

Part 1

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

WEDNESDAY, 25TH NOVEMBER, 2009

PRESENT WERE:

COMMISSIONER

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

Mr. Charles Ross
Mr. Worrick Bogle

COUNSEL FOR THE COMMISSION

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

SECRETARY TO THE COMMISSION

Mr. Fernando DePeralto

MARSHALLING THE EVIDENCE

Miss Kelly Wong - Attorney-at-law

REPRESENTING HON. OMAR DAVIES

Hon. Mr. Michael Hylton, Queen's Counsel

REPRESENTING JAMAICA REDEVELOPMENT FOUNDATION

Mrs. Sandra Minott-Phillips - Attorney-at-law
Mr. Gavin Goffe - Attorney-at-law

REPRESENTING MR. BENTLEY ROSE, BENROS LIMITED AND MICRO FINANCE CORPORATION

Mr. Gayle Nelson - Attorney-at-law REPRESENTING MR. MICHAEL LEVY

Mr. Raphael Codlin - Attorney-at-law
Melissa Cunningham - Attorney-at-law

REPRESENTNG ASSOCIATION OF FINSAC'd ENTREPRENEURS

David Wong Ken - Attorney-at-law

1 CHAIRMAN: Good morning everybody.
2 This Commission of Enquiry into the
3 Collapse of the Financial Sector is now
4 in session.
5 (Witness sworn) 9:50 a.m.
6 Thank you take your seat.
7 (EXAMINATION-IN-CHIEF)CONT'D
8 MR. HYLTON: Morning Chairman, Commissioners, morning
9 Dr. Davies;
10 DR. DAVIES: Morning, sir.
11 Q: Yesterday Dr. Davies, you were asked
12 whether you had granted any exemptions
13 under the Money Lending Act. Do you have
14 any current information on that issue?
15 Yes, I have researched. Yes, I granted
16 to FINSAC; I granted to the Financial
17 Institution Services limited; FIS which
18 was the predecessor to FINSAC; well it
19 was of the first institution established
20 primarily to intervene with the Blaise
21 financial institutions. And I also
22 granted one to Refin Trust. Those are
23 the ones which I have.
24 Q: Could you tell us the years in which
25 they were granted?

1 A: To FIS, Financial Institution Services
2 Limited, this was granted on November 20
3 1996. That to FINSAC was granted on
4 March 6, 1997 and that to Refin Trust
5 was on June 26,1998.

6 Q: Mr. Chairman, we have copies available
7 for the Commissioners.

8 CHAIRMAN: None was granted to JRF?

9 MR. HYLTON: Yes sir. He spoke to those already. The
10 questioning yesterday was in relation to
11 those granted to JRF and he had given
12 reasons for giving to JRF.

13 CHAIRMAN: I don't know the reasons but I am...
14 That question wasn't fully, shall I say
15 analysed? Dr. Davies began by telling
16 us about having to examine some other...

17 MR. HYLTON: Yes, I was going to point out that...

18 CHAIRMAN: He hasn't completed it?

19 MR. HYLTON: Correct sir, where that answer has been
20 left is that the...

21 CHAIRMAN: Which we did immediately after the
22 hearing yesterday.

23 MR. HYLTON: The Secretary tells me sir, that he has
24 made enquiries to get the files.

25 CHAIRMAN: Oh! I see. So we can't get the reasons

1 yet until we get the files.

2 MR. HYLTON: I will complete that, sir. So in
3 relation to where we are now sir, may I
4 suggest that we then turn to the other
5 questions.

6 CHAIRMAN: Yes, I would say the same thing.

7 MR. HYLTON: My friend wishes to at this time as it
8 relates to...

9 CHAIRMAN: Yes.

10 MRS. PHILLIPS: Mr. Chairman and Commissioners, just to
11 point out that the May 20, 2002
12 exemption order which was among the JRF
13 exemption order was handed up yesterday
14 was amended by a subsequent Gazette
15 dated the 27th of June, 2002. I gave the
16 Secretary to the Commission a copy of the
17 admentment and if you wanted to know what
18 the precise amendment was... No, we just
19 CHAIRMAN: wanted to get our facts in
20 order so we can see what you are
21 referring to.

22 MRS. PHILLIPS: Yes. It is the JRF exemption orders I am
23 speaking about.

24 CHAIRMAN: You say there was one May 30?

25 MRS. PHILLIPS: Yes, the first one.

1 CHAIRMAN: That is the one that has been amended?

2 MRS. PHILLIPS: It has been amended and replaced by one
3 dated June 25, 2002 which I don't think
4 you have a copy of but I made copies.

5 CHAIRMAN: Yes, we have a copy.

6 MRS. PHILLIPS: You have a copy of the admentment?

7 CHAIRMAN: Yes, we have a copy.

8 Q: I just wanted to be sure for
9 completeness.

10 CHAIRMAN: Thank you for that.

11 MR. HYLTON: Dr. Davies, I think the Commission will
12 now allow other persons to ask you
13 questions.

14 CHAIRMAN: As we announced at the outset, the
15 procedure is we will allow a little
16 flexibility because this of course, is
17 neither a trial nor as they say, a witch
18 hunt.

19 We are are going to allow members of the
20 public who are desirous of asking
21 questions to seize this opportunity of
22 doing so. We have a microphone at the
23 back and if you wish to question the
24 Minister you may do so either through
25 your counsel of course if you have one

1 but at this moment we are not speaking
2 to counsel, we are speaking to persons
3 who are unrepresented so you may use the
4 microphone at the back and put such
5 questions because we may have to rule on
6 it. It has to be seen that the
7 questions are relevant to our terms of
8 reference and a question which the
9 Minister is competent to deal with. So
10 would you please when you go to the
11 microphone state your name or the
12 company you hope to represent, thank
13 you.

14 **DEBTOR:** Yes. Commissioner and members, my name
15 is DEBTOR, I am a member of the
16 association of FINSAC Entrepreneurs and
17 I am representing my company, XXXXXX
18 Limited.

19 **CHAIRMAN:** Yes, DEBTOR, please proceed.

20 **DEBTOR:** Dr. Davies, you had mentioned yesterday
21 that FINSAC was set up primarily as a
22 process of healing to the sector. We as
23 borrowers at no time have ever been
24 mentioned in the whole process. I don't
25 know if it's because we were dead and

1 we can't really heal dead so you just have
2 to -- but we were the ones that really faced
3 the brunt of the problems with the high
4 interest rates borrowing you know, starting
5 out at low rates and finding yourself in a
6 situation where rates have increased on you
7 sometimes ten fold -- you weren't able to.
8 Why weren't we part of the whole assessment
9 and trying to resuscitate us by getting us
10 back on track; by offering us -- I for one
11 had made representation for more than fifty
12 cents in the dollar for my debt for which I
13 was termed as a bad debtor. Up to the
14 collapse I was being classified as that
15 because actually I got...
16 I am sorry. I don't want to seem to be

17

18 CHAIRMAN:

19 causing you any problem, but you have to
20 construct and conceive your question...

21 DEBTOR: Well, the question is...

22 CHAIRMAN: ...so that the Minister knows precisely
23 what it is he is required to answer.

24 DEBTOR: The question is that, why weren't we
25 offered the chance to repurchase the

1 debts?

2 CHAIRMAN: That's the question?

3 DEBTOR: That's the question or one of them.

4 CHAIRMAN: That's the question you are asking now?

5 DEBTOR: Yes, sir.

6 DR. DAVIES: Just a preliminary response. When you
7 indicated or you recited what you heard
8 me say about the objective of FINSAC, it
9 was a little broader than that which you
10 indicated but the records will show
11 that.

12 As regards your question, FINSAC and
13 FIS, et cetera, dealt with each
14 individual. So the issue of offering a
15 blanket 50 percent off, some people
16 could do better and some people couldn't
17 do that. But I know of instances where
18 virtually all interest was written off,
19 and so it had to be dealt with on a case
20 by case basis. And whilst I was not
21 involved in the day to day operations I
22 had every confidence that both Dr.
23 Bonnick, who was the Executive Chairman
24 and subsequently, Patrick Hylton dealt
25 with each client in an equitable way,

1 but the notion of blanket, across the
2 board, I have heard this notion being
3 raised before. Some people could afford
4 fifty cents in the dollar while others
5 could afford less than fifty cents in
6 the dollar.

7 WOMAN: Most of us were never...

8 CHAIRMAN: Please, please! Yes DEBTOR please
9 go ahead.

10 DEBTOR: With respect though Dr. Davies, that was
11 not offered to any member of our
12 association. I mean I have met with
13 Patrick Hylton on several occasions and
14 made offers. Property was sold that I
15 owned for less than 25 percent of the
16 value and using that property for
17 instance I would have been able to -- if
18 I had gotten back that property I would
19 have been able to repay a hundred
20 percent of my debt and still continue my
21 business but I was totally destroyed in
22 the whole thing.

23 DR. DAVIES: Well again, I must confess that I am at
24 a disability in that I don't, for
25 obvious reasons, know the individuals

1 operations; every individual operation.
2 But Patrick at various times pointed out
3 to me that some of the requests weren't
4 possible; he couldn't hand back
5 property when that represented the
6 collateral which he had against the
7 debts. Whilst we tried to be flexible,
8 and as I said I don't have the day to
9 day details, but I reiterate my
10 confidence in the approach taken.
11 Patrick was an experienced banker.
12 Gladstone wasn't a banker but he is an
13 extremely fair person so I have to
14 reiterate my faith in them.
15 if you are asking if a policy decision
16 could have been taken, I would give you
17 the reason a policy decision couldn't be
18 taken because there would still be some
19 debtors who would not benefit from
20 whatever that percentage of the
21 dollar is.

22 Q: But in all deliberations though,
23 wouldn't it be in the country's interest
24 that the borrowers, the ones that really
25 drive the economy, the ones who provide

1 the employment and all that, was brought
2 into the mix as well as the banks. S
3 mean the depositors that were
4 concentrating on, the people who were
5 sitting down, placing money in the
6 banks, getting interest they could
7 never get anywhere else in the world,
8 they were the ones who were safe. Why
9 not the persons who were really
10 producing?

