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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉIREACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Dé Céadaoin, 17 Nollaig 2014

Wednesday, 17 December 2014

The Committee met at 9.15 a.m.

MEMBERS PRESENT:

Deputy Pearse Doherty,	Senator Sean D. Barrett,
Deputy Joe Higgins,	Senator Michael D'Arcy,
Deputy Michael McGrath,	Senator Marc MacSharry,
Deputy Eoghan Murphy,	Senator Susan O'Keeffe.
Deputy Kieran O'Donnell,	
Deputy John Paul Phelan,	

DEPUTY CIARÁN LYNCH IN THE CHAIR.

The joint committee met in private session until 9.30 a.m.

Context Phase

Mr. Peter Nyberg

Chairman: The committee is now in public session. I welcome everyone to the first public hearing of the Joint Committee of Inquiry into the Banking Crisis. I will begin with an opening statement and then we will proceed to our discussions with Mr. Nyberg.

The dark cloud of the banking and financial crisis still lingers over every home in Ireland. It is the task of this inquiry to shed light on how the collapse happened and to ensure that such a dark shadow never falls on our country again. Today we begin our first public hearings into the banking crisis. There have been a number of reports into the crisis and much has been written about it but gaps remain in our knowledge of that time. We do not have a full picture of the events leading up to, during and after the crisis. Many questions remain unanswered and without the knowledge that answers to these questions will provide we cannot protect ourselves against a repetition of the crisis. This means that those who can answer those questions must come before this committee to give a first-hand account of their stewardship. This is the first time that the decisions that visited the financial crisis on the Irish people will be examined in public. We will hear from experts who will put Ireland's crisis into a world context and we will hear from those who were at the helm when Ireland ran aground, as well as from those who were in the engine room. The purpose of this inquiry is to identify and learn from previous mistakes and to ensure that, as far as possible, we do not create the circumstances which could lead to a similar disaster in the future.

This committee has the power to compel written and oral evidence so there will be witness testimony, oral evidence, transcripts and detailed records all presented in public. This means that the Irish people will hear, at first hand, from those who were involved in one of the major events in the history of our country. The public will be able to see and hear from them as they are questioned and give their evidence to this committee. It is up to us as a committee to put the pieces of the jigsaw in place so that the fullest picture emerges. This inquiry is not only about looking at the past; it is also about examining the operation of current financial systems. We must ensure that this country puts in place a financial services infrastructure and an oversight regime that is robust and fit for purpose.

Today we are at the beginning of the process. We recognise that there is a huge volume of work ahead of us but we are ready for the task. The committee members are just the visible side of this inquiry. Whatever we achieve by our work in this committee room, no matter how successful we are, we know that we depend on the support, hard work and dedication of those working behind the scenes - the public servants and the support team. As a committee, we are all working together to deliver to the Irish public an inquiry that is long overdue and which will endeavour to ensure that the financial burden that has laid itself so heavily on the shoulders of the Irish people will not be placed there again. I have said it before and I will say it again: this inquiry is an opportunity to leave our club jerseys at the committee room door and to do an important job of work on behalf of the Irish people who deserve nothing less. It is necessary that we all approach this inquiry with open minds. Nobody has a monopoly on wisdom and nobody should prejudge the outcome of this inquiry. This is an important opportunity to demonstrate an example of Parliament at its best - thorough and impartial.

As Chairman, it is my job to ensure that we take a collaborative and inclusive approach. Committee members, who have diverse individual backgrounds and political opinions, have proven through their efforts to date that we can work in a collegial spirit in the interests of the Irish people. As I have said, we are at the start of the process. We have a big challenge ahead of us and we must be clear about that. We know the clock is ticking and that the timescale is tight. Nevertheless, we have accepted the challenge and will meet it. However, it would be wrong to see this just in terms of a challenge. It is a privilege to serve on this committee. It is also an opportunity to shine light on a dark and painful time in our recent past, to piece together the events of that time, to learn from the mistakes that were made and to ensure that those mistakes are never repeated.

At this point, I wish to welcome our first witness, Mr. Peter Nyberg, to discuss the report of the Commission of Investigation into the Banking Sector in Ireland, entitled "Misjuding Risk: Causes of the Systemic Banking Crisis in Ireland". Mr. Nyberg retired in 2010 from his position as director general of financial services at the Finnish Ministry of Finance. Before joining the Ministry in 1998 he worked, since 1972, in various positions at the Bank of Finland and for more than three years at the IMF in Washington, DC. At the Bank of Finland, Mr. Nyberg and his staff were intimately and fully involved in addressing the Finnish banking crisis between 1991 and 1995. Mr. Nyberg also took part in the negotiations leading to the Finnish membership of the euro area. After his retirement, he assisted the Finnish Ministry of Finance during the euro area preparations and negotiations leading up to the crisis programme in Cyprus. In September 2010, the Irish Government established a statutory Commission of Investigation into the Banking Sector in Ireland and Mr. Nyberg was the sole member of that commission. The commission's report, Misjudging Risk: Causes of the Systemic Banking Crisis in Ireland, was published in March 2011.

Before I invite Mr. Nyberg to make his opening remarks, I wish to advise him that by virtue of section 17(2)(*l*) of the Defamation Act 2009 he is protected by absolute privilege in respect of his evidence to this committee. However, if he is directed by the committee to cease giving evidence on a particular matter and he continues to so do, he is entitled thereafter only to qualified privilege in respect of his evidence. He is directed that only evidence connected with the subject matter of these proceedings is to be given and is asked to respect the parliamentary practice to the effect that, where possible, he should not criticise nor make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

Once again, I welcome Mr. Nyberg and call on him to make his opening statement.

Mr. Peter Nyberg: I am very pleased and honoured to have been invited to assist this committee by clarifying the work and report of the Commission of Investigation into the Banking Sector in Ireland, which finished its work some three and a half years ago. The commission worked strictly as mandated by the Commission of Investigation Act 2004 and by the Commission of Investigation Order 2010 which contains its terms of reference. This has some implications for today's hearing. For instance, I have no other documentation available to me other than the published report to assist me in answering members' questions. All of the documents used as sources were security deposited, according to the Act, when the commission was dissolved and have not been available to me since. I will do my best to answer all questions but I hope that the Chairman will keep this constraint in mind, as well as the number of years which have elapsed since my work was completed.

The terms of reference were quite explicit in specifying the tasks of the commission. These tasks were to examine the main causes of the serious failures within the covered banks that led to the need for public support; the main causes of the failure of the financial supervisor, the Central Bank and the Department of Finance to properly discharge their duties to prevent problems; and to look at whether external auditors commented on the failures in the banks. Special attention was to be given to board and senior management implementation of policies and practices leading to financial distress. The period for the commission to investigate was only from 1 January 2003 to 15 January 2009 - a period of six years which is not a very long time.

As an independent outsider, I was, to be frank, struck by the many similarities between the causes of the Irish crisis and earlier crises elsewhere, including in Finland, of which, unfortunately, I had some experience. Subsequent investigations in the USA, UK and by the IMF on the causes of the crisis tend to confirm such similarities as well. By that I mean that the Irish crisis was, in all respects, not unique and was similar to many crises elsewhere.

I understand that not all commentators in Ireland have been or are fully satisfied with the contents of the commission's report. Nevertheless, it does represent my independent and objective assessment, at that time, of what happened. Now that I have had reason to review the report once again, this assessment remains unchanged. The commission's work was, in essence, about the "Why?" of the Irish crisis and not about the "Who?". Consistent with its governing legislation and the terms of reference, the commission was not required to name names and decided, from the beginning, not to do so. There were very simple reasons for that. First, useful information and co-operation of witnesses and institutions were much easier to get when reputations were not simultaneously under a threat of being publicised. Legal challenges were much easier to avoid and the risk of redactions to the final report were minimised. I know this is not generally accepted but the responsibility for mistakes is already obvious in my mind. Directors and senior staff, as well as junior staff, are responsible for the decisions they are empowered to make. The names of such people are quite often listed in the published national annual accounts of banks. Heads of public institutions and private institutions are responsible for how these institutions fulfil their mandate alone or in co-operation with others. Each person, including the borrower, is responsible for both what is done and left undone. In particular, borrowers and lenders are responsible for the debt and risks they voluntarily take on.

This approach speeded up the work appreciably, improved the quality of information, reduced costs and made it possible to stay within the required time limit and budget. We could also use previous scoping reports and avoid duplication. The commission's work included dealing with issues which the previous reports were not mandated to do. First, we had forensic study of individual decisions and events in the institutions mentioned in the terms of reference, particularly those which were known to have caused problems, such as decisions on big real estate loans. We also tried to explore why all the existing private and public sector mechanisms to mitigate risk failed at roughly the same time in Ireland. These simultaneous sector-wide failures are a necessary precondition for the systemic crisis which happened not only in Ireland, but everywhere else. My work required not only access to documentation, but also discussions with representatives of the institutions about the events leading up to the documented decisions.

I was aware that broadly similar reviews had already been carried out and mostly were in progress in several other countries, such as the UK, the US and Iceland, as well as in the International Monetary Fund. Iceland was of course a very different case from Ireland as it controlled its own currency and the assets of the bank and the balances of the banks relative to the economy were very much larger in Iceland than they ever were in Ireland. Once the losses materialised, there was no possibility for Iceland to repay them, even if it wanted to.

The banks, external auditors and public sector bodies were requested to provide access for the commission to a large array of possibly relevant internal documents. Teams of commission investigators visited these institutions to identify relevant documents and, when necessary, they clarified document contents and existing procedures through technical discussions with staff. The identified documentation was copied to the commission's secure data system for closer inspection at commission premises and used as a source for producing the final report. With this work approach, I was able to assess and draw conclusions from a very large volume of data.

At the same time, the commission requested formal but confidential interviews with decision makers of the bodies being investigated. The interviews had two primary aims; they were to broadly verify the preliminary conclusions reached on the basis of the documentation and to understand why risk assessment, broadly defined, had failed and how governing bodies in practice had functioned or malfunctioned in that period. Particular attention was given to the extent and quality of deliberations by decision makers, adherence to and control of agreed internal procedures and to any presence of voiced contrary opinions or doubts.

The final report contains the results of these interviews and documentation in a general format to allow the informants and institutions to remain anonymous as promised. It does not contain easily repetitious examples of, for example, lending processes gone bad for individual loans in various banks. It includes such observations in the form of more generalised commission conclusions, valid for many or even all the banks which were subject to my report. Anglo Irish Bank and Irish Nationwide are quite often discussed separately because that was the request in the terms of reference.

I will turn to observations that could be particularly relevant to the joint committee investigation. The commission felt responsibility for the crisis in Ireland, as well as elsewhere, must be very widely allocated and any investigation should thus be wide-ranging. As I already stated, a systemic crisis can arise only when a large number of risk-mitigating functions in many institutions in society have become impaired. For instance, it would be wrong to assign blame primarily to lenders and ignore the fact that a bad loan also requires that a borrower would have made a bad risk assessment on the possibility to handle credit.

The Irish crisis was essentially the result of the sudden deflation of a widespread domestic real estate bubble, implying that domestic policies, decisions and processes should remain central in an investigation, as it was for the banking commission. I repeat and stress that this real estate mania in Ireland was not a unique phenomenon and can be compared to recent developments in the United States and Spain, as well as in Scandinavia in the 1990s. This time, the triggering factor for the crisis was a tightening of liquidity originating in the US market, which affected Irish banks particularly through dependence on market financing and over-concentration in real estate. Even in the absence of the US crisis, it is quite unlikely, in the opinion of the commission, that the domestic Irish bubble episode would have ended well. In other words, it is unlikely that the hoped for "soft landing" would have been the ultimate outcome. That is because at the start of the crisis, there were very few signs that either the banks or the institutions were changing the way they were acting. The assumption - I stress it is an hypothesis - is the work and behaviour would have continued as before until it became impossible and the crisis would have come for some other reason.

