
11 dropped significantly, because in 1997
12 -- well, you see it is difficult because
13 one is in fiscal and one is in calendar
14 year, so I am having a little difficulty
15 with comparing the two right now. But
16 usually at any point in time the
17 monetary policy taken in order to ensure
18 stability will have to compensate for
19 whatever fiscal is taking place. The
problem is when it becomes very
challenging is if within the mix the
fiscal laxity is the dominant one. It is
not to me a yes or no answer.

20 MR. HENRIQUES: I know I just

wanted to know what your

21 observation was of the IMF comment.

22 A And that is why I commented on the
23 fiscal laxity is not consistent with
24 achieving low and stable inflation and

1 external factors; what is happening in
2 the balance of payment the country's
3 external earnings as well.

4 COMMISSIONER: Okay.

5 MR. HENRIQUES: Yes, sir. Thank you Mrs. Halsall.

6 MR. ROSS: Just one more question. Mrs. Halsall,
7 could you tell us what is the limit of
8 the authority of the Bank of Jamaica
9 with regards to monetary policy? I think
10 we got a pretty clear idea on the
11 regulatory side as to where the
12 authority of the Bank stops and the
13 Minister's begins. Could you give us
14 some idea as to how that plays out on
15 the monetary policy side? Do we have to
16 get approval for increasing interest
17 rates or reducing, I mean where does the
18 limit of the Bank's authority stop in
19 that regard?

20 A Well the Central Bank is not independent
21 so we don't have de facto independence
22 but de jore. We do act independently.
23 The decision to adjust monetary interest
24 rate for example is usually entirely the
25 Bank's. The Minister would be advised

1 that we intend to do this and these are
2 the reasons why. They would rely on the
3 expertise of the Bank in that area.
4 That is why I say we don't have
5 independence, but we are allowed to act
6 independently with respect to the
7 interest rate. With respect to things
8 like liquid assets ratio the Minister
9 still have to sign, but usually Bank of
10 Jamaica recommends and the Minister
11 would sign.

12 COMMISSIONER: Mr. Nelson?

13 MR. NELSON: Thank you sir. Yes ma'am, you said that
14 the Government would deposit excess
15 funds in the Central Bank?

16 A Yes.

17 Q I would just like to know whether -- we
18 have heard already that the commercial
19 banks place deposits and money at all
20 with the Central Bank and Postmaster
21 General, so I would like to know whether
22 when they do that they say what the
23 money is for?

24 A The commercial banks, two types of
25 deposits with the Central Bank. (1) The

1 cash reserve requirement. The cash
2 reserve, the deposit to the Central Bank
3 is in cash and the other deposit that
4 they have is a Current Account which
5 they operate to clear cheques that pass
6 through, in the clearing system, those
7 are the only two things.

8 Q I see thank you. Thank you sir, that is
9 it?

10 COMMISSIONER: Thank you very much. Perhaps you could
11 now come to where we are at.

12 MR. HYLTON: We have a paper sir. The bank had been
13 asked Mrs. Halsall, what has been the
14 Caribbean experience with problems in
15 the financial system and how were such
16 problems dealt with and how did the
17 approach of our neighbors differ from
18 Jamaica? Could you speak to this paper?

19 A Okay, I will try my very best. This is
20 at short notice and I would have to
21 refer to the document quite a bit.

22 COMMISSIONER: Go ahead. I take it is your input, so.

23 The financial sector in the Caribbean
24 has been historically fairly stable.
25 With the exception of Dominican

1 Republic and Trinidad and Tobago,
2 Jamaica has has been the only country
3 with a crisis that pose a systemic risk
4 to the entire financial sector and these
5 developments that led to intervention by
6 the respective governments in both
7 Dominican Republic and Trinidad and
8 Tobago. In Dom Rep for example the cost
9 to the government was 15% of GDP which
10 was roughly two-thirds of their annual
11 budget. The Trinidad and Tobago
12 experience is very current so the
13 resolution is not yet final. But the
14 estimate is that it should cost between 3
15 to 6% of GDP. It is not in here in
16 detail, but in Barbados they had a
17 National Bank going into problems and
18 that was, I would say, political in
19 nature because the bank was giving loans
20 to prop up the sugar industry who failed
21 to pay their loans et cetera. So that was
22 just concentrated just in the Government
23 Banks so they dealt with it by taking out
24 the sugar debt, so there wasn't anything
25 systemic in that