11 A: Well, let me respond. I have said that
12 during my period as Minister, and even
13 now when I am not Minister, I am
14 approached by people -- for example
15 people call JRF FINSAC, so people come
16 to me still believing - I don't know
17 what has happened to the present
18 Minister but they I think that I am the
19 person able to influence FINSAC. So I
20 know many of these things. I meet one
21 lady every single morning at the Dam who
22 is seeking my assistance: so I know
23 these cases, so I am sympathetic to some
24 of these cases, but let me tell you
25 certain things. There is an issue of

1 equity also. There are persons in the
2 same institutions who borrow and have
3 serviced their loans. Now you also asked
4 about equity; they in a sense were
5 penalised; in fact they kept servicing
6 their loans. So in making our decision
7 you have to take the total picture into
8 consideration.

9 CHAIRMAN: Sorry just one moment, Mr. Donigal.
10 Wouldn't we be correct in saying that
11 while you were yet Minister, you would
12 have received complaints along the lines
13 being put forward by Mr Donigal?

14 A: Yes.

15 Q: You was Minister?

16 A: Yes.

17 CHAIRMAN: You would have realised that there was a
18 problem, certainly there was hardship
19 being occasioned.

20 DR. DAVIES: Chairman, I hear your phrasing but I
21 would prefer that there were problems.

22 CHAIRMAN: There were problems?

23 A: Yes.

24 Q: You don't think that those were causing
25 hardship to people?

1 and persons have gotten on with their lives.
2 I am not for one moment denying that there are
3 cases outstanding, but it would seem to me and
4 for obvious reasons, those persons are
5 obliged to come and testify before you. But
6 it seems to me we run the risk of having a
7 one-sided view of the intervention of FINSAC.

8 There
9 are persons -- I think JRF can give the
10 evidence; FINSAC can give the evidence of
11 thousands of cases

12 which have been
13 resolved or people are
14 proceeding with.

15 CHAIRMAN: Maybe I am not understanding. There was
16 a collapse. This wasn't an ordinary
17 situation, there was a collapse in the
18 financial sector. This is an area of
19 more than passing interest to you as
20 Minister?

21 A: Yes, sir.

22 Q: So the fact that some people were
23 actually able to settle early is with
24 respect, of complete disinterest to a
great many people who remained in the

25

thrall of whatever institution.

1 interest. And the question then rises, what
2 did you as Minister do you? Did you give
3 advice; did you call a seminar, did you make
4 a speech? I don't know. So far as we are
5 concerned we are required to investigate
6 circumstances. what did you as Minister do?

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8 Continued....

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1 DR. DAVIES: And I answered specially, FINSAC was
2 given general policy guidelines in terms
3 of seeking to come to a mutually
4 acceptable arrangement with their
5 clients and this extended where we also
6 dealt with the issue of the home of
7 borrowers up to a certain limit. So
8 there are general guidelines given by a
9 Minister cannot be the person meeting
10 with each client to resolve an issue.

11 CHAIRMAN: Minister, I don't think you must insult
12 us. obviously you had overall
13 responsibility, sir.

14 A: Exactly, sir.

15 CHAIRMAN: Nobody is expecting you to be taken out
16 of your office and wandering all over
17 the country settling cases, no. But the
18 fact is, that you as Minister are aware
19 of not just isolated but of complaints
20 which seem to fit into, you might even
21 say, one or two categories, which calls
22 for attention. You were aware, weren't
23 you?

24 A: No, I am aware of this Mr. Chairman, and
25 let me indicate that - and I don't know

1 how many times I am going to say it but
2 I keep saying it, that there are many things
3 which were sent, people wrote to me and I
4 immediately dispatched it to Patrick because
5 he handled even more of the cases than
6 Gladstone, but I am also aware and I must put
7 it on the record, Mr. Chairman, I am also
8 aware of many arrangements which were
9 settled whereby both sides have signed off
10 to an agreement but for whatever reason the
11 debtor was unable to carry through his or her
12 or the company's side of the obligation. That
13 is also an issue which you should take on
14 board. I know specifically of cases
15 ostensibly settled by FINSAC because they had
16 come to an arrangement; lawyers did
17 everything and settled but the debtors
18 didn't carry through their side of the
19 arrangement and it went on to JRF. So it's
20 not that no attempt was made to bring about
21 settlements, because there is no
22 benefit. If by definition your liabilities
23 are multiples of the assets,

24

25

1 there is no benefit to hold on to assets
2 which are not worth the liabilities so
3 the quicker you can settle and get out
4 is the better for everybody.

5 COMM. ROSS: Could you offer us any explanation as to
6 why those loans remained unsettled,
7 remained in that position, as to why
8 were some people able to resolve their
9 matters but others, many others, were
10 not able to?

11 A: Commissioner Ross, that is an
12 operational question which I am not
13 competent to respond to.

14 Q: Wouldn't it have helped the process if
15 there were broad policies applied across
16 the board? I mean at the end of the day
17 the debts sold at a a significant
18 discount.

19 A: Discount against what, Commissioner
20 Ross?

21 Q: Against the face value of the loans.

22 A: Yes, but the face value of the loans by
23 definition Commissioner Ross, was almost
24 irrelevant.

25 Q: Certainly wasn't irrelevant to the

1 frame, there is going to be the time
2 issue; there is going to be a lot of
3 logistical issues which are going to
4 affect how you resolve that. If there
5 are policy decisions taken that could
6 certainly accelerate the process because
7 it would require the detail negotiation
8 of each individual case.

9 A: It still would because in the final
10 analysis, Commissioner, agreements are
11 not as I discovered with dealing with
12 many of the persons, the principals,
13 agreements are not that difficult to
14 come by. What is difficult is that both
15 sides honor the agreement. So the notion
16 that a policy decision would resolve the
17 issue, each loan, Commissioner Ross, has
18 to be dealt with on an individual basis.

19 Q: It would certainly accelerate...

20 A: I am certain that you handle your
21 business on a one by one basis, not on a
22 blanket approach.

23 COMM. ROSS: Fortunately, I don't have those
24 problems.

25 A: So Chairman, if I may summarize, FINSAC

1 was given a great deal of flexibility in
2 terms of dealing with each client with the
3 objective of a settlement.

4 CHAIRMAN: Minister, may I say this; we understand
5 that. We are dealing with a situation where
6 there was a collapse of the sector. You
7 received complaints, let me call them
8 complaints, that is what they were,
9 complaints. Your policy was having
10 appointed an authority who are competent
11 people...

12 A: Yes.

13 CHAIRMAN: ...it was their business to resolve that,
14 but the fact is that it wasn't resolved;
15 people continued to complain, a fact of
16 which you are aware.

17 A: Yes.

18 CHAIRMAN: So that you could no longer say you are going
19 to send them back to the people, you as
20 Minister would have to take some action or
21 devise some scheme or whatever because it is
22 you who are concerned about the health of the
23 economy if I may say so, the response that
24 well, we appointed a competent board, cannot
25 be

1 adequate, cannot be an answer to the
2 problem and it certainly didn't solve the
3 problem, with due respect.

4 A: And with due respect Mr. Chairman, the last
5 thing you would wish and something which I
6 had oppose vehemently is for a Minister to
7 be in there solving individual problems,
8 because it would be this same Commission of
9 Enquiry accusing us of ministerial or
10 political interference.

11 Minister, I don't know if I am not
12 CHAIRMAN: explaining myself clearly but let me
13 endeavour to do so. You created an
14 institution, the purpose of which was to,
15 I won't say solve the problem but create
16 healing?

17 Yes.

18 A: Because, hey, this is not a simple matter.

19 CHAIRMAN: Having done so, you nonetheless continued to
20 receive complaints. The question then
21 arises, what do you do? One thing is plainly
22 logical to me, that you can't go back to the
23 same experts to resolve it if they haven't.
24 So then it

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1 behoves you as the person in charge to
2 give consideration to methods of aiding
3 and assisting these vast number of
4 persons who are being affected. You are
5 not dealing with a small number of
6 people and therefore the problem might
7 go away.

8 A: Sir, can you help me? What is the number
9 you think we are dealing with?

10 CHAIRMAN: I can't pretend to know of the numbers.

11 A: But Chairman, you did use the words
12 'vast number'.

13 CHAIRMAN: I did. Well, I tell you what, it's not
14 small.

15 A: Can you help me with a number? Can you
16 help me with a number Chairman?

17 CHAIRMAN: No, I don't know what documents I must
18 refer to find it. I will get you a
19 figure but you are certainly not dealing
20 with a small number of people. Did you
21 not continue to receive complaints?

22 A: Decreasing number, because Chairman,
23 many of the initial complaints were
24 resolved and many, FINSAC thought that
25 they had come to an agreement. There

1 are many of the bad loans which were sold to
2 JRF which FINSAC had assumed would not have
3 been going to JRF because they thought that
4 they had been resolved. So it's not that no
5 attempt was being made, but Chairman, I
6 would just -- looking on the international
7 situation and the selling of bad loans by the
8 State having intervened to companies, is a
9 universal thing, it's happening right now in
10 the US so it's not abnormal that all of these
11 disputes are not resolved in the first
12 instance but are then sold to institutions;
13 it's not an abnormal occurrence.
14 Would it be a proper, despite what you

15
16 CHAIRMAN:

17 have said, that despite the fact, forget
18 about - whatever the numbers - the
19 problems continued, whatever the
20 problems were to be referred to you by
21 these people.

22 A: I said to that.

23 CHAIRMAN: After you demitted.

24 A: Even after I demitted people have asked
25 me.

1 CHAIRMAN: At which time you wouldn't have the
2 power to do anything much?
3 A: I can't convince you about that.
4 CHAIRMAN: Moral suasion.
5 A: What I want to get on the record is, as
6 Minister did you do anything?
7 A: Yes, sir, and I have indicated that.
8 CHAIRMAN: And what you did was refer it to FINSAC.
9 A: Well, that's the only institution I had
10 the facility to deal with.
11 CHAIRMAN: So we are in a circle.
12 A: Chairman, in the final analysis you have
13 to have individuals dealing with the
14 clients. There is no policy solution
15 unless the policy solution was all debts
16 are forgiven. That is clearly wasn't an
17 option but there is no way that a
18 Minister can dictate a generic solution
19 to all problems, the problems have to
20 be -- these are legal issues you know,
21 there are things of titles, there are
22 things of assets being held, et cetera;
23 these are things which had to be dealt
24 with on an individual basis.
25 CHAIRMAN: DEBTOR, we seem to have taken up

1 the debt that was sold to JRF, was it
2 including the interest, outstanding
3 interest or it was just the principal
4 amount?