One of the conundrums was the presence of contrarians, of which there were very few, particularly in the public sector but also in the banks. Despite doubts, some were very insistent, even when they were ignored and at times sanctioned, usually indirectly. They did not change their minds. In any case, they were not listened to and their views were not taken seriously. The question is "why not?" and why did this not happen even in the confidential confines of individual institutions? This is something on which the commission has hypotheses but no clear evidence.

Another important point is part of the background to the crisis was a global consensus view that the financial markets were stable and efficient. This has implications for the Irish private and public decision-makers. I classify this as groupthink, which is thinking as one's peers does so as not to stick one's head up too far. It would explain to some extent the fact that everybody was unprepared for the crisis when it came and that everybody was more or less willing to accept the occurrence of risky behaviour on the part of the banks and the public sector. It is fair to say that it is also possibly one of the reasons that what happened not only in Ireland but in several other countries in the world was not caught, criticised or challenged by international organisations, academics, the media or consultants. Everybody believed in the same thing and nobody saw that for which they were not looking.

An aspect which makes it difficult to discuss the crisis is that while the bubble was being blown many people, not only the banks, had concrete benefits from its continuing. The Government received much tax revenue from continually expanding the real estate market and this income was dealt out to the population through higher public sector wages, better social security and less onerous costs for public sector services. Many people had concrete joy from the bubble for as long as it lasted. Once the bubble burst these advantages were no longer available and this has been the case since 2008. The advantages and pain of the crisis have been widely shared, which is one of the reasons the Commission felt that it is not fully balanced to seek a few critical decisions which started or continued the bubble. Hundreds and hundreds of individual decisions were made by contributors who never felt they did anything wrong but which made it possible.

Another hypothesis the Commission has is that it was not a lack of regulation and supervision *per se* which was important for the bubble to continue but a lack of implementation of existing regulation and powers. The fact we have had many systemic crises in developed countries since the Second World War, indicates that the existence of supervision and regulation is not enough to hinder systemic crises. The question is what one should do to make this possibility less if one cannot trust public servants.

There is not very much to say about external auditors except that, contrary to what one might expect, they did not seem to know more or less than anybody else. Certainly they did not warn their clients about problems to come, although as far as the Commission could tell they did discharge for the most part the checking of historical accounts that they see as their main sort of business. The question is, of course, is that enough. That is something for the committee to decide.

When one looks at the guarantee decision, and that is the position of the Commission, one has to look at the decision in its historical context, meaning that it came at the end of a long period during which everybody concerned with judging risk in the country had told each other as well as the Government that the banks were solvent and there were no problems and consequently one did not have to prepare for any problems. Then all of a sudden the problems were there. There were efforts in the last minute, particularly in the Department of Finance, to get legislation under way which would have made it possible to resolve the banks in an orderly manner before they closed, but that was no longer possible anymore because it would have taken a long time. In the end the question was, when one sat there on the evening, much like the committee members are sitting here this morning, what should be done to avoid a collapse and closure of the banking system the following morning. From previous experiences back home, when decision-makers are faced with that situation, what one tends to do is to make the safe decision, even though afterwards it might not seem so wise. That is, I think, what the Government did. That is why the Commission says that it does understand the Government. It does not necessarily condone it because it is the culmination of a lot of mistakes that were made before, but the mistakes were not really made on that night. The mistakes were made several years before, and not only by the Government but really by everybody else.

I refer to the paper I have circulated on the issues that are not included but could be looked at. Most important is that one looks at more than only the covered banks and the institutions that the Commission was constrained to look at. One looks also at the other banks that were helped by other governments - not the Irish Government but the other governments - and the support from them, as well as the media, academics and consultants, and also the political parties and the Parliament, because they are, of course, the ultimate decision-makers, or were for several years. There I would hope the joint committee is more knowledgeable than anybody else.

Chairman: Thank you, Mr. Nyberg, for your opening address. Before I invite the two lead speakers this morning I will set the scene following Mr. Nyberg's concluding comments. A key finding of your report was that a banking solvency crisis was seen for far too long as a liquidity crisis. Will you expand on what this means, bearing in mind we have a public audience which may not be as informed about banking terminology as you are?

Mr. Peter Nyberg: A bank can operate only as long as it can fund itself, that is as long as it has money. What was happening after the US crisis was that banks everywhere in the world, but in particular those banks which were seen as doubtful - doubtful in the sense will they be able to repay what was lent to them - were being charged more for their funding or were being denied funding totally. Of course, in principle, it is possible for banks to have problems with funding even though they are perfectly okay. This is why we have central banks. The central banks can then provide funding against security and so forth. For quite some while, the Government had been told, primarily by their main advisers, that is the Central Bank and the Financial Regulator, the institutions, that the banks were fine and that they were solvent and that the only problem was international uncertainty which made it difficult for them to refinance themselves when they had to repay old loans to market participants and so forth. Several months later, when PwC made a check on the banks, it thought that, in September, they were solvent. Of course, everyone knows that the economy turned out much worse than anyone expected. This weakness in the situation of the banks and the bubble in the Irish real estate market was more real and larger than anybody expected at the time, particularly, the real estate market collapsed much faster and deeper than anyone foresaw at the time.

Chairman: In layman's terms, a liquidity crisis is when a bank needs cash flow and an insolvency crisis is when the bank cannot meet its liabilities. To move that question on, in September 2008, the guarantee took place in this country. Having Mr. Nyberg's assessment of the situation - and his commission was very much concerned with examining the issue of liquidity and insolvency in the Irish banks - with respect to the liquidity and insolvency position of the Irish banks at the end of September 2008, is it Mr. Nyberg's view that some of the banks, or a percentage of the banks, or all the banks were actually insolvent by that time?

Mr. Peter Nyberg: What we have are the assessments of the Financial Regulator and the

Central Bank and we have the assessment of PwC. According to them, they were solvent, but they certainly were illiquid as well. It can be said that, according to the public institutions, they were solvent but the market, those that lend the money, doubted it. However, they also always look forward. It is irrelevant if a bank is solvent today if it will be insolvent tomorrow, from the point of view of the market. However, from a legal point of view and a public point of view, it might look different.

Chairman: Mr. Nyberg is referencing his analysis of the situation to the context of 2008 and the view then. To what extent, and with regard to the subsequent information Mr. Nyberg has had regarding the Irish banking sector since his report, has his assessment of the situation changed?

Mr. Peter Nyberg: It has not. It is the same.

Deputy Pearse Doherty: Cuirim fáilte roimh an tUasal Nyberg go dtí an coiste fiosrúcháin seo. I wish to pick up on the point the Chairman mentioned on that point in time in terms of the guarantee that was provided to banks at the end of September. Can Mr. Nyberg inform the committee from the work the commission has done when was the point that the State took on, legally, the liabilities of the bank? Was it when the Government announced the guarantee, in the early hours of the morning of the 30th? Was it when the Credit Institutions (Financial Support) Act 2008 was passed by the Houses of the Oireachtas on 2 October? Was it when the financial support scheme was passed on 17 October or was it when the six covered institutions entered into that scheme on 24 October? Will Mr. Nyberg give us some clarity, from his work, on when the legal liabilities of the bank were incurred by the State?

Mr. Peter Nyberg: That is something which the commission did not look into. Not being a lawyer and, particularly, not being an Irish lawyer, I really could not answer that question. The point the commission tried to make is that, in effect, the Government might very well, regardless of when the legal situation changed, have had to decide in any case whether to guarantee the banks and for how much and for how long and so forth, in order to ensure that the banking system would be open and that people could get their money from the banks and so forth. That was the real issue. When the legal form was, or should be, considered fully established is another question which was not within the remit or the competence of the commission to decide.

Deputy Pearse Doherty: I ask this because, on page 79 of his report, Mr. Nyberg notes that if the authorities or the Government had wished to avoid immediately providing a broad guarantee, some of the funding options - which he had mentioned above - were available, although perhaps not easily, through buying time, even until the following weekend, and this would not have been an idle exercise. He mentioned that even a short window would not have been an idle exercise. There are questions over when it was that the State brought the liabilities upon itself. I have a reference here from the former Minister for Finance, the late Brian Lenihan, when he spoke in the Dáil on the Act which was passed on 2 October and said:

> We have a guarantee of sorts, a moral undertaking given by the Government last Monday evening. We want it spelt out in black and white for the institutions concerned. That is the urgency in relation to the scheme.

We know the scheme was passed by the Houses of the Oireachtas on 17 October. In Mr. Nyberg's view, was there buying time or is it something that the commission just did not look at?

Mr. Peter Nyberg: If Deputy Doherty looks at the first sentence of paragraph 4.7.9, the commission also states that attempting to buy time would have its own very serious risks, including that market confidence would not have returned sufficiently quickly or might even have further declined. The assumption of the commission is that the Government was not willing to take that risk. One should remember that the first reactions of the market after the guarantee were positive. Money returned to the banks from the market. It was only later that this sort of return changed and the situation went wrong. It is really a question of what risk one is willing to take. Even though it is true that further reflection would have been useful, there really was not very much time for that and it had its own very serious risks, if one would have taken the time. When there is a question of a crisis of this magnitude, it is usually way past the time when one can make serious choices.

Deputy Pearse Doherty: I appreciate that. The point I am trying to get to is the six covered institutions entered into a guaranteed acceptance deed on 24 October, which is about three and a half weeks between the announcement of the guarantee and the guarantee itself. Mr. Nyberg mentioned that buying time - a weekend or a number of days - would not have been an idle exercise. The announcement of the guarantee gave succour to the markets and allowed the financial institutions to remain open. Was there scope for the types of options Mr. Nyberg outlined in his report to have been examined in the intervening period before the introduction of the guarantee?

Mr. Peter Nyberg: In one way or another the Government had to assure the markets that the Irish banks were solid enough to be lent money as before. If there was no guarantee, how would that have been done? It is not clear. The end result is what matters here. Should the Government have made a banking holiday or whatever? I do not know. The legal basis for more sophisticated solutions, resolutions and so on was not there. There was nothing that could be done on that basis.

I remind Deputy Doherty that during the night, there were several discussions on alternatives, such as giving a shorter guarantee, reducing the scope of the guarantee and so forth. For various reasons which are not documented but can, no doubt, be outlined by those who were there, these alternatives were not considered realistic. In the end, after looking at these issues, this was what came out. It worked fine at first but as it turned out that the problems were bigger than foreseen, the efficiency of the measures was reduced in the eyes of the market.

Deputy Pearse Doherty: I will move on to the main issues set out in the document Mr. Nyberg has presented. He has helpfully set out eight bullet points, six of which are conditions that are necessary for a systemic financial crisis to occur. The first factor is that there must be "a sufficiently large number of households and investors who, at some point, start making serious mistakes in judging the value and liquidity of their major assets, holdings and projects". Mr. Nyberg remarked earlier that the borrower must share the blame with the lender. The view has been put forward by some in this State that we all partied and all bear guilt for what went on before the financial crisis. The first bullet point could be seen as giving succour to that view.

Will Mr. Nyberg elaborate on that point with particular reference to the statement, on page 32 of his document, that the top 20 customers of Anglo Irish Bank had loans in the region of €21 billion, and the value of loans to the top 25 customers of Irish Nationwide represented 51% of that institution's commercial book? Mr. Brendan McDonagh of the National Asset Management Agency gave evidence to the inquiry that 190 borrowers taken on board by the agency had collective debts of €62 billion. Given those facts, how can we say that a financial crisis required certain behaviours by a large number of household borrowers?