1 2 particular one. But although the scale
3 4 and cost of the crisis in both Dom Rep
5 6 and Trinidad were much lower than it was
7 8 in Jamaica, the resolution strategy was
9 the same. That is, the strategy consisted
10 mainly of Government
11 guarantees of deposit liabilities of
12 the institutions and the take over,
13 consolidation and mergers of
14 institutions and subsequent divestments.
15 The Trinidad situation is currently in
16 the news. In January the Central Bank of
17 Trinidad and Tobago announced, and it
18 took control the assests of CLICO, i.e
19 Colonial Life Insurance Company and the
20 investment bank, CLICO`s Investment Bank,
21 CTB and Caribbean Money Market Brokers
22 all members of the CL Financial Group.
23 And the Trinidadian Government was
24 prompted by the contagion risk that the
25 financial difficulties of CL Group would
have for the rest of the financial system
and so they acted quickly. No doubt they
would have learnt from our experience and
would have had the

1 resources and so on to act quickly. The
2 problems were somewhat similar to some
3 of what we had here in Jamaica;
4 excessive related party transaction
5 which carried significant contagion
6 risk. Aggressive high interest resource
7 mobilisation to finance their equally
8 risky and illiquid investment mainly in
9 real estate; very high leveraging of
10 assests et cetera. So these were just
11 some of the causes for Trinidad.
12 The impact of the crisis, to date there
13 is no evidence of contagion outside of
14 the Group so the problem has been
15 contained within the Group itself. Given
16 the strength of the Trinidad economy the
17 response was swift and the economic
18 impact was muted. As I said they did call
19 on and look at the
20 Jamaican experience and learn
21 significantly from it. I know the
22 supervisors in the Central Bank of
23 Trinidad would liaise with other
24 supervisors here in Jamaica et cetera.
25 So they learnt from our experience. As

1 2 quite a number of the region's
3 4 institutions learnt from us for other
5 6 things.
7 8 The resolution, the Government, as I have
9 said it is not yet complete, but the
10 Government of Trinidad and Tobago has
11 committed to meet the obligations of the
12 third party policyholders of CLICO and
13 they have such a Memorandum of
14 Understanding in place. The third party
15 assets and liabilities from those troubled
16 institutions, the CLICO Investment Bank
17 and Caribbean Money Market Brokers were
18 transferred to First Citizens Bank a
19 state run bank in exchange for collateral
20 interest in CLICO which would be similar
21 to the FINSAC securities type of
22 transaction. The cost of the crisis, the
23 current estimate is \$5B which is about 3%
24 of GDP but there are still several
25 assessments to be made and they have, in
our speaking with them that when they
look at some of the intergroup assets
including the CLICO Investment Bank and

1 the securities issued to the same
2 financial parent group they were found to
3 be of little value. So in speaking with
4 the Central Bank they say most likely by
5 the end it could cost as much as 6% of
6 GDP, but based on the information -- they
7 are still going through the documentaton
8 but so far it is about 3 but they expect
9 that it will

10 go up to 6. So as I said the
11 resolution is roughly similar to what
12 we did in Jamaica.

13 The other interesting one would be the
14 Dom Rep. In the 1990's the Dom Rep was
15 one of the fastest growing economies in
16 the world, registering GDP growth of 6
17 per cent but in 2002, the third largest
18 bank began to experience increased
19 withdrawal of deposits following rumours
20 of fraudulent bookkeeping, political
21 influence, moneys from the bank being
22 used for the acquisition of several
23 companies and supporting lavish
24 lifestyles of owners. These are rumours
25 that were going around at the

time so they had a run on the bank.

1
2 The Dominican Central Bank stepped in and
3 provided some resources in terms of
4 credit to help them to stay liquid. The
5 fraud had continued undetected for 14
6 years by the Ccentral Bank, the
7 Superintendent of Banks and the
8 accounting firm Pricewaterhousecoopers.
9 Maybe they were running two different
10 sets of books. I don't know how it went
11 undetected for so long, but it did. They
12 were able to cover up what they were
13 doing. But as the saying, things always
14 come to light in the end.