5 A:

6 My understand it had to include the interest
7 because that's how banks live. No bank can
8 live by simply calculating it's assets as
9 the principal.

10 Q:

11 But JRF as a foreign company were able to buy
12 the debt at cents in the dollar, come here
13 with a small portion, they paid something,
14 from what research, that they have actually
15 paid 15 cents in the dollar, now they are
16 able to collect interest on principal
17 amounting -- they got waivers to charge
18 interest at bank rate sometimes in most cases
19 higher than the current bank rate. Now, our
20 opportunity was to sign on a loan in US
21 dollars, convert to US dollars at a discount
22 rate. If you weren't able to keep up with
23 those payments, you would revert back to the
24 original amount of money so there would be
25 no discount, if you miss one payment or two
payment you

1 would go right back into the original money
2 so your discount that was offered to you, you
3 would lose that. How could you put people at
4 work, myself, took me 20 years to build my
5 company from scratch, worked hard for my
6 business, built my business up, we were able
to 8 employ -

sometimes on my site I had

9 200 people on my site, 150 people on my sit working.
10 Since 1977 I have not been able to employ one person
11 because I have no business, '97 rather.
12 I am sure you must have a conscience at
14 some point. I mean, we have made several
15 representations, I have made several
16 representations to the Minister of Finance, we
17 never get a response. Thank you.

Thank you, DEBTOR. Yes, would you state your name please.

20 MR. SIEVERIGHT: Mr. Chairman,
18 CHAIRMAN: Commissioners, good

21 morning. I am Delano Sieveright,
22 Generation 2000.

23 CHAIRMAN: What is it called?

24 A: Generation 2000, 2-0-0-0.

25 CHAIRMAN: You are a business company?

1 A: No, we are political organization sir.

2 CHAIRMAN: Oh, I see. Then you know that this is a
3 consideration of a financial melt-down
4 here.

5 MR. SIEVERIGHT: Yes, I know.

6 CHAIRMAN: What is your locus standi?

7 A: We have a wide remit and we have an
8 interest in public affairs.

9 CHAIRMAN: This is not just a talk shop you know,
10 maybe you have business to do so
11 unless...

12 A: Politics is about public affairs, sir.

13 CHAIRMAN: It may well be but we are not quite sure
14 that this is a proper forum to ventilate
15 all of that.

16 MR. SIEVERIGHT: Rest assured, sir...

17 CHAIRMAN: Maybe when you can go on radio stations
18 or TV stations to discuss that.

19 A: This is a public forum.

20 CHAIRMAN: No, it's not a public forum in that
21 sense, it's only a public forum within
22 the terms of our Terms of Reference.

23 MR. SIEVERIGHT: Will you allow me to ask the question
24 sir?

25 CHAIRMAN: Let me hear what the question is. First

1 of all, we are not quite clear what your
2 standing is and we will see whether Dr.
3 Davies should answer.

4 MR. SIEVERIGHT: The first question?

5 CHAIRMAN: Yes.

6 MR. SIEVERIGHT: The first question is, following on the
7 question that Mr. Donnigan re the
8 Jamaica Redevelopment Foundation, put, I
9 want the former Minister to clarify
10 whether it is a fact that the Jamaica
11 Redevelopment Company would have had to
12 seek a special dispensation to charge
13 interest rates?

14 CHAIRMAN: I don't follow your path.

15 DR. DAVIES: Sorry, I think I know where he is going,
16 sir.

17 MR. SIEVERIGHT: Let me just complete the question and
18 the former Minister will be able to
19 answer. Is it a fact The Jamaica
20 Redevelopment Foundation, a non-banking
21 entity would have had to seek a special
22 dispensation to charge interest rates
23 above a certain level, and if so, would
24 this special dispensation have had to be
25 granted by you as a former Minister of

1 Finance or the former Governor of the
2 Bank of Jamaica, and in that vain Dr.
3 Davies, upon reflection, do you now
4 regret that having devised a means of
5 limiting or recapping the size of the
6 interest rates by the Jamaica
7 Redevelopment Company was allowed to
8 charge many good Jamaicans so many years
9 later?

10 MR. HYLTON: Mr. Chairman...

11 CHAIRMAN: Before you. I am trying to understand
12 this powerful question.

13 A: Multifaceted.

14 CHAIRMAN: Let me hear you please, Mr. Hylton.

15 MR. HYLTON: Quite apart Mr. Chairman, from the
16 observation you made, it seems to me
17 that the first half of that question
18 asked for the interpretation of what
19 the law means. It doesn't seem to be an
20 appropriate question. The first half of
21 the question was: What was the effect
22 of the section, what was the power of a
23 non-financial institution to do certain
24 things? This is a question sir, which
25 has been a two part question.

1 CHAIRMAN: Yes, doubtless, but we are supposed to
2 look at the practices of JRF, the
3 treatment of delinquent borrowers, I
4 suppose there is some link. We won't
5 shut you out. Dr. Davies, can you answer
6 the question?

7 DR. DAVIES: Perhaps Mr. Sieveright missed the early
8 part of the discussions. At the
9 beginning of this session this morning
10 we indicated that FINSAC, FIS and Refin
11 were granted exemptions under the Money
12 Lending Act so it's not a new initiative or
13 new action taken, because these institutions
14 in *carrying* out their business of collection
15 have been granted this exemption, those
16 three institutions were granted. Consistent
17 with the due diligence and the appraisal of
18 the assets with the companies which had
19 indicated interest in purchasing the bad
20 loan portfolio, their assessment would have
21 been based on the same terms and conditions
22 which FINSAC, FIS and Refin Trust enjoyed,
23 and there is a consistency in the granting
24 of the

1 exemptions. I could just add in passing
2 that an exemption was granted in 2008 by
3 the present Minister of Finance.

4 CHAIRMAN: It's a delightful tit-bit.

5 MR. HYLTON: I think Mr. Chairman, that the witness
6 thought it was relevant to the general
7 issue that you are looking into.

8 CHAIRMAN: Yes, and absolutely, that is natural but
9 it's a tit-bit nonetheless. Anything
10 further you wish to ask?

11 MR. SIEVERIGHT: Just two more slightly difficult ones,
12 it won't take much time.

13 CHAIRMAN: Well, so long as you don't make them too
14 convoluted and take long.

15 MR. SIEVERIGHT: They won't be long, I promise you.
16 Okay. The next point, can you attribute
17 Dr. Davies, that the financial sector
18 collapse was in part due to bad
19 management, and in fact on many
20 occasions you stated that it was
21 essentially fraud in some entities. Now
22 does this apply to the National
23 Commercial Bank, one, and why did you
24 not take the same draconian actions
25 against the directors/managers of the

1 National Commercial Bank as you did with
2 Century National and Eagle Commercial?
3 I am not clear what the question, the
4 A: draconian measures which you made
5 reference to.
6
7 CHAIRMAN: There was a differential in treatment, was
8 there not?
9 A: In terms of?
10 CHAIRMAN: The treatment of the other institutions,
11 some were shut downe and some were not, NCB
12 was not shut down.
13 A: Well, NCB was not shut down because of the
14 size-- is the 'too big to fail` syndrome,
15 Chairman, and within the context of keeping
16 the banking system operational it would not
17 have been possible if NCB had been shut
18 down, but there was a replacement of the
19 Board, a new Board was established and after
20 that the principals were removed overtime.
21 You are aware that Eagle Commercial, Eagle
22 CHAIRMAN: Commercial as a bank was not an insolvent
23 bank, you are not aware of that?
24
25

1 A: Well, I don't -- sir, the Eagle group
2 has to be taken together because that
3 was one of the examples of where the
4 group structure was utilized.

5 CHAIRMAN: Why? If you are healing, why?

6 A: What was that?

7 CHAIRMAN: You want stability and you want healing,
8 why?

9 A: I am not following you, Chairman.

10 CHAIRMAN: Your responsibility as Minister
11 is to maintain a stable financial institution?

12 A: Yes.

13 CHAIRMAN: So far as Eagle Bank was concerned, the
14 commercial bank that was not insolvent
15 institution.

16 A: Yes.

17 CHAIRMAN: NCB was and you you have said the reason
18 why you have allowed it to continue was
19 because it was too big to fail.

20 A: But I have also said sir, that in the
21 case of Eagle we are not simply looking
22 at the Eagle Commercial bank which was
23 the smallest entities within the group.
24 If you look at the building society and
25 look at other aspects which were all

1 handled as one, so the commercial bank on
2 its own was just a small percentage of that
3 total group of companies and I would urge
4 you to utilize your not inconsiderable
5 powers, to bring other people to testify.
6 Dr. Bonnick would be able to who handled the
7 negotiations with Dr Chen-Yung personally
8 would be able to amplify.

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10 Continued.....

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1 COMM. ROSS: I am not really following the too big to
2 fail argument. Depositors in all the
3 financial institutions were protected,
4 so the depositors of NCB were treated no
5 differently from depositors of any of
6 the other institutions that required
7 intervention. I think the real question
8 is why were the shareholders and
9 officers of that institution treated
10 differently from the shareholders and
11 officers of institutions that failed.

12 A: Well, as I indicated the decision was
13 taken that NCB was needed to keep a
14 banking system going and the decision
15 therefore was meant to keep NCB intact
16 even as we proceeded with the overall
17 transformation of the sector that was
18 the diffence. I suspect a second
19 difference is that NCB -- the full
20 extent of the problems in NCB came
21 towards the end once decision for full
22 intervention had been taken.

23 CHAIRMAN: Yes.

24 MR. SEIVERIGHT: Last question.

25 CHAIRMAN: Yes, please.

1 MR. SEIVERIGHT: Thank you. Dr. Davies, I have heard you
2 say that the Bank of Nova Scotia and
3 other international banks remained
4 solvent during the crisis and as such
5 the other entities failed that was due
6 to bad management. Isn't the difference
7 between those entities that failed and
8 those that survived a function of the
9 strength of their parent companies? And
10 I put it to you sir, that it is
11 misleading if not somewhat dishonest to
12 say that the Bank of Nova Scotia and
13 others were not adversely affected by
14 your high interest rate policy.

15 A: Chairman, I am have difficulty with
16 these these questions. I would submit
17 that he gave a speech in the form,
18 posing as question.