Mr. Peter Nyberg: As I said, it would have been impossible for banks to provide those amounts of credit to that small number of people unless everybody, directly or indirectly, thought it was okay. As I also indicated, the fact that the real estate market was supported by banks and, as I understand it, by budgetary means, meant that a lot of people, directly and indirectly, had an interest in that market continuing to go up. There was no force to reduce that type of support.

When one looks at banks, it is true that the big losses come from the big loans which we were looking at within the commission of investigation. However, the main business of banks is to support smaller institutions, regular enterprises, households and so forth. That is why we want banks to continue to work well. For banks to be able to work well, they need to be able to access funds from depositors and the market. That is impossible if they are not seen as solvent.

It might be easier to think about it from the view that banks have balance sheets. They have assets and liabilities and, by definition, they have to be equal. If assets go down in some way, it comes from capital and solvency goes down. The business of banks is to provide loans against security to ordinary people, and they can do so only if those loans are repaid, that is, if those who give funding to the banks believe those loans are okay. If the banks give a large amount even of small loans that are not really okay, this means their solvency is put into question. I do not think it is fair to say people partied. People just lived a little better than they otherwise would have done because of the bubble.

Deputy Pearse Doherty: As I said, it was very helpful of Mr. Nyberg to set out the six factors that are essential for a systemic financial crisis to occur. My question is whether, if households had no problems servicing their debts, we still would have had a systemic crisis given the concentration of lending on a small number of borrowers. There were 190 borrowers owing €62 billion between them. Some 50% of Anglo Irish Bank's loan book was accounted for by 20 individuals, while 51% of Irish Nationwide's book comprised loans to 25 individuals. If households had borrowed prudently and were able to service their debts, would a systemic crisis have nevertheless taken place?

Mr. Peter Nyberg: That is something we never thought about because it would have meant our having to imagine a world which never existed and, I suspect, never really could have existed. If there is a systemic crisis, it really means that everybody is involved, including households. This does not imply that it is households which cause the crisis, but they are involved. They possibly and usually inadvertently tag along and make things worse.

Deputy Pearse Doherty: Mr. Nyberg's report mentions that lending accelerated sharply at Anglo Irish Bank from 2005 onward. What, in his view, were the reasons for that sharp increase in lending?

Mr. Peter Nyberg: Anglo Irish Bank was a monoline bank specialising in financing big real estate developers. What it did, as I understand it, was try to fulfil the needs of its customers. I imagine that Anglo Irish Bank identified greater needs in its customer base.

Deputy Pearse Doherty: Going back to the six points Mr. Nyberg mentioned for a systemic crisis to occur, he also mentioned that it requires a government and a central bank that remain unaware of the mounting problems or that are unwilling to do anything to prevent them. His report examines the role of the Central Bank in great detail and also that of the Department of Finance but it is silent on the Government's role. Can he elaborate on that point?

Mr. Peter Nyberg: The terms of reference did not require us to look at the fiscal policies or the role of the budget or such matters. We concentrated on what we were asked to do, which was to look at the financial issues. Before the crisis the Department of Finance was not very much into financial stability issues. They were the remit of the Financial Regulator and the

Central Bank. The Department of Finance was in contact with these institutions but, as far as the commission could determine, it did not interfere and it was also, as the Department, Central Bank and the Financial Regulator understood it, not their business to do so. Those are two of the reasons the Department figures in a fairly limited way in the report.

Deputy Pearse Doherty: I want to move on to what Mr. Nyberg has called the real reason for the crisis. Page 100 of his report states, "the real reason for the crisis is the spread of an ultimately irrational point of view". He makes this point with reference to the widespread belief in the model of efficient, self-regulating financial markets which he mentioned in his opening statement but he goes on to state in his report that "Only a naïve an opportunistic interpretation of the paradigm, together with a lack of either relevant experience, training or historical knowledge, could possibly have argued for a major dismantling of the traditional prudential safeguards". Can he explain, first, what he means by an "irrational point of view" and, second, what he means by an "opportunistic interpretation"? He is suggesting there was opportunism here. Can he elaborate on that point?

Mr. Peter Nyberg: As I indicated in my opening statement, this is not the first systemic crisis that we have had in the developed world, not to speak of the rest of the world. We have had many of them in Europe, in Scandinavia for instance, in the United State and in South East Asia. It is not something new, but it is something that somehow was overlooked by banks, commissions, governments and so forth in the run up to this crisis. With the word " opportunistic", the commission wants to signal that there was a feeling of this time being different from all the other times it happened. The word "irrational" tries to give the same kind of information - that it has happened before. It was unclear why it would not happen again. It is quite important to understand that this was not just an Irish case. It happened all over the place and it has happened before. Speaking personally, it seems odd that one has not drawn conclusions from the fact that it seems to happen serially.

Deputy Pearse Doherty: Following on from that point, Mr. Nyberg flows on from that statement in his report and goes on to state that "The Commission ... has reluctantly come to the conclusion that at least some of the financial market professionals at the time must have entertained private, undisclosed doubts on the sustainability of banks' lending and funding policies." Did Mr. Nyberg come across any evidence to support that claim in his report? He also states in his report that "the public and private watchdogs" did not act "not only because they did not know, but ... because it was not ... [politically] acceptable, legally necessary or prudent to act at the time". Has Mr. Nyberg come across any evidence to suggest that watchdogs, public and private, did know but, for the reasons he outlined, they decided not to act?

Mr. Peter Nyberg: It is conclusion of the committee. As with all of the conclusions, there is some evidence. Here it is more a summary conclusion for which the commission bears the responsibility. The evidence really is of people who had doubts but did not voice them, not necessarily all the time but part of the time, and also, of course, because people are smart. All the people we are talking about here, even though we are talking about institutions, they are smart. One can doubt in the beginning but once one's doubts have proven unfounded year after year after year, one might change one's mind. The question is really when did one doubt. There was some indication that people who doubted in the beginning were less doubtful later.

Chairman: Thank you, Deputy Doherty. I invite Deputy Eoghan Murphy to contribute.

Deputy Eoghan Murphy: Thank you, Chair. Mr. Nyberg is very welcome. I would like to pick up on the point of a paradigm of efficient markets. In his report Mr. Nyberg states this "throws light on why most international institutions, foreign analysts, rating agencies, lenders, authorities and commentators were as relaxed about Irish developments as people in Ireland themselves". Does this absolve these institutions?

Mr. Peter Nyberg: Of course not.

Deputy Eoghan Murphy: Does the idea stand up though when we know, as Mr. Nyberg has stated in his report, that if people had looked at the annual reports of some of the covered institutions, it would have been quite clear what was happening in terms of credit concentration?

Mr. Peter Nyberg: I am not sure what the question was.

Deputy Eoghan Murphy: Mr. Nyberg is saying this idea was so strong that it took hold for all these institutions and-----

Mr. Peter Nyberg: Yes.

Deputy Eoghan Murphy: -----that it was not clear for them to see what was happening in the Irish context, but in some of the reports, as Mr. Nyberg stated in his report, it would have been quite clear to the Central Bank and the Financial Regulator because it was there what was actually happening.

Mr. Peter Nyberg: If the Central Bank and the Financial Regulator would have doubted that the financial markets and the banks were efficient and well run, it seems to me that the alarm bells would have run much earlier and much higher than they did.

Deputy Eoghan Murphy: They did not act.

Mr. Peter Nyberg: They they did not act and neither did the institutions or the comparative institutions in other countries or the international institutions. Nobody really reacted, not to Ireland, not to the United States, not to Spain and not to the UK, and the question is what is the common denominator there. According to the commission, one of the top common denominators would really be, if one uses the word, the philosophical underpinnings of the financial market policy at the time.

Deputy Eoghan Murphy: In that relationship between the international and the national, Mr. Nyberg, in his own opening remarks, said that in all respects the Irish crisis was not a unique one, but in his report he states that in all essential aspects it was home grown.

Mr. Peter Nyberg: Yes.

Deputy Eoghan Murphy: There was a view recorded, but not agreed with, in the Honohan report that had the external shocks of September 2008 not occurred, the system would have survived without imposing a cost on the Government. What does Mr. Nyberg make of that view?

Mr. Peter Nyberg: I think Governor Honohan is certainly able to answer for himself. As I indicate in the paper I distributed, it is difficult to say whether, if the crisis had come later it would have been cheaper or not. If it had broken at the same time, maybe. I do not know. It is a question of judgment. I respect Governor Honohan's judgment without necessarily being of the same-----

Deputy Eoghan Murphy: To clarify, he records that view. He does not support it. From his interview some people put forward that view.

Mr. Peter Nyberg: It is unlikely that the bubble would have burst at that time if the trigger had not come from the United States. If the crisis had been in Ireland would it have been cheaper or more difficult? I have not thought that through. The Commission did not think that through because it was not our business.

Deputy Eoghan Murphy: I suppose international events exacerbated the speed and severity of the crisis. In his report Mr. Nyberg states the main reason for the crisis in Ireland was the unhindered expansion of the property bubble financed by the banks using wholesale market funding. A lot of space in his report is dedicated to the wholesale market funding. Could he please explain that point on wholesale market funding briefly, in layman's terms, and how it marked a change in how the banks did business and whether there were dangers in this?

Mr. Peter Nyberg: Market funding is really funding by professionals, other banks or pension funds, or whatever. Contrary to regular depositors like the Deputy and me, they follow very carefully what the banks do because they lend large amounts of money. If it seems the bank is not solvent, that at some point it will not repay what it owes, they will take the money away as soon as they can. When the bank is solvent and the market works well, market funding is really cheap and reliable. When the bank is questionable or the market does not function well the bank can all of a sudden be the subject of liquidity problems, as they were in Ireland.

Deputy Eoghan Murphy: In his report, Mr. Nyberg writes about how this funding gap emerges. It opens up between the loans and deposits of all the covered banks growing from €26 billion in 2002 to €129 billion in 2008. To what extent was this facilitated by changes in the international financial conditions? Was it largely due to the aggressive growth strategies of the Irish banks?

Mr. Peter Nyberg: As the report indicates, Irish banks were determined to grow fast. Any bank that wants to grow more rapidly than its deposit base will have to fund itself from somewhere else. The banks therefore used market funding for the difference. Where they took it from was a question of cost and where they had good relations. Unless there had been active international markets to which the Irish banks had apparently risk-less or very low risk access they would not have been able to do this. It all hangs together, not one without the other.

Deputy Eoghan Murphy: Mr. Nyberg notes in his report that in regard to the bank management and boards, "Observers, analysts and consultants invited to address bank management and boards did . . . point out the increased funding and liquidity risks". At the same time, "there is no evidence that this made a discernible impression" on these boards or people and, "This is not surprising given that many of these same invitees simultaneously stressed the need to grow rapidly without suggesting alternative funding sources". Could Mr. Nyberg go into this point at greater length? Why were people advising the banks that they needed to grow?

Mr. Peter Nyberg: It was because banks invite people they find interesting to give decision makers their view on what it is necessary to do to be a good bank. They do it all the time. If Deputy Murphy remembers how it was at that time, what was important was international competition between banks. They should be large, international and compete with each other. There were also a lot of mergers between banks that were not doing well and those that could do well. The successful banks were funding themselves by selling highly valued stock, for instance. The banks that were doing badly were cheap because their stock was cheap. It appears that some boards were thinking in this way, either you grow fast and get profitable or you might be subject to a takeover or shareholder pessimism. They brought in people to ask them what they should do in this situation. They were usually people who had been to lots of other banks and could credibly say they knew the international bank market and so on.

Deputy Eoghan Murphy: Those people were coming in to advise them on growing rapidly and competition from foreign banks was fuelling it in part. Then they accessed greater funding from the wholesale market. To what extent would Mr. Nyberg assign responsibility between the lender and the borrower in that situation?