15 The impact of the the crisis, they had
16 high inflation, 30 per cent of annual
17 inflation. I think it is, in that year.
18 They had significant devaluation
19 subsequently, depreciating from 18:1
20 U.S., to 51. That is 65% devaluation
21 03/04, and the GDP growth, as I said they
22 were having annual GDP of 6%, the GDP
23 declined by 1.9% and these were
24 influenced by the attendant instability.
Also we had other external factors

1 acting at the same time; the
2 international high oil prices was around
3 the time.
4 The resolution, the Dominican Central
5 Bank opted to guarantee the \$2.2 billion
6 U.S. dollars unbacked deposits of the
7 bank. The extent of the guarantee was
8 in the context where the deposit
9 insurance was operational at the time
10 of. .

11 CHAIRMAN: Must be 'not' left out there.

12 A Yes, in spite of the law, yes. The
13 'not' is left out here.
14 Importantly though, one of the big
15 difference is that at that time the IMF
16 gave them a loan to help to cover, as
17 part of the resolution.

18 COMMISSIONER: This is one bank?

19 A Yes, but it was the third largest bank
20 in Dom Rep.

21 CHAIRMAN: 0 how many, one?

22 A No, it is the third largest.

23 A The cost of the crisis was 15% of GDP.
24 CHAIRMAN: How many banks they had, 4?

25 A I don't know, not sure.

1 CHAIRMAN: I thought it was a bigger economy than
2 Jamaica's.

3 MR. HYLTON: If you look at paragraph 10 (e) it
4 suggests that there were two other
5 institutions with problems.

6 CHAIRMAN: Three seem to have so I want to know how
7 many. Let's face it they have 4, had 4
8 banks.

9 A I am not sure how many banks.

10 COMMISSIONER: The two that collapsed is 10% of the
11 market.

12 MR. HYLTON: And maybe too sir, as the second to last
13 paragraph notes, they guaranteed
14 obligations outside of the country,
15 Cayman and Panama, so that may have
16 substantially added to it.

17 MR. HYLTON: Anything else you would want want to
18 add?

19 A No For the short time we weren't able to
20 go into much of a detail. I hope it
21 helps.

22 A As S said the most of the resolution
23 was similar to Jamaica, but again they
24 occurred after Jamaica so they would
25 have been guided.

1 MR. ROSS: Could I just ask. You do mention that
2 Trinidad had problems in the mid 80s and
3 into early 90s, or late 80s, early 90s.
4 A I don't think that was a financial
5 problem.
6 MR. ROSS: That is the note here. It says:
7 Between the 80s and the 90s several
8 financial institutions faced insolvency
9 problems.
10 MR. HYLTON: What paragraph are you?
11 MR. ROSS: This is a note at the bottom of page 2.
12 A They were mainly government
13 institutions, so the government -- and
14 most of the times in these government
15 institutions it is usually something to
16 do with the government probably
17 borrowing, but there were some
18 government institutions which probably
19 were used to finance other government
20 related issues similar to what happened
21 in Barbados, but they just merged. The
22 story there really wasn't very
23 significant because it wasn't systemic.
24
25 CONTINUED

1 November 12, 2009

2 12:15 p.m.

3 MR. ROSS: Well, I don't think it was. It might
4 not have been systemic, but I do recall
5 as a note here says, there were a lot
6 of near banks that have major problems
7 with their commercial banks as a result
8 of the ending of the oil boom. I think
9 a number of privately held non-bank
10 financial institutions which got in
11 trouble were dealt with in one way or
12 the other. And it might be interesting
13 to get some information about how they
14 were handled and what was their
15 legislative environment and so on.

16 A: I will have to check on that

17 MR. HYLTON: You could put together something for me.

18 A: Yes.

19 MR. HENRIQUES: There is a lot of insolvencies, there is
20 a lot of bankruptcies and receiverships
21 just around 85/86 because of the oil. I
22 could see all the signs of housing
23 schemes that couldn't get off the
24 ground.

25 COMMISSIONER: Thank you very much, Mrs. Halsall. Do

1 next year. Thank you very much, we now
2 stand adjourn.

Adjournment -- 12:18 p.m.

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