19 MR. HYLTON: And also Chairman, given the comments
20 you have made sir...

21 CHAIRMAN: That was dealt with by the Bank of
22 Jamaica.

23 MR. HYLTON: In terms of going of going forward, sir
24 I am wondering if you could give us a
25 new direction.

1 CHAIRMAN: As to what?

2 MR. HYLTON: On the question of the appropriateness
3 in the forum that we are in as you
4 pointed our sir, this is not a trial for
5 accusation.

6 CHAIRMAN: That's incorrect, we are quite aware of
7 it. Anything more you want Mr.?

8 MR. SEIVERIGHT: There is no response to that question?

9 CHAIRMAN: No, there is no response.

10 MR. SEIVERIGHT: Okay. So that will be on record?

11 CHAIRMAN: But you have spoken and they are taking
12 it down.

13 MR. HYLTON: I understand sir, you commented that
14 that was inappropriate, and that has
15 also been recorded.

16 CHAIRMAN: Yes. Yes, sir, please state your name?

17 JOHNDOE: Chairman, Commissioners, Ladies and
18 Gentlemen, pleasant morning. I am
19 JOHNDOE, graduate student at the
20 UWI, Mona and the grandson of an
21 entrepreneur who like JOHNDOE
22 was displaced during the FINSAC era.
23 Dr. Davies...

24 CHAIRMAN: Sorry, sir, you represent yourself?

25 JOHNDOE: Well, my grandfather who is now

1 deceased, pretty much. Dr. Davies why
2 were NCB and Workers Bank preference
3 and minority shareholders treated so
4 differently from all the other entities'
5 shareholders in that they got some
6 payments/compensation for their shares?

7 A: The response -- I have dealt with NCB in
8 terms of the critical role which NCB
9 played within the overall banking
10 system. I am not able to -- there is a
11 legal issue with regard to Workers Bank
12 and I think I would have to be briefed
13 as to -- there was a legal advice in
14 that regard. I will have to be briefed
15 in that regard.

16 Q Just to follow on former Minister, you
17 stated that your objective was to
18 protect depositors so why more or less
19 was this select approach with respect to
20 the shareholders -- NCB as I mentioned
21 and Workers Bank, why wasn't this
22 uniform?

23 A: Well I think I answered the first
24 question which indicated why.

25 Q Dr. Davies you are in the media these

1 days ranting about credibility and
2 coherence and so on. I want to put it
3 to you, I want to ask, what was the
4 credible, coherent exit strategy in the
5 notorious FINSAC dispensation from a
6 fiscal perspective in respect of the 33%
7 that was added to the total stock of
8 debt as a result of the absorption of
9 that \$140B? What was the credible,
10 coherent and strategic exit strategy
11 from a fiscal perspective?

12 A: From a fiscal perspective I was very
13 clear at all stages during the
14 intervention in that the decision to
15 intervene and to protect savers, holder
16 of insurance policies and pension fund
17 given the differential between the value
18 of the assets and the liabilities would
19 be the cost to the budget and the cost
20 to the taxpayers so it was never ever
21 hidden that that would be there. What
22 are the benefits? The benefits is that the
23 country did not erupt. Persons conveniently
24 assumed that the fact the matter was
resolved with a huge fiscal

1 cost but there was no riot, and there was
2 no bloodshed that this would have
3 happened regardless. I can't rewrite
4 the situation and say let us run an
5 experiment, but it's certainly not an
6 experiment which the administration was
7 willing to take of the total collapse of
8 the financial system.

9 Q And I appreciate the need for some
10 degree of stability, but Dr. Davies, how
11 did you chart a recovery and of course
12 restoration of some degree of
13 macroeconomic thereafter notwithstanding
14 the need for mitigating riots and...

15 A: Let me respond that the debt to GDP
16 ratio was reduced from a 144% to 105%.
17 Let me respond that inflation for seven
18 consecutive years was below 10%. Let me
19 respond that we built up NIR of 2.5B.

20 Let me respond.
21 CHAIRMAN: Please allow him to respond.

22 A: Let me respond. Let me respond by
23 indicating rating agencies gave Jamaica
24 unprecedented levels and said we are
25 fighting above our weight. Let me

1 questions uninterruptedly. if you want to
2 have your private seminar would you please
3 retire from this room. Allow the witness to
4 ask questions --allow the questioner to ask
5 questions and allow Dr. Davies to respond. We
6 need neither applause nor any kind of other
7 running commentary.

Y

es?

9 JOHNDOE: I appreciate that degree of protection,
10 Mr. Chairman.

11 Q Dr. Davies what was the Ministry of
12 Finance's response to the Bank of
13 Jamaica's report regarding the
14 insolvency of some financial entities so
15 late in coming?

16 A: I forget the gentleman's name.

17 Q JOHNDOE, Dr. Davies.

18 A: Chairman, I spent a long day yesterday
19 answering the same question.

20 Q Listen to the
21 follow up Dr. Davies. In some instances,
22 sir, The Ministry of Finance intervened
after billions of dollars were passed through the Bank of
24 Jamaica to these institutions. In some

1 Century, your decision to take control
2 was in excess of fifteen months after
3 you were informed of the entities
4 distress or the challenges more or less.
5 Dr. Davies, almost a year and a half
6 later, why was this response so late in
7 coming, former Minister?

8 A: JOHNDOE as I...

9 CHAIRMAN: Sorry, one moment please. We won't
10 allow repetition otherwise we will never
11 end. This matter was dealt with
12 yesterday, I don't think anything
13 further can be had from it.

14 Q Very well. I yield to your advice, Mr.
15 Chairman.

16 CHAIRMAN: Thank you.

17 Q Dr. Davies how much was advanced to
18 Workers Bank after the collapse of
19 Century and when did you become aware of
20 Workers Bank's financial challenges, was
21 it before the collapse of Century and if
22 so, how long before?

23 A: Mr. Chairman I am being asked to have
24 recollections of things which occurred
25 almost...

1 CHAIRMAN: I don't think -- he says he is not able to
2 remember. Have you got the
3 statistics on you because if you do, you can
4 put them to the Minister?
5 Q
6 Dr. Davies -- Well the Minister should at
7 CHAIRMAN: least have, former Minister...
8 Dr. Davies, have you got the statistics
9 A: because if you do, it's very easy. Mr.
10 Chairman, I'll move to another question.
11 CHAIRMAN: Thank you.
12 JOHNDOE: Dr. Davies what
systemic safeguards or
13 policy prescriptions were put in place
14 to leverage the operations of financial
15 institutions? For example, the fallout
16 in the United States there are policy
17 prescriptions with respect to
18 executive, remuneration to executives.
19 Did you take any such steps, Minister?
20 A: Several, JOHNDOE.
21 Q Very well.
22 A: I don't how much time we have.
23 Q Nuff, nuff time?
24 A: I don't think you make the judgment on
25 this.

1 fit and proper criteria. We have
2 increased the sharing of information
3 between the two regulatory institutions.
4 There is a host of things which as a
5 graduate student I will direct you where
6 to go and read to find.

7 Q I appreciate that, Dr. Davies.
8 Dr. Davies you are in the media quite
9 often referring to hindsight being
10 twenty-twenty vision. In hindsight, Dr.
11 Davies do you regret your management of
12 the crisis and if so, what particular
13 aspects do you regret, Dr. Davies?

14 A: Chairman can you help me here, sir ?

15 CHAIRMAN: That question need not be answered. That
16 question was answered yesterday.
17 What's the next question?

18 Q Dr. Davies, did the International
19 Monetary Fund give advise/policy
20 prescriptions with respect to the
21 collapse of the financial institutions?

22 A: Advice, yes and that was also discussed
23 to a great length yesterday.

24 Q Dr. Davies, in much the same way that you
25 invited me to that thing you should have

1 invited me yesterday.

2 CHAIRMAN: This is all very pleasant but let us get
3 on.

4 JOHNDOE: What advice did the Fund give?

5 CHAIRMAN: Let us not get back into Roman history.

6 JOHNDOE: Very well. So I would be advised to
7 consult the...

8 CHAIRMAN: The transcript.

9 JOHNDOE: Yesterday's transcript?

10 CHAIRMAN: Yes.

11 JOHNDOE: Very well.

12 CHAIRMAN: You can have it from the Secretariat or
13 the press.

14 CHAIRMAN: Absolutely. thank you very much for your
15 cooperation, former Minister.

16 DEBTOR: Good morning, my name is DEBTOR, I
17 am from DEBTORCOMPANY. Dr. Davies I
18 listened to you yesterday about the
19 situation - what about the collapse of
20 the banks. You spoke under.

21 CHAIRMAN: Parle lentment s'il vous plait.

22 Q I am speaking too fast?

23 CHAIRMAN: Speak slowly, please.

24 DEBTOR: Now you spoke about the poor practice
25 that went on in the commercial banks

1 until you had to order some forensic
2 experts to come in and check the banks'
3 activities. Did you say yesterday that
4 you ordered some forensic audit of the
5 banks?

6 A: Yes. I am getting a little help from the
7 Chairman.

8 A: My question is Doctor, the forensic
9 experts what did you say your report
10 tell you exactly, whether the banks that
11 they were doing, because you said
12 yesterday that the banks were also
13 increasing the interest rates of the
14 borrowers to cover some of the loss they
15 were making?

16 A: With all respect, Mr. DEBTOR, I said no
17 such thing yesterday.

18 A: Okay, I'll check the record.

19 CHAIRMAN: No, no. When was that?

20 DEBTOR: He said the banks were investing in
21 farming, they were investing in real
22 estate.

23 CHAIRMAN: He said that.

24 DEBTOR: At that time they were paying out high
25 wages. Now, having said so, having

1 admitted that the commercial banks did
2 not treat the public right, what did you
3 do for the borrowers? The borrowers
4 were the ones who were paying the high
5 interest rates, their assets were taken,
6 their assets were sold. What action did
7 you take to protect the borrowers?