Mr. Peter Nyberg: An adviser is an adviser and he is responsible for his advice. The decision maker is responsible for the advice he takes and what he does. As far as the Commission could judge, boards decided themselves what they wanted to do. It was not the advisers who decided for them. The boards take advice, discuss it and then make a decision. That decision was to grow.

Deputy Eoghan Murphy: What enabled them to grow was access to the international wholesale market funding, and the professional lenders.

Mr. Peter Nyberg: Yes.

Deputy Eoghan Murphy: Does the responsibility lie with the lender?

Mr. Peter Nyberg: It is the same as elsewhere. The lender is responsible for judging the future solvency of the borrower and the borrower is responsible for judging his ability to repay.

Deputy Eoghan Murphy: I wish to turn to the role of the Central Bank and the financial regulator. In his report Mr. Nyberg states, "[W]hen confronted with the information that was available to these authorities throughout the Period, it is safe to say that vigilant authorities should have been much more concerned by the end of 2005". He goes on to state, "Even in the absence of in-depth analysis, by early 2006 information from the covered banks would have shown the following" and he lists domestic lending doubling since 2002; exposure to wholesale markets increasing threefold in the same period; four of the six covered institutions exceeding limits for property-backed lending and "significant lending concentrations" to a small number of people. Could Mr. Nyberg comment on that? I want to highlight his language - "vigilant authorities" and also "even in the absence of in-depth analysis".

Mr. Peter Nyberg: It seemed to the commission that most of that information was out in the open, either in banks' annual reports or in public statistics. Some of it was simply anecdotal evidence - people talking to each other, and so forth. It was not all that difficult to find signs that one should start looking closer.

Deputy Eoghan Murphy: It was obvious.

Mr. Peter Nyberg: Since the authorities did not do anything, it was not obvious to them, but that was because they were not thinking in those terms. Now, when we look at it, it appears quite obvious. Objectively, it was obvious.

Deputy Eoghan Murphy: Mr. Nyberg talks about this idea of "principles-based regulation" in the context of Irish banking, but he also notes that the Financial Regulator "was seen to be unwilling to take firm action, even in the face of clear breaches of 'principles'". Why did he note this?

Mr. Peter Nyberg: In the view of the commission, it was true. There were quite a lot of breaches of governance rules, which the Financial Regulator generally thought were important. That was particularly the case in the two prime problem banks. I think it is fair to say the commission read the Honan report as giving the message that the regulator at times noted it - it was not unknown - but to a very large extent it started corresponding, sending letters back and forth, and it stated what the banks should do, but it did not check that they did it. It did not force the banks to do it, which it could have, using less pleasant methods than it can use if it thinks something is really important.

Deputy Eoghan Murphy: It was not a question of a lack of power, then.

Mr. Peter Nyberg: In the view of the commission, no.

Deputy Eoghan Murphy: From the investigative work Mr. Nyberg did, were there any discussions at the board of the Central Bank on the possibility of directing the activities of the Financial Regulator to address the concerns that were then occurring about financial stability?

Mr. Peter Nyberg: As far as I remember, there is no mention of that in the report, and I do not remember any suggestion along those lines. It was more that the Financial Regulator and the Central Bank were like silos apart. They each tried to handle what they saw as their main business, and they did not discuss very much. For instance, they were both formally responsible for the financial stability report, which came out once every year, but in practice it was virtually only the Central Bank that contributed to that.

Deputy Eoghan Murphy: Mr. Nyberg talks about silos, but he also notes in his report the common membership between both boards, the Central Bank and the Financial Regulator. I think there were seven common members.

Mr. Peter Nyberg: Yes.

Deputy Eoghan Murphy: Mr. Nyberg said that in assessing the performance of the Central Bank and the regulator, it is "important to bear in mind that the membership of both boards overlapped to a significant extent".

Mr. Peter Nyberg: The implicit question is why did these issues not come up there. The only thing the Commission had in mind when it wrote that was that if either the Central Bank directors or the board of the Financial Regulator had been convinced that something had to be done, they could have communicated - they were the same people. The Department of Finance was also represented there. If there had been serious doubts or questions in either of these institutions, one would have expected, because of the common membership, that those problems would have come up in all boards.

Deputy Eoghan Murphy: The financial stability report was a joint endeavour but, as Mr. Nyberg stated, the Central Bank seemed to control it. His report notes that warnings of stability risks appear to have been sidestepped internally, or when made public, especially in the stability reports, were toned down in the policy conclusions, and that there are clear indications that if material warnings about risk were provided little attention was paid to them and they were only included after being toned down and redrafted. In one of his footnotes he writes about an internal study which estimated house prices were overvalued by 39% in 2007 not being included in the stability report. Without focusing on the role of a specific individual will Mr. Nyberg elaborate on these points on toning down?

Mr. Peter Nyberg: No, I cannot because the Commission got wind of it through an interview, and we studied it and there it was. It has acquired some importance because now we know the study was moving in the right direction but it was not seen as helpful at the time. It is one of the signs that contrarian thinking was not exactly popular at this time in the Central Bank, but the same is true elsewhere.

Chairman: To pick up on a point made by Deputy Murphy on wholesale market funding, in his report Mr. Nyberg speaks about borrowing short to lend long.

Mr. Peter Nyberg: Yes.

Chairman: This means the banks were engaging in short-term lending and sending out the money as mortgages over ten or 20 years. Was this an attempt to maintain liquidity and stave off insolvency?

Mr. Peter Nyberg: No, it is what banks usually do. It is their business. Usually short-term money is cheaper than long-term money and banks can do this because they are able to borrow short-term money again and again as long as they have a good name in the market.

Chairman: Is dealing with the mortgage loan book with short-term money considered a traditional banking culture or traditional banking practice?

Mr. Peter Nyberg: There are limits.

Chairman: Were the limits exceeded?

Mr. Peter Nyberg: Judging from the results, yes, but there are no hard and fast limits. During times of high growth one would usually start by funding short.

Chairman: Was there a cultural change during the crisis period whereby short-term borrowing to finance long-term lending had moved out of kilter with what was the traditional norm?

Mr. Peter Nyberg: Not during the crisis period, but during the period before it the banks-----

Chairman: In the lead-up to it?

Mr. Peter Nyberg: Yes. Quite often there is market lending of different maturities - short term, middle term, long term and so forth. In each bank there were funding committees which decided what kind of mix would be good for each bank.

Chairman: I thank Mr. Nyberg. I will invite Senator D'Arcy to speak for ten minutes and after that we will have a short interval.

Senator Senator Michael D'Arcy: Mr. Nyberg is very welcome. We appreciate his attendance today. His report is entitled, Misjudging Risk. In the scheme of misjudging risk internationally, how bad was the Irish banking sector's misjudgment of risk? It is the obvious question.

Mr. Peter Nyberg: It is not a question that can be answered on the basis of the commission report.

Chairman: It would take a lot of time.

Mr. Peter Nyberg: Let us put it this way, judging from the consequences, which were stronger or larger in Ireland than in many other places, the Irish institutions were pretty good at misjudging risk when compared internationally.

Senator Senator Michael D'Arcy: They were pretty good.

Mr. Peter Nyberg: At misjudging risk.

Senator Senator Michael D'Arcy: I will touch on the PwC report commissioned by the Government after the guarantee. It was presented in late 2008 and was to deal with the insolvency of the banks on the night in question. Is Mr. Nyberg satisfied with the methodology used by PwC to prepare the report? He had access to their papers and the analysis they carried out. Is he satisfied that it was sufficient?

Mr. Peter Nyberg: The methodology was pretty standard. They looked at the books and they used various stress assumptions to see how the book, meaning the assets of the bank, would change if the various stresses came through. If I remember correctly, there were three alternatives. There was a standard scenario, a better one and a worse one, in particular regarding the big real estate loans. The standard scenario gave the result that the banks were solvent. The more stressed scenario gave the result that there could be problems with the big real estate loans. That is the way one does it, because - to be frank - economic forecasts are usually wrong. To avoid nailing one's flag to the wrong assumptions, one takes different assumptions and shows between which extremes the results come out. The decision makers at the time decided that the central assumption was correct, or most likely, and assumed then that the banks were solvent. If one would have taken the worst possible assumption, the banks obviously would not have been solvent, but it is only afterwards now that we know how it turned out. The method was fairly standard.

Senator Senator Michael D'Arcy: I put it to Mr. Nyberg that the report was concluded and presented at some stage in late 2008, based on the night in question which was the end of September 2008. The establishment of NAMA took place within 12 months and on the transfer of loans of €72 billion - as Deputy Doherty pointed out earlier €62 billion of the €72 billion was with 190 people - at the establishment of NAMA, there was a 58% haircut or reduction. Let us be generous and say that approximately 16 months later there was an almost 60% reduction or haircut - one can use whatever term one wishes. Could I have Mr. Nyberg's views on how 16 months later we could have a 60% reduction, in particular for the major lenders? A total of 190 people represented €62 billion while thousands of people were responsible for the other €10 billion. The loans of 190 people represented six sevenths of the total amount.

Mr. Peter Nyberg: The problem with evaluating financial assets is that almost everything has to do with expectations - what one expects an asset to be worth in a certain period of time. That means that all changes in expectations have an immediate effect on the assets. It is not a fact that as the economy changes or employment goes down that the assets gradually adapt to that. As soon as something happens, the assets go down, or up as the case may be. What happened quite early in 2009 was that the assumptions underlying the guarantee decision that all banks were solvent, and that their liquidity problems were temporary, had changed. The change was partly because Anglo was nationalised. That was a sign that things were not as good as before. Also, of course, the economic situation outside Ireland deteriorated, and it deteriorated within Ireland as well. All that had effects on the banks and the banks' assets. The effect was immediate, not over some period. It always happens, so it does not surprise me. As soon as a bank is exposed to the real estate market, and as soon as there is an assumption that the real estate market is really going down, the bank's assets must be written down.

Senator Senator Michael D'Arcy: One of Mr. Nyberg's key conclusions was the importance of group thinking. He mentioned it on a number of occasions throughout the report. At one stage he said that a national speculative mania prevailed in Ireland during the boom. Is that not apportioning blame to the people of Ireland? A lot of people did not party and a lot of people did not participate in the boom. The State supported the banking sector to the tune of €64 billion but, equally, there were citizens who lost €50 billion worth of share value. That was a lot of people's pension funds and their pot for a rainy day. I feel somewhat aggrieved by that statement that the perception in the report was that everyone partied.

Mr. Peter Nyberg: The problem is partly in the choice of words and partly in the eye of the reader because the commission report certainly does not imply that. It does mean, and I still think that is absolutely true, that a lot of people in many different ways enjoyed benefits from the bubble. They enjoyed benefits in employment. They enjoyed benefits in public expenditure, in the price and extent of public support, and in services. Part of them also enjoyed benefits in the form of low-cost loans and access to invest in housing. That does not necessarily mean that they partied but it does mean the boom and the bubble meant that their lives felt much better than they would otherwise have been. The crash afterwards meant that all those benefits became, in practice, impossible to finance any more. That is what has been happening now. It is quite true, of course, that the costs of the crisis are not necessarily distributed in the same way that the benefits of the crisis were distributed but that really is a question that was not on the list of the commission tasks and it is something that the Government and the Parliament have to think about, if anybody does.

Chairman: I thank Mr. Nyberg. I propose we suspend the meeting for 15 minutes and resume at 11.15 a.m. Is that agreed? Agreed.

Sitting suspended at 11.01 a.m. and resumed at 11.15 am.

Chairman: I propose that we go back into public session to continue with proceedings. Is that agreed? Agreed. I invite Senator Marc MacSharry to put his questions to Mr. Peter Nyberg.