8 A: To protect the borrowers?

9 Q Yes, sir.

10 A: At what stage, Mr. DEBTOR?

11 Q When you find out that the banks were
12 going on with corrupt practice?

13 A: When we intervened it was action on behalf
14 of the whole society, on behalf of the
15 system. But DEBTOR, FINSAC entered into no
16 loan agreement with any borrower. These were
17 all private arrangements between
18 institutions and borrowers, so I find it --
19 there are rules governing banking in terms
20 of the legal arrangements, but I am not clear
21 what is the question expecting of a
22 government in terms of intervening between
23 a client and a bank.
24 My question is, yesterday you

25 Q

1 deliberately at length explained, the
2 commercial banks they were involved in
3 corrupt practices to the point that you
4 said there had a criminal investigation
5 done?

6 CHAIRMAN: May I just interpose, Mr. DEBTOR. Are
7 you trying, are you seeking to get from
8 Dr. Davies a response to the question;
9 assistance was given to the depositors
10 because they got their money back? What
11 assistance if any was given to
12 borrowers?

13 Q Or what protection from the banks?

14 CHAIRMAN: I think that is what he is trying to
15 say.

16 A: Chairman, I am more comfortable with
17 assistance than with protection.

18 CHAIRMAN: Well, go ahead.

19 A: Well, I don't know whether he is
20 interested in the assistance as opposed
21 to protection.

22 CHAIRMAN: Well I rephrased it to him and he didn't
23 dissent.

24 A: As I indicated whilst there is -- the
25 Chairman says a vast number to be

1 quantified, but there are several
2 persons like yourself who were
3 dissatisfied with the treatment from
4 FINSAC. There are several persons who
5 had their loans totally restructured and
6 reductions in terms of the interests. I
7 know of a fact to be sure. It obviously
8 did not cover a 100% and by virtue of
9 the remaining dissatisfaction but there
10 are hundreds, and I would daresay
11 thousands of borrowers who have had
12 their loans restructured and have
13 settled totally or in a payment
14 arrangement which is to their
15 satisfaction.

16 CHAIRMAN: Some were assisted and some were not?

17 A: Well, sir, as I indicated to you
18 Chairman, I don't know of a blanket way
19 to do it because each of these
20 arrangements are individual
21 arrangements.

22 Q Mr. Minister -- I am not asking if FINSAC
23 should or should not consider a refund, my
24 question is regarding the commercial banks,
 the forensic audit you

1 have done. Do you have a copy of it
2 that tells you what the banks were doing
3 illegally as you mentioned yesterday, I
4 recall quite well, you mentioned that
5 the banks were not doing well so they
6 had to increase, to climb interest rates
7 in order for them to cover for the loss.
8 That is your statement.

9 A: But Mr. DEBTOR, you were here all day
10 yesterday and we indicated that both
11 actions, legal actions have been taken
12 against some of the principals, some of
13 the institutions partly informed by the
14 forensic audit. And let me just indicate
15 that to date we have been successful,
16 and I say we as a country but FINSAC,
17 FIS have been successful in every single
18 legal action taken.

19 A: But as a borrower my business end up
20 taken away, put in receivership by NCB,
21 then taken to FINSAC, FINSAC sold it to
22 NIBJ which is one government institution
23 selling to another government
24 institution, underpriced, so I am left
25 with nothing -- how does that make

1 sense? Meanwhile you accepted that
2 commercial banks were going on with
3 corrupt practice. They were criminal in
4 what they were doing. What did you do
5 to protect the borrower, nothing. Why
6 didn't you tell them that interest rates
7 were too high -- they were jacking
8 interest rates, killing us. What did
9 you do? You just stood by blaming us,
10 that we did not do our business well.

11 A: DEBTOR I don't want to discuss your
12 personal case, I know because NIBJ
13 later became one of the institutions
14 under my aegis and I know of serious
15 attempts being made to come to some
16 agreement which would allow your
17 business to be revitalized. So I don't
18 think it is be appropriate for you to
19 bring one side to it. If you were going
20 to bring NIBJ into it I think the
21 relevant authority should be here to
22 defend themselves.

23 A: I'll leave NIBJ out for the time being.
24 What I want to understand is question,
25 why you did not do when you saw that

I forensic report and you saw the banks
2 were involved with increasing interest
3 rates to cover their loss, why didn't
4 you do that and say listen that is wrong
5 you are destroying the borrowers welfare
6 and their future, so you didn't do
7 anything to protect the borrowers
8 whatever?

9 A: DEBTOR let me separate the issue of
10 those who were involved in criminal
11 practices, et cetera from the issue of your
12 private --a government cannot be involved in
13 each arrangement between client and
14 creditor. I didn't know when you went to NCB.
15 I had nothing to do, nor did FINSAC have
16 anything to do with
17 such an arrangement.
18 neither the past administration or the
19 present to be in a situation where they would
20 be intervening in each negotiation between
21 borrower and creditor.

22

23

24

1 perspective.

2 A: Well, Chairman, as I indicated, legal
3 proceedings were, had been initiated
4 perhaps not all which should have been
5 done haave been but we have been
6 successful. As regards the borrowers,
7 DEBTOR, Mr. Chairman although you
8 made reference to those whose situations
9 have not been resolved but I do not
10 believe that it is appropriate for us to
11 ignore the large number of those who
12 have been resolved and in terms of --
13 and what we did, interest was written
14 down in many instances and you can get
15 specifics from FINSAC. The terms were
16 rearranged within the capability of the
17 institution or the individual to
18 service.

19 CHAIRMAN: I am sorry, Dr. Davies, I think
20 somewhere we read about the ninety and
21 nine, but it is the one. So as
22 Minister, with respect, would you not be
23 concerned with you have been concerned
24 with the one as well.

25 A: I am, Mr. Chairman, I am.

1 CHAIRMAN: Although I am saying one I am saying a
2 large group of people.

3 A: But Mr. Chairman, even as we seek to
4 look at the one there is always three
5 sides to the story you know.

6 CHAIRMAN: Sorry to interrupt you, Mr. DEBTOR.

7 Q My next question to Mr. Davies, FINSAC
8 was your responsibility as the Minister
9 of Finance.

10 CHAIRMAN: I am not sure we heard that.

11 Q What I am saying you admitted that
12 FINSAC reports to the Minister of
13 Finance -- you are the board that runs
14 FINSAC?

15 A: Yes.

16 Q I am talking about now my case. In my
17 case the receiver was operating -- the
18 receiver was run the business just like
19 personal business is charging the
20 company US\$100,000 a month...

21 MR. HYLTON: Mr. Chairman?

22 CHAIRMAN: That question should be directed to
23 FINSAC, DEBTOR. Don't trouble the
24 Minister with such things.

25 MR. HYLTON: I think for us, Mr. Chairman, it would

1 be useful for us to be aware that this
2 matter is before the court as I
3 understand it. The speaker is going into
4 it. This is a matter that you should be
5 aware of.

6 CHAIRMAN: I don't see how that stops us from
7 hearing it.

8 MR. HYLTON: I just thought you should know.

9 BY CHAIRMAN: Okay, thank you.

10 Q My next question has to do with the
11 activities of the commercial banks.
12 The commercial banks were...

13 CHAIRMAN: Excuse me, Mr. DEBTOR is this your
14 final question?

15 Q That is my final question.

16 CHAIRMAN: I don't want to press you. Okay. Very
17 well.

18 Q Mr. Davies said NCB was too big to go
19 down. Was DEBTORCOMPANY too big to go
20 down also? We employ 1,000 people, we
21 pay million of dollars for them every
22 week also. All those people they have
23 lost their jobs, they have lost their
24 livelihoods, some of them have end up to
25 be criminals in Spanish Town. What

1 happens to them? Is any consideration given
2 to the workers, the people? Is that the
3 best? You said NCB was too big to do down.
4 So DEBTORCOMPANY, it could go down. Why?
5 explain to me because you were well aware of
6 the high interest rates. You take your
7 working capital out, all your cash is drawn
8 completely from your business.

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10 Continued...

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1 DEBTOR: You are the Minister of Finance, you
2 know fully how a business is run, not
3 with a high interest rate, but it had to
4 happen, the livelihood of people,
5 causing problems in the family, when
6 workers work over twenty-five years
7 coming to run the shifts at night,
8 leaving their children at home, you did
9 nothing up to today.

10 A Mr. DEBTOR, I am very very aware of
11 the...

12 DEBTOR: No, no, the workers, you know, I am not
13 talking about me, John DEBTOR, the
14 workers who work at DEBTORCOMPANY.

15 A Mr. DEBTOR, I am very much aware of the
16 DEBTORCOMPANY case and precisely, it's
17 a manufacturing entity and it's
18 employment, the numbers of persons
19 employed etcetera, but Mr. DEBTOR, I am
20 certain you don't want us to -- one of
21 the difficulties NIBJ was faced with in
22 trying to work out a solution with Mr.
23 DEBTOR, with DEBTORCOMPANY was -- you
24 want me to go into the detail?

25 DEBTOR: You spoke about the NIBJ, you are not

1 discussing NIBJ?

2 A I am sorry you have raised it though

3 because...

4 DEBTOR: You answered and the Chairman accepted

5 that you don't want to go there, what

6 happens, when it suits you, you want to

7 go there and when it doesn't suit you,

8 it doesn't suit.

9 CHAIRMAN: Sorry you want an answer to that?

10 DEBTOR: My position is regarding why, as you

11 said NCB was too big to go down, why you

12 allowed DEBTORCOMPANY to go down?

13 CHAIRMAN: Stop there one minute, answer that

14 please.

15 A Mr. DEBTOR, I didn't allow

16 DEBTORCOMPANY to go under,

17 DEBTORCOMPANY was in problem before FINSAC

18 was created, that is a fact. We sought to try

19 to save it because of its importance which

20 you have outlined, but Mr. DEBTOR you also

21 know as a fact that NIBJ attempted to come

22 up with a solution and ran into the

23 difficulty of a family feud, and there was

24 no way you know who to talk to, who would agree

and

1 who to talk to and you don't want me to
2 talk.

3 DEBTOR: Since you mentioned me, allow me to
4 answer it...

5 CHAIRMAN: Tell you what, let us take a break and
6 calm down, and we will return to you Mr.
7 DEBTOR after this break. Before we break
8 however, may I suggest to persons who may
9 follow Mr. DEBTOR, to formulate your
10 questions in writing and hand them
 into the secretariat.

12 minute adjournment. Thank you.

13 B R E A K

14 CHAIRMAN: May we resume. Dr. Davies, you are still
15 on oath.

16 A Yes, sir.

17 CHAIRMAN: Mr. DEBTOR, before you begin, I had
18 suggested to persons in the audience who
19 might be minded to ask questions to put
20 them in writing and give them to the
21 Secretary. I hope that is being done.
22 Silence means consent. Yes, DEBTOR.