Senator Senator Marc MacSharry: I thank Mr. Nyberg. Time is short with us more brief questioners. To the extent possible, perhaps we could do some yes-no type answering, if that is possible. I want to speak briefly to Mr. Nyberg about auditing and regulation first. He very specifically said earlier that regulation and supervision were not the problem, *per se,* but clearly implementation, or perhaps he meant enforcement, was the problem. To what extent was that a major problem? Why did it happen? Does Mr. Nyberg feel that the proximity or, for want of a better expression, over-familiarity between regulator and operator was a cause for exacerbating the lack of enforcement?

Mr. Peter Nyberg: Yes and no. The way in which supervision was ideally provided was to be concentrated - that was true of Ireland, the United States and the UK specifically - by looking to see that the banks had the right governance structures in place. That was the idea, and the idea was that banks of course would act in such a way that they stayed solvent, that they were profitable, that they were growing and safe. The supervisor of course knew who they were supervising and they respected banks' views much. They also thought it was not their business to judge banks' business models but rather the ways in which banks were organised to keep those business models' risks under control. That was the idea. I think that was also a factor behind the passivity - that looks as passivity now - behind the financial regulators' and the Central Bank's policies towards the banks. They thought it was not their business and that they did not understand it enough, if one wants to make it simple.

Senator Senator Marc MacSharry: Mr. Nyberg mentioned that the crisis in Ireland was not unique because there were also Iceland, Finland, the United States to an extent, and other countries, but he did say there were specific differences, obviously in the tools they had to deal with them, the counter-cyclical measures in terms of the control of their own currency and, specifically, interest rates. Would Mr. Nyberg agree that the fact that at a particular period we had 2% money available from the ECB and, on one occasion, 10.5% growth rates here was a recipe for disaster, and that to the extent that the ECB, in assessing how it does its business and how it sets interest rates, focuses more on inflationary concerns than the economic performance of member states means that interest rates would never be and will never be where Ireland, as an economy and as a nation, needs them to be? Indeed, if one looks at today where we have 0% interest rates available through the ECB and projected growth rates here - I am conscious that Mr. Nyberg said economists are wrong - of some 6%, for small economies, such as Ireland, which are less than 1% of the eurozone, does Mr. Nyberg feel that the structure of the euro is such that we will ever have sufficient counter-cyclical tools in our toolbox to prevent a catastrophe like this again? At that time, was that the case? Finally, on that point, on the basis that it was not unique in other ways, other than the currency issue that we had in other countries, why, in the main, were the IMF, the EU Commission, the ECB and other agencies not so quick, not much quicker, to say this is a serious problem? Was it because a lot of the beneficial interests from a banking perspective internationally were from large member states such as Germany and others? Just like the household who, as Mr. Nyberg put it, were happy to enjoy a good time for the length the bubble lasted, were other countries, who were perhaps more influential in the context of euro monetary policy, quite happy to have Ireland borrow to the extent that it was borrowing, to be creating more profit for these institutions, so that they were feeding the beast?

Chairman: The Senator will have time for a supplementary question.

Senator Senator Marc MacSharry: I started at 11.21 a.m. and it is now 11.26 a.m. I am timing myself here.

Chairman: I need to allow time for a reply.

Senator Senator Marc MacSharry: In essence, what I want to know is this. Is the structure of the euro flawed in the context of a small member state because of the inflationary outlook of the ECB rather than those of the economic concerns of small economies like Ireland?

Mr. Peter Nyberg: It is not something that the commission looked at *in extenso* but, of course, it was looked at by Governor Honohan and by Regling and Watson, so I will put my own views then on the table as well. As Senator MacSharry may know, the euro and all currency unions require that individual countries adapt to the one and only central bank policy that there is. The ECB adapts its monetary policy to some sort of average of the whole Union. If it is not suitable for Ireland, or Finland, as it has not been, then one has to adapt domestically. There are, of course, numerous ways - fiscal policy, supervisory policies, effecting wage agreements and so forth - available to the domestic economy to adapt to a monetary policy or currency policy that is not suitable. I am not able to say why the ECB followed the kind of policy it did. However, we do know that neither the ECB, the EU, the IMF, or the OECD, nor a number of other international institutions, foresaw the global crisis that came. Indeed, in Europe, the strong growth in overseas bank lending was hailed as a victory for integration rather than a sign of increased risk on the banks' balance sheets. The EU and the ECB were no better or worse than a lot of other official institutions, which is in a way a rather pessimistic message for the future. As regards Germany's influence and so forth, I really would not know. If the committee gets representatives of the EU or the ECB here, it can ask them. However, I am not competent to answer that question.

Senator Senator Marc MacSharry: When Mr. Nyberg was making his opening address, he said that it was important that while there were limitations on his commission in terms of looking at various things that covered banks, this committee will look at wider institutions, international institutions, and so on. Does Mr. Nyberg feel, and it feeds on very well from what we just discussed, that it will be a hindrance or a benefit to this committee's work that the ECB has excluded itself from our business?

Mr. Peter Nyberg: As I said before, a wide-ranging investigation of a systemic issue is always better than a very limited one. Of course, at some point, one has to draw the line somewhere. I would imagine that the committee will have to make up its own mind on whether the views of the ECB at the time of the guarantee, for instance, were vital. They might have been more important later; that is possible. However, what the commission knows, or found out, was that there had of course been discussions between the Irish Central Bank and the ECB, as the crisis developed.

Chairman: Will Mr. Nyberg clarify that? Is that prior to the guarantee period or prior to the bail-out programme?

Mr. Peter Nyberg: It is prior to the guarantee. As far as I remember, the ECB had stressed the need for the Irish authorities to make sure that the contagion effects could be small, or contained. That was more or less it. It was not a part of the investigation that we went into in great length.

Senator Marc MacSharry: So it will be a hindrance then.

Mr. Peter Nyberg: Yes and no. It depends on what one thinks is important and where the limits of the committee's remit lie.

Deputy John Paul Phelan: I also welcome Mr. Nyberg. I wish to ask Mr. Nyberg, first, about a radio interview he did on 29 September 2013. In conjunction with his report, he was asked about the role of a future parliamentary inquiry. He appeared to pour cold water on the prospect of an outcome from such an inquiry, at least that is what was subsequently significantly reported in the Irish print media. In light of the fact he is here and he has made recommendations in his initial presentation this morning as to areas that could possibly be investigated, has he changed his mind or was he just misquoted, as sometimes happens?

Mr. Peter Nyberg: I was not misquoted. I have not changed my mind either. I might have been somewhat brief. What I intended to convey was that, in my view, and it is still my view, the causes of the Irish crisis are now well known. There have been several reports on the Irish crisis. There has also been investigations in other countries, and in the IMF, which tend to support the view that there are common factors in systemic crises which are not therefore unique to Ireland. My view then and my view now is that on the causes of the crisis, it is unlikely - not impossible but unlikely - that something really exciting and new will emerge. There are a lot of issues which nevertheless can be looked at in greater depth and they are listed. Also, I think what remains, maybe, to be done is to have a good and solid view on what to do to avoid something like this another time. Some things have been done, there is no doubt about that. The question is whether it is enough and have all the important things been opened or been looked at. Yes, I am of the same opinion as regards the causes of the crisis.

As regards some of the related issues and the future, I think there are things that can be done if there is interest in doing so.

Deputy John Paul Phelan: I wish to turn to Mr. Nyberg's comments today and in the report on the role of external auditors. Pages 51 to 58, inclusive, in the report reference their role. I will quote him directly today and it is not contained in the document. He said they did not know "more or less" than other groups and further on he said they were "no better or worse" than other professionals and ideally all should have known better, both in Ireland and in other countries.

In light of the fact that the role of external auditors is to protect the interests of shareholders and investors, but in this case deposit holders, and wider State interests, was Mr. Nyberg not surprised that they did not know more than, maybe leaving aside the regulator, certain other participants in the banking crisis?

Mr. Peter Nyberg: The fact that there was a systemic crisis, and that many banks had made a lot of bad loans and had governance issues, did of course indicate that they could not have known better than others so, no, I was not surprised.

Many, but especially the big auditing institutions, are represented not only in Ireland, but all over the world. As such, one could make a case that they should, if not in their Irish companies but in other parts of their international organisations, have had access to warning signs more than, for instance, local banks or something like that. To that extent, it was unexpected that the international experience that big auditing firms have was not used more. One can put the same question to central banks that also have, very much, international exposure and so forth.

Deputy John Paul Phelan: In terms of Ireland, were there any specific failings of auditors and of external auditors that were different here from in other jurisdictions?

Mr. Peter Nyberg: That is a difficult question to answer because I did not look in depth at auditor activities in other countries. Judging from the fact that all the banks that got into trouble in other countries also had auditing firms, and sometimes the same auditing firms, the implication seems to be that maybe there was not such a big difference in various countries after all. That is just a guess.

Deputy John Paul Phelan: On page 56 of the report, paragraph 3.6.2, Mr. Nyberg stated:

> The Commission would have expected a bank auditor, exercising necessary professional scepticism, to have concerns where there were growing property and funding exposures, combined with material governance failings.

Does Mr. Nyberg feel that the auditors of the Irish banks that he looked at exercised that lovely term "necessary professional scepticism"?

Mr. Peter Nyberg: In the same way as everybody else, they are clients and the supervisor of the Central Bank.

There were a lot of signs that things were not okay that the auditors did not pick up. To that extent, it is difficult to say that somebody is better or worse than anybody else. To the extent that the problems were such that the auditors were bound by their code to pick up and did, but did not react, then that situation would be more problematic than usual.

Deputy John Paul Phelan: Did Mr. Nyberg speak to the auditors when he conducted his investigation?

Mr. Peter Nyberg: Yes.

Deputy John Paul Phelan: Did Mr. Nyberg speak to junior auditors who were, for the most part, the people who went into these institutions to conduct the audits?

Mr. Peter Nyberg: We called in the institutions. I think most of the institutions did send people who had actually done the audit.

Deputy John Paul Phelan: Not just senior people.

Mr. Peter Nyberg: No, but I am not prepared to go into more detail.

Chairman: On that matter and before I move to the next questioner, Deputy Phelan was indicating whether this was a cultural influence as much as a procedural issue with auditors where they were operating in a culture at the time and their auditing was a reflection of the banking culture in regard to regulations, supervision and how the Central Bank operated.

Mr. Peter Nyberg: Yes, that would certainly be in accordance with the conclusions of the commission.

Chairman: Let me draw on that analysis. In the run up to the crisis, how does Mr. Nyberg think the banks would have viewed the Central Bank and the Financial Regulator from a regulatory and supervisory perspective? What would have been the cultural interpretation of them?

Mr. Peter Nyberg: Could the Chairman please repeat his question? I am not sure I understood the question.

Chairman: What I am saying regarding the position of the banks is whether they would have seen the Central Bank and the regulatory structure as one that was very stridently adverse to them or very overseeing. Would they have seen it as very much a *laissez-faire* or softer approach?

Mr. Peter Nyberg: The message that the commission picked up from various sources was that the banks, as well as the supervisor in the Central Bank, felt that the issue of the banks' business model - that is, what the banks were concentrating on and how they were doing things - was something that was only the banks' business. It was not something that the authorities were supposed to have a view on.

The authorities were supposed to just make sure that the risk management - for instance, the risk management committees and procedures within the banks - was okay so that the banks were able to handle the risk that came from their business in a professional and sufficient manner. That was the business of the authorities, and choosing what the banks concentrated on and how they otherwise handled the business that was there.

Chairman: I will briefly allow Deputy Phelan to comment.

Deputy John Paul Phelan: In terms of Mr. Nyberg's interviews with some of the auditors who carried out the audits in the banks, were examples given of issues that were flagged by those people? The interviews were conducted on the basis of confidentiality. Were there issues that may have been flagged by them that did not subsequently emerge in the final audit reports of the institutions?

Mr. Peter Nyberg: Three and a half years have elapsed so I do not remember the details. The general picture which emerged was that the auditors were quite keen on checking up on the technical details of the internal workings of the bank. There was nothing in the published audit which mentioned them; it was more in the management letters and other such internal communications. If I remember correctly, these issues were usually corrected afterwards. I do not really remember the details, although I think it would be safe for me to answer if I remembered them.

Senator Senator Susan O'Keeffe: Did the 140 people interviewed by Mr. Nyberg include anybody from the ECB?

Mr. Peter Nyberg: I interviewed those people from each institution whom I thought would have something reasonable to say on decision-making. Did Senator O'Keeffe ask about the ESB?

Senator Senator Susan O'Keeffe: No, ECB.

Chairman: The ESB are the fellows who power the cameras.

Mr. Peter Nyberg: The ECB was not among the problem institutions.

Senator Senator Susan O'Keeffe: No, I was not suggesting it was a problem. I asked whether Mr. Nyberg interviewed anybody from the ECB.

Mr. Peter Nyberg: It was not among the institutions we had in our-----

Senator Senator Susan O'Keeffe: So he did not.

Mr. Peter Nyberg: No, and neither did we interview anybody from the IMF or OECD.

Senator Senator Susan O'Keeffe: I appreciate Mr. Nyberg said the actions or inaction of the Government were not part of his remit, but did he interview any politicians among the 140 people?

Mr. Peter Nyberg: Yes, there were politicians involved.

Senator Senator Susan O'Keeffe: Did this inform the report? He states very clearly he does not believe his report would have changed even if he had had more time. He believes we got the results but we see from his report that Government action or inaction was not part of his remit. Therefore Mr. Nyberg has had some insight, perhaps from some politicians, but we do not see it reflected in his report.

Mr. Peter Nyberg: Let me put it this way, when the report was finished - and my memory was better than it is now - I certainly felt everything of any consequence which I had been told was reflected in the report in some way. I do not think that relevant input by politicians or directors has been left out.

Senator Senator Susan O'Keeffe: I take it Mr. Nyberg was the person who chose which politicians to interview and not somebody else.

Mr. Peter Nyberg: I chose everybody.

Senator Senator Susan O'Keeffe: Did Mr. Nyberg make any findings which he referred to the Garda which were not appropriate for this report?

Mr. Peter Nyberg: The commission had legal advice. The legal advice was that anything which was under investigation or could become the subject of an investigation was something which the commission should not look into at all. This was the advice we followed.

Senator Senator Susan O'Keeffe: Did anything come forward which he felt obliged to pass on to the Garda because it was inappropriate for him to pursue?

Mr. Peter Nyberg: Fortunately, no.

Senator Senator Susan O'Keeffe: Did anyone with whom Mr. Nyberg spoke or any-----

Mr. Peter Nyberg: Excuse me, there were issues which we knew were already under investigation. This meant that any part of an investigation which touched upon them were left unpursued. To that extent, yes, but it was not anything new.

Senator Senator Susan O'Keeffe: Was Mr. Nyberg's report reviewed or changed in any way by departmental officials or anybody else prior to this report?

Mr. Peter Nyberg: Absolutely not.

Senator Senator Susan O'Keeffe: Did any of the 140 people whom Mr. Nyberg interviewed or with whom he spoke or any of the reports and documents he saw give any indication there were private working accounts that were different from the audited accounts of any of the institutions that he looked at?

Mr. Peter Nyberg: No, but the Senator must remember we had no possibility of looking through all the accounts in all the institutions. What was decided was that we would look at the loans and bank investments which we knew were especially important from the point of view of the problems, which actually meant large real estate loans. Among those loans and accounts we did not find what the Senator-----

Senator Senator Susan O'Keeffe: Mr. Nyberg did not find, but did anybody suggest it?

Mr. Peter Nyberg: No, not that I recall.

Senator Senator Susan O'Keeffe: On page 4 of Mr. Nyberg's statement this morning he says that he believes the excessive risks taken and the subsequent losses appear to have been the result of ignorance or a lack of understanding. There would be many people at this table and, indeed, outside of this building who would say that much of that was down to negligence, selfishness, people lining their own pockets and a lack of implementation of regulation. In his own report, Mr. Nyberg talks about banks deviating from formal credit policy documents, boards not knowing how banks were run, inadequate attention being paid by the banks to credit risk management, vigilant authorities should have known things, and departments not having the requisite staff. I am puzzled how Mr. Nyberg could sum up all of those things and say it was simply the result of ignorance or a lack of understanding, which I think is a very benign and very kind summing up of what actually happened here over a very long period of time.

Mr. Peter Nyberg: I do not see any conflict at all. What now seems very difficult to understand and condone was something which was very widely seen as absolutely normal behaviour at the time, not only by the banks themselves but by observers. One sign of the lack of bad intent, if I should put it like that, is that very many banking executives lost not only their jobs because of the mistakes made but they had taken out loans to buy real estate and they had taken out loans to buy shares in their own banks which they obviously believed in.

Senator Senator Susan O'Keeffe: Would negligence not be a fairer word than mistake? There was an air of negligence among some people, not everybody, but the word mistake implies I made a mistake, but to be negligent is a different thing.

Mr. Peter Nyberg: I must say I am not qualified or knowledgeable in English enough to be able to say what the difference is. I do know that, at least to my mind, but I am not too sure, that negligence implies some sort of wilfulness, and I did not see that wilfulness. I just did not, and that is it.

Senator Senator Susan O'Keeffe: So Mr. Nyberg would say that in the people he interviewed, in the documents that he read, he did not see any wilful behaviour?

Mr. Peter Nyberg: No.

Senator Senator Susan O'Keeffe: It was down to, as he says, ignorance or lack of standards.

Mr. Peter Nyberg: I fully retain the views in the commission report in this respect.

Senator Senator Susan O'Keeffe: Mr. Nyberg and others have raised the issue of auditors. In terms of the conversations relating to what was reviewed, etc., did the issue of any auditors resigning ever arise? Mr. Nyberg refers to the fact that this was a possibility but noted that nobody did so. Did anyone ever consider resigning?

Mr. Peter Nyberg: The reason it is in the report is that it came up during the discussions. As we know, no auditor resigned, which meant-----

Chairman: In the interests of clarification, are we talking here about auditors presenting to resign as a result of the auditing structures within which they were requested to operate?

Mr. Peter Nyberg: The problem is that an auditor really cannot provide anything but a clean audit to a bank. If the audit is anything but clean, the bank cannot function.

Senator Senator Susan O'Keeffe: Does that mean that auditors are obliged to rework audits? How do they make audits clean if they are dirty?

Mr. Peter Nyberg: If the auditor finds problems in a bank, it implies big difficulties for the bank if these become public. The auditor must do two things - either it presents them in a non-public form, such as via a management letter or something of that nature, or if the bank is unwilling to change, the auditor can resign. The idea that the auditor gets up on the podium would just be irresponsible.

Senator Senator Susan O'Keeffe: Mr. Nyberg stated earlier that a small number of the contrarians in the public sector would have been sanctioned indirectly. How did he come to know that such contrarians might have been sanctioned?

Mr. Peter Nyberg: It was by means of the interviews.

Chairman: These contrarians were in the institutions. We are not referring to contrarian commentators.

Mr. Peter Nyberg: Yes, they were within the institutions. Among the sanctions the committee considered or included were matters relating to professional advancement, remuneration, etc. It is a subjective issue. Should somebody be sanctioned as a result of what he or she says or because of who he or she is? Every contrarian is not as spectacularly right as the contrarians in this case. In many instances, the contrarians are simply wrong. There is a fine line in practice, namely, which contrarians should one believe in the end.

Senator Senator Susan O'Keeffe: Were the contrarians in question sanctioned? Did they tell Mr. Nyberg that they had been sanctioned?

Mr. Peter Nyberg: Yes. Those who thought that excess risks were being taken were right in this instance. Three years earlier they would not obviously have been right.

Deputy Joe Higgins: In his executive summary, Mr. Nyberg states: “This Report explores what the Commission considers to be the most important policies, practices and linkages that contributed to the financial crisis in Ireland.” He goes on to state, in a paragraph entitled “The Herd: Other Banks”, “Bank management and boards in some of the other covered banks [these would be the major banks in this country] feared that, if they did not yield to the pressure to be as profitable as Anglo, in particular, they would face loss of long-standing customers, declining bank value, potential takeover and a loss of professional respect.” Was excessive profit seeking on the part of banks and property developers an important practice in contributing to the crisis?

Mr. Peter Nyberg: I do not know what excessive profit is actually. The thinking at the time was that the banks should be as profitable as they could be. That was why the real estate sector was so popular among banks.

Deputy Joe Higgins: Did Mr. Nyberg’s commission examine the level of profit taking on the part of investors, banks and developers in the Irish property market leading up to the crisis?

Mr. Peter Nyberg: Does the Deputy mean in detail?

Deputy Joe Higgins: I am referring to what some of the major institutions were returning in terms of profits from the market.

Mr. Peter Nyberg: In a general manner but there was no time or resources to engage in a detailed run-through in respect of or to analyse the annual reports of six banks. The general level of profits was known. The emphasis on profitability and growth was obvious from a run-through of the minutes from the meetings of the boards of several banks.

Deputy Joe Higgins: Anglo was obviously highly profitable.

Mr. Peter Nyberg: It seemed to be at the time, yes.

Deputy Joe Higgins: As Mr. Nyberg states, other banks were essentially chasing Anglo. Is it true to say, therefore, that they were chasing an abnormal level of profitability?

Mr. Peter Nyberg: They did try to become more profitable so that they could show not necessarily the same level of profitability as Anglo but rather similar levels of profitability and growth.

Deputy Joe Higgins: Obviously, the huge extensions of credit they offered and the massive borrowing, etc., in which they engaged were in pursuit of greater profits. Is that correct?

Mr. Peter Nyberg: Yes.

Deputy Joe Higgins: Would Mr. Nyberg consider what occurred to be profiteering?

Mr. Peter Nyberg: I would not know. I would look at it essentially as being what businesses do. Businesses, not only banks, try to keep their profitability high.

Deputy Joe Higgins: Yes, but is it moral that - as Mr. Nyberg is apparently saying - there are no restraints on institutions in the context of the level of profits they can pursue?

Mr. Peter Nyberg: I really cannot make a judgment - the commission did not do so - on whether the profits or the apparent profits at the time were too large.

Chairman: If I might intervene, the business model used by Anglo was mirrored by those other banks. In the context of the profits Anglo was making, did those banks give any consideration to the sustainability of that model in view of the fact that the profit margin relating to it was so high?

Mr. Peter Nyberg: As far as the commission could ascertain, there was not. Up until the eve of the crisis, it was considered sound.

Deputy Joe Higgins: I will approach the matter from a slightly different angle. In the ten years leading up to the crash, by common consent, house prices in Ireland escalated at a dizzying rate. During the period in question, they rose by perhaps the equivalent of the industrial wage each year. The young generation of working people who were not buying to speculate but to have a roof over their heads found themselves facing mortgages of 40 years in duration, as opposed to the period faced by their parents, 20 years, because the price went so crazy. Is that massive price increase not attributable to excessive profit-taking, with no concern for the social downside for the people forced to put a roof over their heads? In that regard, Mr. Nyberg had a unique opportunity to assess the mindset of people and institutions that were central to the property market. He had the opportunity to speak to 140 of them. He spoke to those who winded themselves blowing up the bubble, he spoke to those who should have been elbowing the bubble blowers in the ribs to restrain them but who did not, and he spoke to others. In the private conversations, did any of them unburden themselves of any uneasy feelings that, while they were making massive profits for their institutions at the time in question, this came at a huge cost to certain individuals, such as workers trying to buy a home?