23 DEBTOR: My question is very short. As you
24 spoke, you mentioned that NCB was too
25 big to fail, are you aware, that the

1
2 not a financial problem, it was a question
3 of how would this entity be run even if it
4 CHAIRMAN: were saved.
5 You understand the response Mr. DEBTOR?
6 Although there was a policy, too big to fail,
7 insofar as your particular situation was
8 concerned, family problems, it exacerbated
9 the problem and made it difficult to
10 resolve. You can
11 DEBTOR: ask the next question if you wish.
12 DEBTORCOMPANY is a limited liability
13 company, stand up alone, and my father's
14 choice specified in law who is
15 responsible, if you choose to
16 acknowledge other people outside of
17 CHAIRMAN: that, I cannot help you.
18 So what is the question. You have to
19 Q pose a question.
20 I posed a question, I said why
21 DEBTORCOMPANY was not considered among
22 those companies too big to fail.
23 Mr. Davies' response was, the reason is
24 because there was a family feud. My
25 answer to Mr. Davies is this,
DEBTORCOMPANY is a limited liability

1 company who stands alone now.

2 CHAIRMAN: Listen, I don't want to make your task
3 difficult, but how we operate, our
4 procedure is you ask the questions, and
5 he answers, the evidence that we get
6 comes from him, you see, he either
7 accepts what you are saying or doesn't,
8 so what is the question you are asking
9 him.

10 DEBTOR: My question is now, since that is the
11 criterion that he uses to make that
12 decision, did he investigate to find out
13 what is the real status of
14 DEBTORCOMPANY.

15 CHAIRMAN: I thought he answered. Your problem was
16 a family feud.

17 DEBTOR: There is no basis for him to say that
18 because DEBTORCOMPANY is a limited
19 liability company. My father at his
20 death left a legal document which shows
21 the ownership of DEBTORCOMPANY, if
22 DEBTOR resigns it shows where all
23 the other members of the family fall.

24 CHAIRMAN: Are you saying so far as Dr. Davies is
25 concerned, NIBJ or whoever, they should

1 be concerned with the directors of the
2 company?

3 DEBTOR: That's right.

4 CHAIRMAN: He said feud or no feud, there were
5 directors of the company and that is the
6 body that controls the company, not
7 family making noise outside.

8 A Well, Chairman, this goes back to my
9 original position, in the sense that
10 each of these problems had their own set
11 of problems. My report from NIBJ, they
12 could not make any progress because of
13 the difficult position, it was not
14 something I was going to say.

15 CHAIRMAN: Okay, that's your answer, that's the
16 answer Mr. DEBTOR. I don't think you
17 can take it any further as far as the
18 Minister is concerned. It must be that
19 NIBJ has to be summoned. We will give
20 instructions that they be requested,
21 invited to come. When they do, we will
22 tell you, and you can attend and put
23 those questions to them as you think you
24 should.

25 DEBTOR: Thank you very much. Thank you very

1 much Mr. Davies.

2 CHAIRMAN: Are there any other persons?

3 DEBTOR: DEBTOR.

4 CHAIRMAN: Your name please.

5 DEBTOR: DEBTOR.

6 CHAIRMAN: I thought -- before you begin, I thought
7 I spoke quite clearly.

8 DEBTOR: I gave a copy to Mr. DePeralto?

9 CHAIRMAN: Perhaps he is getting it typed. When
10 you gave it to him?

11 DEBTOR: In the break.

12 CHAIRMAN: Anyway go ahead.

13 DEBTOR: Dr. Davies, my first question is...

14 CHAIRMAN: And your name you said?

15 DEBTOR: DEBTOR.

16 CHAIRMAN: And you are from?

17 DEBTOR: My first question is...

18 CHAIRMAN: We need to know your standing? You are
19 an innocent bystander, are you a victim?

20 DEBTOR: I am a victim of the FINSAC situation.

21 CHAIRMAN: You were FINSAC'd as I gather is the new
22 word coined. Very well, tell us how you
23 were FINSAC'd?

24 DEBTOR: I ..

25 CHAIRMAN: Go ahead, just ask the question.

1 DEBTOR: First I would like to ask where in the
2 world can a business survive on a one
3 hundred percent interest rate, that is
4 the first question I would like to ask.

5 CHAIRMAN: Well I don't know. You know that is a
6 tendentious question, that is argument,
7 questions for Mr. Davies.

8 DEBTOR: In 1996 I was charged in excess of one
9 hundred percent on a loan, that is why I
10 want to ask the question.

11 CHAIRMAN: Let me ask it for you, is there any
12 country in the world that has a regime
13 of -- how many percent?

14 DEBTOR: One hundred percent or more. Can a
15 business survive?

16 A Mr. Chairman, I can't guide you, sir,
17 but is this penalty interest, is this
18 interest rate being negotiated -- sir, I
19 am having a difficulty, he comes and
20 says - where in the name -- how can that
21 be related to his person, was this an
22 interest rate negotiated?

23 CHAIRMAN: Dr. Davies, you know the facts of life,
24 the man is asking a question which I
25 suspect you would appreciate precisely

1 DEBTOR: Now the next question is...

2 CHAIRMAN: You know -- sorry, I mean that is the
3 question being posed but, you know, what
4 the answer is.

5 DEBTOR: Now, when the business goes under and
6 for example, they repossess the assets
7 of the business and it is sold, first I
8 would say the amount of money that was
9 paid towards the account is more than
10 the initial loan, the person is in
11 arrears, you repossess the assets and it
12 is sold and because of that high
13 interest, after all is put together,
14 money is still outstanding on the loan.
15 Now, how can the investor get money at
16 this stage to go and pay back because
17 there is no business there, there is no
18 asset there, for example whether it's a
19 factory, truck, a bus, it's gone, how
20 can they get some cash to pay?

21 A Mr. Chairman...

22 CHAIRMAN: That is why you were Minister of
23 Finance.

24 A Well, Mr. Chairman, as Minister of
25 Finance, I would like some more

1 information before I could start answering
2 this question, I don't know what he borrowed
3 for, I don't know what his assets were, these
4 questions in vacuo pose a problem for me.
I am asking a common sense question?

9 A

What business were you?

10 DEBTOR:

The point is the asset was sold.

11 CHAIRMAN:

Did you agree to the loan?

12

Agree to the loan but not to...

13

14

One moment please, questions are not from
the other side, what was the question you
wanted to ask Mr. Davies. What do you do? The
Minister needs some background information
in order to respond, says he.

15

16

17 DEBTOR: 18

19

I used to operate a truck that was bought
free and clear, and just to borrow some
money to buy an engine, go to America and
buy the engine and gear box and because of
the ongoing

20

21

situation, some work to start, by the time
it start it lock down, you work, contractors
don't pay you or a man crash the truck and
it keeps spiraling.

22

23

24

25

1 CHAIRMAN: It shows that you could not afford it.

2 DEBTOR: But based on what was paid covered the
3 amount that was initially borrowed but
4 because you are in arrears you start
5 paying 75%, 100%, one hundred and odd
6 percent, I am only saying, they take the
7 thing, they sell it, because of the high
8 interest rate, you have some amount of
9 money left, you don't have no asset to
10 work with, how can you get money to pay
11 that high interest rate, because it is
12 just the interest that is there now.

13 CHAIRMAN: That is your problem.

14 DEBTOR: Now, I would just like to ask my last
15 point, just to show a situation, one
16 more question. A loan of \$000,000, they
17 were charging 60% on it. Interest came
18 up and they put the interest on that
19 \$000,000 to make five hundred and odd
20 thousand. They charged me 60% on that
21 because...

22 CHAIRMAN: Who is they?

23 DEBTOR: The bank, they call that your new
24 principal. Okay. Now more interest
25 accrue on that, come up to \$000,000 and

1 they start charging me 45% on that \$000,000.
2 Now, the other \$000,000 on it is interest and
3 you are paying 60%, so you are paying 120%
4 there. The interest on that 120% which is
5 \$272,000 that is interest, they are going to
6 charge you 45% on that again, that is about
7 250, 300%. Can a

person in that situation

9 come out of that spiral and to date
10 interest is being charged?

11 A Well, I don't think so.
12 CHAIRMAN: I don't want you to go away feeling that

13 you have not given expression to what
14 you have in the back of your mind,
15 because we feel that the Minister's
16 business is to be concerned with these
17 matters. Unless he is unaware of them,
18 we can't devise instruction, to devise
19 methods to deal with them. First of
20 all, on your behalf, you were not
21 unaware of the sort of situation that
22 DEBTOR speaks about, were you?

23 A No, I wasn't Chairman, as I indicated, I
24 won't say all, but several of these
25 matters people wrote to me. As a matter

1 of fact, one of my special assistants,
2 that was his main task, to liaise with
3 FINSAC, to send on the complaints, but
4 one of the things which I am saying,
5 that I learnt, that invariably you got
6 part of the story and then there was --
7 so people would write to me as if there
8 had been no interaction with FINSAC and
9 I discovered that there were other
10 issues, etcetera, so it was not that I
11 am unaware of them and I know of some
12 which have been resolved. In his case
13 -- Mr. Chairman, I represent a
14 constituency of poor hard working class
15 people so I am aware....
16 CHAIRMAN: But were they FINSAC'd?

17 A Well they were never privileged to have
18 been able to walk through those doors of
19 those institutions.

20 CHAIRMAN: Yes, so that is why we are concerned.

21 A But I am aware of persons faced with the
22 issue of cashflow and the difficulty
23 whenever something unexpected occurs.

24 CHAIRMAN: What we want to get over is that his
25 example is not atypical, this repeats

1 itself.

2 A But there have been many which have been
3 resolved; I do not know why his wasn't
4 involved, I don't know which institution
5 he started with, I don't know at what
6 stage his loan....

7 DEBTOR: The institution is NCB.

8 CHAIRMAN: Very well. Anything further. You were
9 responding Mr. Davies.

10 A He was referring -- I don't know at what
11 stage his loan came to FINSAC, FIS, I
12 don't know any of that, nor do I know if
13 he wrote to me, if he didn't write to me
14 Mr. Chairman, I don't know, I would not
15 be aware of it.

16 CHAIRMAN: I don't know if the concern so much is with
17 his particulars because you are not
18 determining anybody's issues, we are
19 looking at the thing generally, and I think
20 you have to accept that what he has spoken
21 about is representative of the situations
22 that are tied to a great many people. I was
23 trying to get some figures before lunch, but
24 I don't quite figure what he is talking
25 about, I am

1 not clear what it all means.

2 A I would urge you, using your powers,
3 sir, to also seek from FINSAC the
4 numbers which were resolved.

5 COMM. ROSS: Dr. Davies, as a matter of policy, could
6 you explain to us why it was necessary
7 to continue accruing interest on the
8 loans once they came into the possession
9 of FINSAC or JRF?

10 A In case of FINSAC, they just took the
11 systems over, it would have been a
12 policy to -- they had the flexibility to
13 write down on the interest but it was
14 operational, so I don't think anybody
15 ever was required to pay the full amount
16 in terms of the settlements.

17 COMM. ROSS: I am still trying to understand, if one
18 of the so called institutions, the
19 banks, were relieved of those loans, it
20 was no longer on their books and
21 presumably they were given an equivalent
22 amount of cash advance, the loans then
23 came into FINSAC and they were passed to
24 JRF, I am just wondering why if the
25 resolution of the debt was an objective,

1 why continue accruing interest at very
2 high rates of interest, forty, fifty,
3 sixty percent?

4 A I don't know what the rates of interest
5 were, I do not believe if any of the
6 settlements took those interest rates,
7 literally took those interest rates in
8 toto in any of the settlements, any of
9 the offered settlements, but as a matter
10 of policy, FINSAC had flexibility to
11 negotiate down these rates; but again,
12 Commissioner Ross, I do not believe that
13 at the policy level one can
14 micro-manage, there has to be some
15 flexibility given to officers. It's not
16 that the officers were told that unless
17 all the interest is paid up there is no
18 negotiation, they were given that
19 flexibility.

20 CHAIRMAN: It was your understanding, was it, that
21 the -- for these institutions by which I
22 mean FINSAC and whatever, JRF, had
23 acquired the loans, that the interest
24 continued to accrue, that is your
25 understanding?

1 A No, no, what I am saying they would have
2 taken the systems which would have these
3 loans, but Chairman, if you at the same
4 time, if you and I went into any of
5 those institutions at the same time and
6 I became a bad debtor but you maintained
7 your servicing, your interest would have
8 continued to accrue. I don't believe
9 that statement can be that puzzling.

10 CHAIRMAN: Well it puzzles me.

11 Q No, no, what I am saying Chairman,
12 Commissioner Ross is asking a question
13 which would suggest is a unique
14 situation, and what I am saying you and
15 I walked in a bank the same day,
16 borrowed the same amount at the same
17 interest rate, you service your debt , I
18 didn't, mine is sold to FINSAC...

19 CHAIRMAN: I follow that.

20 Q Yes, but I am saying that your interest
21 clock would not have ceased running?

22 COMM. ROSS: What is the objective of taking the
23 loans from out of the banks, what was
24 the objective of that?

25 A To leave the banks with an acceptable

1 level of good performing loans which are
2 assets.

3 COMM. ROSS: And having done so, what was the
4 expectation of what would happen to the
5 bad loans?

6 A The expectation is to maximize
7 collection from the bad loans, that is
8 why you take the best bid.

9 COMM. ROSS: And the expectation is that it would be
10 very unlikely to collect?

11 A By definition, Commissioner Ross, that
12 is what is meant by the bad loans.

13 COMM. ROSS: So, therefore, there would have to a
14 differentiation between performing and
15 non-performing loans.

16 A And there was.

17 COMM. ROSS: That is what we would expect.

18

19

20

21

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25

1 bad loans et cetera. My information is
2 that they dealt with each debtor on a
3 case by case basis and clearly you wish
4 to maximise returns. But virtually I do
5 not know of any situation; I could be
6 wrong, where what was demanded as the
7 settlement was the full amount but the
8 negotiations would begin there. So I do
9 not know; I don't know believe it would
10 be useful to make a big issue of whether
11 or not the interest clock is running
12 because the situation is that at the
13 same time, at the same time, in healing
14 the institution the government has taken
15 on debt on which itself is paying
16 interest.

17 CHAIRMAN: Yes.

18 A So I am just indicating that there needs
19 to be a comparison of the one with
20 other. But nobody by definition expects
21 to recoup the principal plus all your
22 interest. If you are saying well, there
23 should be a policy decision which said
24 once you took the loan then you would
25 eliminate interest, that something we

1 could discuss, but I can tell you, I can
2 assure that wouldn't have made that much
3 difference because most of the damage
4 had been done -- by definition the
5 damage had been done before FINSAC took
6 the loans or else it would never have
7 reached FINSAC.

8 COMM BOGLE: Dr. Davies, by your own, almost your own
9 statement implied here, FINSAC took over
10 debt because the debtor could not pay?

11 A Right.

12 COMM BOGLE: So rolling interest is a futile
13 exercise? Why send a statement or tell
14 the person that well, we took over one
15 million dollars but now you owe five
16 million when in truth and fact the one
17 million, the person couldn't pay in the
18 first instance. So what was the aim of
19 an added repaymehnt? It was a futile
20 exercise.

21 A Commissioner, I think we are arguing
22 about what is a none issue. Because
23 it...

24 CHAIRMAN: I am sorry Dr. Davies. If the
25 Commissioner asks the question I don't

1 think it is appropriate to tell him
2 that.

3 A Commissioner, what I am saying is that
4 the resolution of the issue -- where the
5 issues were resolved the FINSAC
6 officers; the loan officers; the case
7 officers and it could have to go the
8 more difficult it is up the line. They
9 had leeway to negotiate settlements and
10 in certain instances they would take
11 these settlements to the Board I am
12 informed. So the running of the
13 interest clock it's in a sense neither
14 here nor there. If you are saying that
15 they could have stopped it, I am willing
16 to consider that.

17 COMM BOGLE: I still do not believe that the running
18 of the interest clock was immaterial or
19 not important because of the fact that
20 when that person who owed a million
21 dollars and FINSAC took over a million
22 dollars and that person calls FINSAC and
23 says, "how much do I owe?" FINSAC says,
24 "Four million dollars". That sends that
25 entrepreneur in a tail spin. "If I

1 couldn't pay the million what am I going
2 to do?" He phones FINSAC, FINSAC says,
3 "Well you have to come up with 'x'
4 percent of this five million".

5 A With all due respect Commissioner, I
6 don't know if that's the way they would
7 do it. People would go in and discuss
8 their case. And they were asked, what
9 can you offer?

10 Q With due respect Dr. Davies, there were
11 cases where the persons got information
12 that their debt had moved from 'x' to
13 'y'. For them to start negotiation they
14 had to pay 'x' to 'y' minus a small
15 amount which means that they were still
16 now required to pay much more than what
17 it was before. And this is why I am
18 saying that if the person couldn't pay
19 the one million dollars; it is now five
20 and FINSAC is saying well, the minimum I
21 can take is two million. Yes, they have
22 dropped off but then if the person
23 couldn't pay one, person paying two
24 million it's a futile exercise.

25 A Commissioner, I hear you, I was never

1 involved in the day to day -- if FINSAC
2 were here to testify you could direct
3 the questions to them.

4 CHAIRMAN: Sorry, with respect Dr. Davies; granted
5 that you were not involved, and we are
6 well aware that you could not possibly
7 be involved in the day to day
8 activities, we ask the question because
9 you were aware; you said that; the
10 problems that people were facing and
11 what my colleague Mr. Bogle, has spoken
12 to here, is symptomatic of what was
13 known. The question is, what is your
14 response to the thinking that people are
15 being put in a situation from which
16 there is no light, there can be no light
17 at the end of the tunnel. So what
18 what's the purpose of it all; to kill
19 people? Because that can only be the
20 object.

21 A But Chairman with all due respect, as I
22 said before I am aware obviously that
23 there are and were cases which were not
24 resolved but there were at the same,
25 cases operating on the same guidelines

1 which were resolved. So I do not know if
2 I can say anymore.

3 COMM BOGLE: Dr. Davies, you said you do not know
4 what else to say and what I would say
5 at the end of all that, it shows lack of
6 policy direction, lack of direction from
7 the Ministry. The Ministry set up
8 FINSAC without giving it enough or
9 reasonable policy or guideline whereby
10 rehabilitation and healing of the
11 borrowers should be important because we
12 heal and we work towards the healing of
13 the financial institutions but I don't
14 know think that we did enough to work
15 towards the healing of the borrowers
16 that were...

17 A I accept your point sir, I accept the
18 view.
19 DEBTOR: Yes, Mr. Chairman one last question. One
20 last question and just let me repeat so
21 that he could remember. The 000 loan
22 that they put on another 000 I
23 capitalise it and then the 000,000 on that
24 they are charging me 45% interest on that
000,000. Is that a legal

1 situation?

2 CHAIRMAN: Well, you better ask the lawyer that. I
3 don't know if the Minister, sorry,
4 Dr. Davies can answer that.

5 DEBTOR: I thought that he had set the policy so
6 that they couldn't charge like 300%
7 interest on a loan; the right thing
8 would be legal to put in -- well, within
9 the policy to charge 300% interest on a
10 loan?

11 DR. DAVIES: You are talking about presently?

12 Q No, I am talking about this loan.

13 A I am not clear how you got to 300%.

14 Q Okay.

15 A No, no, I know. Is it that you are
16 looking at your original principal and
17 you are looking at the interest now?

18 Q It's just a rough thing I am checking.

19 A No, no, I am ask just asking for
20 clarification, sir.

21 Q On the original loan.

22 A So you are taking the original
23 principal?

24 Q Yes. Roughly 300% on it at this stage.
25 Is that a policy decision, if that's

1 the right word, I don't know the right
2 word. Okay, a 100%, you couldn't do
3 anything about it? If they are charging
4 300% on the same loan you couldn't do
5 anything about something like that?

6 A DEBTOR, I understand your case well
7 but that's not really how the
8 calculation should go.

9 Q So, what you are saying, they have made
10 a wrong calculation?

11 A No, no, the way you are calculating your
12 interest rate it cannot be that your
13 original principal is what you referred
14 to at all stages.