Mr. Peter Nyberg: The house price increase was a result of speculation by those for whom this was possible and also a result of their being financed primarily by banks. Of course, those who bought at high prices did so willingly. They took the risk willingly and those who did not sell lost money. Both the rich and poor did so.

As regards the discussions we had, the reaction of people who were involved in lending varied very much, as it usually does with people. Some thought that everything would have gone well but for the American crisis and others were deeply shocked. On the other extreme, there were people who were deeply shocked and did not understand how they could not have seen it at the time. The reaction was all over the place

Deputy Joe Higgins: Mr. Nyberg spoke to the speculators. He said “speculation” so he spoke to the speculators. I am curious to learn whether they were aware of the social downside of their speculation. Would Mr. Nyberg say it is fair to put an ordinary worker buying a home, a human necessity, on the same level as a bank speculator? He seems to do so.

Mr. Peter Nyberg: I try to understand the question – I really do – but I might not answer correctly. The banks and the bank managers did not seem to consider themselves speculators. They lent money to real estate developers and to people who bought real estate. As the value of the real estate went up, for reasons they considered external, they thought everything was going well. Larger issues of social consequence and so forth did not arise in that context.

Deputy Joe Higgins: I have one last question. Mr. Nyberg speaks of an assumption by many that the financial markets would be stable and efficient by virtue of their own workings. When the drive for profit maximisation and what could be cut-throat competition between financial capitalists happen in the financial markets, how could it be rational to think there could be stability in that system?

With regard to the markets, Mr. Nyberg said that when the Irish Government was put under pressure to guarantee the banks, it could have been useful to access available temporary funding to gain time but that there were concerns that the market would not have acted positively to such a delay at the time, which is to assume that, the next morning or the morning after, there would have been pandemonium in the markets. Mr. Nyberg has been around a long time and has been in the European Union, including Finland. He has seen a lot in respect of how these markets work. Can financial markets hold governments to ransom? Did that happen in the lead-up to the guarantee and, indeed, the bailout? Does Mr. Nyberg believe it is democratic that private institutions have such massive power over elected governments?

Mr. Peter Nyberg: On the issue of whether markets are stable, that was what was believed, regardless of what one thinks oneself. That was the prevailing belief in Ireland. It was the prevailing belief in many other countries internationally. Now, of course, when one looks at what happened, it is easy to say that belief was not realistic. At present, the remit of thousands of academicians is to study why the crisis actually happened.

If a government wishes to borrow money from a source other than the central bank, the source will have to be credible. Those who take part in the markets have to be sure that, when the government borrows money, it will be able to pay it back. To that extent, governments are not free to do or be whatever they want. However, as long as market lenders believe the government will be okay, and as long as they believe they will get their money back, governments, within that constraint, are free to pursue whatever policy it deems wise. That is more or less it; I really cannot answer any more on that.

Chairman: Let me refer to Deputy Higgins' question. Mr. Nyberg implies in his report that there was a parallel universe, with people buying homes in one property market and investors in another property market. In page 95 of his report, Mr. Nyberg states, "Investors and other borrowers as well as bank executive management have an interest in doing deals with each other for profit and for glory". Could he please elaborate on what he actually means there? I believe this is what Deputy Higgins is indicating in his questions.

Mr. Peter Nyberg: Yes, the Chairman is correct in a way. Normally most people do not speculate, of course. However, both in Ireland and elsewhere there are not only big speculators but also small speculators. While it is not in the report, I have been told by knowledgeable people that there were people who borrowed money to buy real estate in Ireland but also outside Ireland in the hope these would prove profitable for them in the long run. I have been told - it is not in the report - by knowledgeable people that there were people who borrowed money to buy real estate in Ireland and also outside Ireland in the hope that it would prove profitable for them in the longer run.

Chairman: By "glory" does Mr. Nyberg mean "glorying in profitability" or machismo and backslapping?

Mr. Peter Nyberg: Both, Mr. Chairman. Certainly the Commission got the impression at several points from the banks that much of the activity was not necessarily only for profitability, though profits were necessary, but also to be seen as good professionals. Good professionals make better business deals than their competitors.

Chairman: Thank you Mr. Nyberg. I call Deputy Michael McGrath.

Deputy Michael McGrath: Thank you Chairman. I welcome Mr. Nyberg. I want to deal with the night of the bank guarantee, which Mr. Nyberg examined in his report, and is an important part of this inquiry's body of work.

Mr. Nyberg makes it clear in his report that minds were concentrated on the very short-term risk of at least one bank running out of money the following day and not being able to meet maturing obligations. Will he advise the committee on what was at stake, in his view, on that night? What would have been the consequences of doing nothing on that night?

Mr. Peter Nyberg: I think the commission report is quite clear on that, even though it might be a little indirect. The people around the table on that night were concerned with what would happen once the market opened on the next day. Their concern was to find ways of ensuring that when the market would open, banks could open their doors, could provide depositors with their money, could provide loans to their customers and could fund themselves both in the domestic and larger international market in a normal manner. The risk they tried to avoid was the situation where nothing of this would have been possible, where in effect, the banks could not have honoured their depositors, where they would not have been able to give any loans and they would not have received credit from anybody else but the Irish Central Bank.

Deputy Michael McGrath: What was the risk of all of that happening? What was the risk of those very serious consequences if at least one bank would not be able to meet its obligations the following day and the consequences of perhaps others banks not being able to open for business in the normal way? Based on Mr. Nyberg's assessment of what was known at the time, was there a reasonable likelihood of that risk materialising?

Mr. Peter Nyberg: If one starts with what the people at that time appeared to have believed or appeared to have assessed, they certainly appeared to have assessed that the risk of one bank failing would have put at risk confidence in other banks. The confidence in banks would have declined remarkably, meaning that the other banks would have had funding problems either immediately or very soon afterwards. While there was no worry at that time that liquidity was really critical in every bank, the risk was there would be contagion if one bank was let go. I think that is what happened. Speaking personally I find this quite credible. It was very much the same thing that Finnish decision makers agonised over at certain points in the Finnish banking crisis history and which also implied that the Government took on quite a bit of risk.

Deputy Michael McGrath: Does Mr. Nyberg find it credible that there was a real risk of the banks not being able to function normally the following day, that is on 30 September?

Mr. Peter Nyberg: Yes. That is why the commission understands that the Government made the decision that it did. If one asks whether it is the best decision that any government could have made under any circumstances, the answer is clearly "No". Many people would have been of the opinion that the best thing would have been an orderly resolution of the bank with the big problems. That was not possible at that time. It would have required a very different policy years in advance.

Deputy Michael McGrath: From my reading of his report, Mr. Nyberg saves some of his sharpest criticisms for the Financial Regulator and the Central Bank. He states that the regulator's approach was to trust bank leadership to make proper and prudent decisions; even when problems were identified, the regulator did not subsequently ensure sufficient corrective action was taken. He is critical of the appetite to prosecute challenges. He states that the issue is not the legislation or the powers but the willingness and ability to use those powers. He makes very strong criticisms of the Central Bank as well. How did it come to pass that the authorities were so unwilling or so unable to execute the powers they had in respect of financial stability and over individual financial institutions?

Mr. Peter Nyberg: The report only offers the explanation that the authorities did not expect the situation to be so bad as it really was. Since they did not see the reality, it is understandable that they expected there would be time enough for things to improve gradually. The banks had the same problem. Why were the very obvious things not done? For instance, in regard to the apparent unwillingness of the Financial Regulator to do things, one thing that was mentioned was the risk of legal challenges. If the regulator were to have said to the bank do this, the bank could say it would take the regulator to court, as it is not his business to give this advice. The commission report concludes that it might have been a good thing, because then at least it would have been clear what the remit of the supervisor actually was; now it remains unclear. It remained only within the supervision. There might have been a number of various reasons, but in effect I think that goes with the other conclusions of the commission, there really was no appreciation of the size of the problems that were there.

Deputy Michael McGrath: I will conclude by referring to the issue of burden-sharing with creditors. This takes us beyond the mandate of Mr. Nyberg's report, which was up to January 2009, but I am interested in his opinion. Shareholders in the banks lost everything, as has been referred to, depositors were fully protected, junior bondholders lost about €15 billion up to the present position in respect of burden-sharing, but senior bondholders were repaid in full. At the end of the original bank guarantee in September 2010, just over €20 billion of senior bonds came out of guarantee, and they were unsecured as well. Almost €5 billion of those bonds related to the old Anglo Irish Bank and Irish Nationwide Building Society. Does Mr. Nyberg believe there should have been greater burden-sharing with senior bondholders? Why does he think that did not happen?

Mr. Peter Nyberg: I have not been looking at this issue as deeply and carefully as I have been looking at the issues before 15 January 2009. Without sufficient study, I really would not care to offer an opinion on it.

Deputy Michael McGrath: I just wanted to make the point and pose it as a question that the reason no losses were imposed on senior bondholders was at the insistence of the European Central Bank, both back in November 2010, when Ireland was negotiating a bailout programme with the troika, and subsequently on the election of the new Government, when the current Minister for Finance, in the summer of 2011, sought to impose losses on the remaining unguaranteed and unsecured senior bondholders, particularly in Anglo Irish Bank, and that was rebuffed by the European Central Bank. I am asking whether Mr. Nyberg has any personal opinion on that issue and whether he believes that the European Central Bank should, along with everybody else, account before this parliamentary inquiry for its role in the crisis.

Mr. Peter Nyberg: The only thing I would offer as answer is the statement that the European Central Bank sees its role as being one of the guarantors of financial stability in the whole of the EU. That means that when it looks at single countries, it does it through that kind of lens. The only one that can say exactly why, in this particular instance, it had the view that it had is really the ECB itself.

Chairman: Before I bring in Senator Barrett, just to refer to Deputy McGrath's earlier comments with regard to the powers of the Central Bank and the regulator's office, earlier in your report, Mr. Nyberg, page 7, in the introduction, you state:

> The [Central Bank] was not powerless; it had the right to direct the activities of the [Financial Regulator] and it could advise the Government. There are, however, no records of such direction or advice or even efforts at such.

To your knowledge, Mr. Nyberg, were there discussions at the board of the Central Bank about the possibility of directing the activities of the Financial Regulator to address concerns about financial stability and also recommendations to Government?

Mr. Peter Nyberg: To my knowledge and to the knowledge of the commission, no, we did not find anything like that.

Chairman: There was no paper documentation?

Mr. Peter Nyberg: No. It is possible, of course, that there was, but there were quite a lot of undocumented meetings between the Governor of the Central Bank and the Minister. What was said there is not documented anywhere and we could not-----

Chairman: But you are confirming in your report that the power was there to give direction?

Mr. Peter Nyberg: Yes.

Chairman: It was not the case that the agencies were powerless; the Central Bank had the power to-----

Mr. Peter Nyberg: If they had wished to, they could have.

Chairman: They could have made that choice.

Mr. Peter Nyberg: I am not a legal person but let us put it this way. If a central bank wants to influence somebody, another institution or a bank, there are ways.

Senator Senator Sean D. Barrett: I welcome Mr. Nyberg and thank him for his informative presentation and all the help he has given us today. On page 71 of his report, he refers to briefing notes prepared by the Department of Finance for the Minister in 2007 which sought to refute warnings made by Professor Morgan Kelly regarding the housing market. Has Mr. Nyberg seen those documents?

Mr. Peter Nyberg: They were part of the documentation which was taken by the commission of investigation.

Senator Senator Sean D. Barrett: Can Mr. Nyberg give a summary of what was contained in those speaking notes?

Mr. Peter Nyberg: No.