15 Q Well, I have the figures right in front
16 of me here. The original principal is
17 000,000. There was interest and you are
18 in arrears.

19 A DEBTOR, I accept that the number
20 which you have now obviously you could
21 not service that. I am just saying as a
22 matter of course, what they did was to
23 capitalise interest and they have a new
24 principal but if you have retained your
25 old principal and you have calculated

1 everything else on that basis, I am just
2 telling that their method of
3 calculation, the way they analyse it is
4 different from yours.

5 CHAIRMAN: That is so DEBTOR, I don't think he
6 quantify that; that is so.

7 DEBTOR: Thanks.

8 DEBTOR: Commissioner...

9 CHAIRMAN: Just one moment, please. Your name is?

10 A DEBTOR. What I want to ask

11 Dr. Davies is...

12 CHAIRMAN: Just before you ask -- Miss?

13 A DEBTOR.

14 A Would you indicate your...

15 A Yes, my husband had a construction
16 company and....

17 CHAIRMAN: You are what is now called a "FINSACED"
18 person?

19 A A FINSAC victim.

20 CHAIRMAN: Victim.

21 A Our account was passed over to FINSAC.
22 What I want to find out from Dr. Davies
23 is what is his definition of a
24 non-performing loan to begin with?

25 A It's a legal thing. I think it's a loan

1 on which no had payments have been made
2 in three months, I would have to check.
3 They have changed the definition and
4 title I would have to refresh myself on
5 that.

6 A Okay. My commonsense tells me that a
7 non-performing loan is a loan that's not
8 being paid on. My husband had a
9 construction company. The amounts to the
10 bank were being paid monthly from work
11 in progress. His account was FINSACed.

12 A By my mistake?

13 Q You tell me.

14 A How can I tell you that?

15 Q We were never called in, given any
16 option to make any negotiation. The
17 first document that we received after
18 the loan was passed over was from
19 Jamaica Redevelopment offering to turn
20 this enormous sum into a US dollar loan;
21 for us to sign an agreement which we
22 never did because it never spell sense.
23 It was a bucket that you could never get
24 out of. As far as I am concerned that
25 was not a non-performing loan. Here are

1 the documents.

2 A Well...

3 Q Monthly payments were being made.

4 A Well, I have no knowledge of this but it

5 is -- well I believe this is a very

6 strange occurrence.

7 Q It seems strange to me as well.

8 Probably someone had an agenda you

9 think?

10 A Well, I don't know who. It was turned

11 over from the bank to FINSAC?

12 Q Yes. It was turned over from the bank.

13 Q Which bank was that?

14 Q It was originally with Mutual Security

15 then went to NCB.

16 A And at each stage the same error was

17 made that you were servicing a loan but

18 it was classified as non-performing?

19 Q As non-performing. Well, it was handed

20 over; we are assuming, it was classified

21 as non-performing; we were bad debtors.

22 A It's something which....

23 CHAIRMAN: That is a serious complaint but I am

24 not certain we can put that question to

25 the Minister. We may have to deal with

1 -- did you say FINSAC? You are certain
2 it is FINSAC?

3 Q Yes it was the Minister's policy why it
4 was taken from the bank to be given to
5 FINSAC.

6 A No, with all due respect Chairman, only
7 non-performing loans could be -- I
8 cannot accept that, sir. How that could
9 that be seen as our policy that
10 performing loans would be transferred to
11 FINSAC?

12 A We have the documents to prove that.

13 A Well, if...

14 CHAIRMAN: One second, Minister. This argument is
15 going to get us nowhere. The policy of
16 the fiscal policy or whatever it was
17 relates to non-performing loans. If a
18 mistake is made by the bank I don't
19 think you can attribute that to the
20 Minister and you need to probe a
21 different source, if I may say so. I
22 don't think the questions are being put
23 to the correct -- he can't give you the
24 answer to satisfy you.

25 Q Okay.

1 CHAIRMAN: Because he doesn't know anything about
2 it.

3 Q Well, let's say the bank...

4 CHAIRMAN: Just one moment, please.

5 COMM ROSS: Dr. Davies, was any notification given
6 to debtors whose loans were being
7 transferred? Was there any process for
8 that?

9 A I don't know.

10 DEBTOR: Not in our case. We were never given any
11 notices from no organization. We were
12 never offered any opportunity to come in
13 to make any...

14 CHAIRMAN: So far as we are aware there didn't seem
15 to be any -- I don't want to say
16 requirement, but it certainly wasn't
17 done, people weren't told. They woke up
18 one morning got a letter saying you are
19 now a FINSAC character?

20 Q That's correct.

21 CHAIRMAN: I don't know if you can attribute that
22 to the Minister though.

23 Q It's his Policies.

24 (LAUGHTER)

25 CHAIRMAN: Well, maybe you should identify the

1 policy that you suggest caused it.

2 A Negligence to begin with.

3 CHAIRMAN: Minister, when you are Minister you are
4 negligent. Go ahead.

5 (LAUGHTER)

6 Q I just wanted to point out the fact sir,
7 that we don't why it went to FINSAC
8 either but even when the -- we borrowed
9 ten million dollars; 52 million dollars
10 was repaid, our house was sold for
11 twenty million that's seventy-two
12 million and we are still told we owe
13 eighty-five million.

14 CHAIRMAN: Yes, those are the facts?

15 Q Those are the facts, sir.

16 CHAIRMAN: I am not being difficult. What is the
17 question you want Dr. Davies to answer?

18 Q How could we survive, what are we to use
19 to pay the eighty-five million dollars
20 that we still owe? Where is it to come
21 from? We can barely eat. This is not
22 endemic to me it is 40,000 business
23 people. Those that were able to
24 negotiate and be cleared, I don't know;
25 I don't know who they are, I don't know

1 of any.

2 CHAIRMAN: 39 thousand for 25 accounts. I don't know

3 but that seems to be the number. The figure

4 we have here is 39 thousand loans were

5 involved. These are the loans; 39 thousand

6 loans were involved. Involved in what, sir?

7 MR. HYLTON: 8 What does that figure represent?

9 CHAIRMAN: Represent the loans. Accounts they say.

10 MR. HYLTON: Accounts?

11 CHAIRMAN: That were transferred.

12 MR. HYLTON: To FINSAC?

13 CHAIRMAN: To JRF.

14 MR. HYLTON: Okay.

15 CHAIRMAN: Those are the loans.

16 DEBTOR: Okay, sir.

17 COMM BOGLE: Which would essentially mean that these

18 accounts were the ones that were not

19 negotiated and agreed under FINSAC because

20 those that were agreed under FINSAC would

21 surely not have been transferred to JRF?

22 Yes. And we were never given an opportunity

23 Q to come in and negotiate anything at no

24 time. You know, it's not

25

1 a question, it's a matter of fact.

2 CHAIRMAN: DEBTOR?

3 Q Yes, sir.

4 CHAIRMAN: As presently advised I suspect that

5 those questions may be better put to the

6 JRF people.

7 Q Okay. I just thought Dr. Davies would

8 have had answers to my questions to

9 FINSAC.

10 CHAIRMAN: No, I think it's appropriate that if he

11 didn't know before he now knows

12 precisely what it is the policies

13 effected.

14 Q Yes.

15 CHAIRMAN: Are there any more questions?

16 Q No, that is fine.

17 CHAIRMAN: Have we got any other persons who had...

18 DEBTOR: Good morning.

19 CHAIRMAN: Good morning.

20 CHAIRMAN: Sorry, are you more comfortable sitting

21 because you look pretty uncomfortable to

22 me? Would you state your name, please?

23 DEBTOR: My name is DEBTOR.

24 D-E-B-T-O-R.

25 CHAIRMAN: What would you like to say?

1 Q Yesterday Mr. Davies said there was a...

2 CHAIRMAN: Sorry, you are?

3 Q Yes. I am a victim of FINSAC.

4 CHAIRMAN: Of FINSAC?

5 Q Yes. Dr. Davies said there was a special

6 avenue for people who have residential

7 property and I would like to know if

8 there was any avenue for somebody like

9 me who took out a loan with the bank of

10 \$000,000, it reached to 11 million

11 dollars and my house was sold for

12 \$000,000. I met into an accident and all

13 those information was reported to both

14 the bank and FINSAC and all the groups

15 and yet they sold my house and put me

16 and my family on the street with my

17 little baby grand-daughter who was two

18 months old and everything that I earned

19 was gone. Right now I am living on the

20 bottom of the scale. What provision was

21 made for somebody like me?

22 A Chairman, it has been said explicitly,

23 and this was given a great deal of

24 publicity; it was discussed in

25 Parliament, it was discussed with the

1 Opposition, the period had extended
2 whereby the housing unit in which the
3 debtor resides would be treated
4 separately so I am kind of surprised
5 that that would have occurred. But this
6 was given a great deal of publicity; it
7 was discussed in the House; it was
8 discussed with the Opposition. I recall
9 distinctly the Opposition asking for
10 extension of the period. If I am not
11 mistaken when the loans were sold, even
12 for those who had requested that, when
13 their loans were sold to JRF they
14 extended that period for six months so
15 this one is puzzling to me.

16 CHAIRMAN: So it appears to me Mr. Willis, you may
17 have to await the presence of FINSAC
18 people. Mr. Patrick Hylton, whoever
19 comes along. When was your house sold
20 by the way?

21 2005, sir.

22 CHAIRMAN: I see.

23 DEBTOR: And I also pay back more than \$1.5M on
24 that account before my house was sold.

25 COMM ROSS: Dr. Davies, you mentioned that there was

1 a six-month period under JRF where that
2 moratorium had taken place, correct?

3 A I think that was part-negotiated, that
4 special provision would be granted to
5 residential units in which the debtor
6 resides, it's not someone who is bought.

7 Q So after July 2002 that provision really
8 was no longer in existence or being
9 honoured?

10 A I don't know what JRF's Policy was after
11 that period but we offered an
12 opportunity such that the person could
13 pull that out of the collateral.

14 Q We have a memo here which actually
15 states that the moratorium would exist
16 only until July 2002.

17 A Yes.

18 COMM ROSS: So then after that and it appears that
19 DEBTOR'S house was sold after that so
20 it wouldn't have been covered by the
21 moratorium within that period? I guess
22 he wouldn't access it within that
23 period.

24 A Well, I guess but I don't know from what
25 DEBTOR, said whether he sought to