Senator Senator Sean D. Barrett: Mr. Nyberg says on page 97 that he found the Department of Finance to be "seriously underweight in professional financial expertise and engagement". That is the view I would attach to its criticisms of Professor Morgan. Mr. Nyberg also refers in the report to the Department's lack of documentation. It seems the one thing the officials decided to write was a critique of Professor Kelly.

On page 92, Mr. Nyberg states:

> The Commission is aware of but disagrees with the view that the [Central Bank] would not have been entitled to intervene to address stability issues concerning individual banks.

Will Mr. Nyberg say who held that view?

Mr. Peter Nyberg: That was the view among both the Central Bank and the Financial Regulator decision makers.

Senator Senator Sean D. Barrett: It is bizarre. This is first year economics. They are the lenders of last resort but they thought they had no role to address stability issues within individual banks.

Chairman: I apologise to Senator Barrett for interrupting, but I need to make a brief interjection. In terms of phraseology, it should be noted that his comments do not imply a value judgment. I am just flagging that issue at this time.

Senator Senator Sean D. Barrett: I thank the Chairman. On page 65, the report states that the commission did not engage with regulators in other jurisdictions in regard to foreign banks coming to this country. We all wish to have measures in place to prevent a recurrence of the banking crisis. Should we not have partaken in that type of engagement by opening up contacts, for instance, with countries like Canada and Australia which did not experience banking crises? It seems a particular type of silo mentality not to refer to foreign authorities such as those mentioned on page 65 or countries that knew how to make policy which did not result in bank crises and property bubbles.

Mr. Peter Nyberg: That is true. However, at the time before the crisis it was difficult to know which countries were going to experience a crisis and which would not. If contacts were being made, one could have done so with those country supervisors whose banks were very active in lending to the Irish banks or one could, for certainty reasons, have made contact with those supervisors who had at some point experienced crisis. The first alternative would have been more natural.

Senator Senator Sean D. Barrett: Finland is a small country like Ireland which, also like us, joined the euro when many of its trading partners and neighbour countries did not. From his experience, does Mr. Nyberg see any lessons from Finland that would help this inquiry?

Mr. Peter Nyberg: As I said in my introductory statement, a large part of the report is built on a lot of the experience I got from Finland and which, to my initial surprise, I also found to be the case here. It is in there already.

Deputy Sean D. Barrett: Thank you. We appreciate it. I would like to repeat a quote that the Chairman read recently:

> The CB was not powerless; it had the right to direct the activities of the FR and it could advise the Government. There are, however, no records of such direction or advice or even efforts at such.

Were there any board members in the Central Bank who held the view, which might be shared by Mr. Nyberg and me, that they should have fulfilled those roles? Did Mr. Nyberg find any evidence that people would respond to the-----

Chairman: Sorry, Senator, I will have to just forewarn you in terms of views that you might hold. It is the report that we are referring to, so I would ask you to be moderating in any value judgment that you would be implying in your question that may be leading or may be presenting an objective bias in it.

Deputy Sean D. Barrett: The quote I have read states that there are "no records of such directions or advice or even efforts at such".

Chairman: The Senator is raising the question of whether there were contrarian views.

Deputy Sean D. Barrett: That is a quote.

Chairman: Okay.

Deputy Sean D. Barrett: I think the Chairman read it earlier.

Chairman: I did.

Deputy Sean D. Barrett: Were there other dissident voices within the Central Bank?

Mr. Peter Nyberg: The report does not specify where doubters and contrarians were employed, except that they were employed in the institutions. So I am prepared to say that there were contrarians. I am not prepared to say that all the contrarians were in the boards.

Deputy Sean D. Barrett: My final question relates to the advice given by the auditors. Mr. Nyberg says in his report that the advice given, including by auditors, was that banks were solvent at the end of September 2008. Are there precedents in other countries or in the private sector for people engaging in litigation against accountants on the basis that the accounts did not represent, in the event, a true and fair reflection of the financial affairs of the companies in question?

Mr. Peter Nyberg: The commission certainly did not make any investigation of that. I really would not know. I suspect that if one was to search, one would find examples of that.

Deputy Sean D. Barrett: I thank Mr. Nyberg and the Chairman.

Chairman: The Senator has some time remaining. Does he have any other question he wants to raise?

Deputy Sean D. Barrett: No, I think it has been covered very well. Thank you indeed.

Chairman: Okay. I call Deputy Kieran O'Donnell.

Deputy Kieran O'Donnell: I want to touch on a few areas. Mr. Nyberg made just two references to the little-known domestic standing group, DSG, in his report. Those references are on pages 74 and 75. Mr. Nyberg admits throughout his report that there was a lack of co-operation between the Central Bank and the Financial Regulator. Page 74 of the report refers to the establishment of this group:

> Important initiatives taken during this period included the establishment, in line with EU guidance, of the Domestic Standing Group (DSG), which involved, for the first time, a specific structure for ongoing cooperation between the DoF, the CB and the FR. The National Treasury Management Agency (NTMA) also attended several DSG meetings.

Page 75 of the report states that in June 2008, this group considered "the possibility of introducing a special resolution regime for banks". I will put the question I really want to ask. This group is little known. It is a high command. I suppose I am a little surprised that Mr. Nyberg did not give more time to it in the report. I suppose I would like to know who was actually on the group, who chaired the group, to whom did the group report-----

Chairman: Regarding the-----

Deputy Kieran O'Donnell: I am not looking for names.

Chairman: What was the composition of the group? Was the Department of Finance involved? What Departments were represented in the composition of the group?

Deputy Kieran O'Donnell: I am more interested here in what level they were at.

Chairman: Yes.

Deputy Kieran O'Donnell: Was it the Governor? Was it the Secretary General of the Department of Finance? To whom did they report? Clearly, this body was put in place as early as 2006. It would appear to me to have been the high command for emergency strategy management. Mr. Nyberg might give me his take on the views I am expressing.

Mr. Peter Nyberg: What Deputy O'Donnell has said about 2006 is true. As regards crisis management, I would consider 2006 pretty late. It was also the DSG-----

Deputy Kieran O'Donnell: It is still two years, at least, before the bank guarantee was put in place.

Mr. Peter Nyberg: Yes, but it is also true that by 2006, a lot of the bank losses were already in the balance. If one wanted to make-----

Deputy Kieran O'Donnell: So Mr. Nyberg is saying as early as 2006 he believed the Irish banks were insolvent.

Mr. Peter Nyberg: No, I just said that the risks were there and if one did not do something, they would become larger. The DSG was mandated by the EU, as the Deputy said, and it worked from early 2006. I do not remember the composition. The Deputy will have to ask representatives of the institutions themselves.

Deputy Kieran O'Donnell: Did Mr. Nyberg interview anyone on the domestic standing group?

Mr. Peter Nyberg: Not as members of the DSG.

Deputy Kieran O'Donnell: Why not?

Mr. Peter Nyberg: Simply because they were members of the institutions which I was mandated to-----

Deputy Kieran O'Donnell: With due respect to Mr. Nyberg, the group specifically dealt with looking at a special resolution mechanism-----

Mr. Peter Nyberg: Yes.

Deputy Kieran O'Donnell: -----for the banks as early as June 2008.

Mr. Peter Nyberg: Yes.

Deputy Kieran O'Donnell: If this had been in place at the time of the guarantee, it may have given rise to a situation where €64 billion-----

Mr. Peter Nyberg: Yes.

Deputy Kieran O'Donnell: -----would not have been put on the backs of the Irish taxpayers. We are here because €64 billion of a liability was there. It may end up being less, but certainly there was a liability at a certain point in time of €64 billion on the Irish taxpayer, whom we are here to represent. I will put the question I am really asking. Did Mr. Nyberg look in any great depth at the workings of the domestic standing group?

Mr. Peter Nyberg: The domestic standing group was a corporation institution where the members represented their institutions. They did not have a decision-making power of their own.

Deputy Kieran O'Donnell: To whom did they report?

Mr. Peter Nyberg: If I am correct, every member reported back to his or her own institution.

Deputy Kieran O'Donnell: Okay.

Mr. Peter Nyberg: It was not self, unless there is something the commission missed.

Deputy Kieran O'Donnell: Okay.

Mr. Peter Nyberg: It was a corporation institution. It was not a decision-making institution.

Deputy Kieran O'Donnell: I suppose the point I am making, and I do not want to be labouring it because I have limited time, is that they did consider the special resolution.

Mr. Peter Nyberg: Yes, and they-----

Deputy Kieran O'Donnell: They were tasked with that. It was a critical component.

Mr. Peter Nyberg: If I may continue-----

Chairman: I might make an intervention here as well. The members of the DSG are within the terms of reference of this inquiry. Mr. Nyberg's examination is what Deputy O'Donnell wants to get to. Did Mr. Nyberg meet the members of the group? If so, did he meet them collectively or separately? It is a very simple question. I will give Deputy O'Donnell some time for this. Could Mr. Nyberg tell us what the DSG was supposed to be doing? Then maybe we can ask about how Mr. Nyberg's terms of reference engaged with them. I will give Deputy O'Donnell that time again.

Mr. Peter Nyberg: The DSG was supposed to be an information-sharing and co-operation place for the Department of Finance, the Central Bank and the Financial Regulator, so that there would be people from each of these institutions sitting together and looking at the same issues, which they normally would not have been doing, except more or less by chance in the joint board of the supervisor. In the DSG more operational people could meet. Deputy O'Donnell said quite correctly that the DSG was involved with a resolution regime, but it was not the DSG that worked on the resolution regime, it was the Department of Finance that started thinking about the resolution regime in 2007 after Northern Rock.

Deputy Kieran O'Donnell: Yes.

Mr. Peter Nyberg: It was the Department of Finance that brought the issue of the resolution regime to the DSG for discussion with the other institutions. The other institutions did not think it was a good idea for two reasons. First, in their minds the banks were solvent and there was not really a problem. Second - and this was also the conclusion the Department of Finance reached by itself - it was very complex legislation because a resolution regime means that banks could be taken over by the Government - without ownership - even before they were insolvent. That means that the Government takes over something which is of value to its owners, to the shareholders, and that opens a whole lot of questions regarding ownership rights and everything like that. It was felt that it took too long and was too complex to do something, so it was left.

Deputy Kieran O'Donnell: Does Mr. Nyberg believe there was ample time to put a special resolution mechanism in place from, say----

Chairman: A special resolution mechanism actually means----

Deputy Kieran O'Donnell: Effectively it is place now. It is a mechanism in place so that the taxpayer is the last person----

Mr. Peter Nyberg: Well, a special resolution regime does not require the taxpayer to be anywhere.

Deputy Kieran O'Donnell: Correct.

Chairman: The citizen as opposed to the taxpayer, the citizenry of a country or the sovereignty----

Mr. Peter Nyberg: Well, yes----

Deputy Kieran O'Donnell: The question really is does Mr. Nyberg believe that there was adequate time to put a mechanism in place?

Mr. Peter Nyberg: I simply do not know enough about the speed of Irish administrations and legal systems----

Deputy Kieran O'Donnell: With due respect to Mr. Nyberg, in Ireland we would call him a wily fox. He is well used to dealing with politicians. It is a very straightforward question because certainly looking at his report and meandering though it, I believe he feels it should have been in place a good year to 18 months prior. That is an opinion.

Chairman: That is Deputy O'Donnell expressing an opinion to the committee. Could the Deputy please ask Mr. Nyberg what his opinion is.

Deputy Kieran O'Donnell: It is a direct question, really, Chairman.

Chairman: Well ask the question and do not be leading the witness.

Deputy Kieran O'Donnell: A "Yes" or a "No", as a previous colleague said.

Mr. Peter Nyberg: Yes and no. Let us put it this way. If there had been a common will, not only among the institutions but among the politicians as well, that the early resolution regime was what Ireland needed, certainly it would have been possible. Why should it be technically impossible in Ireland since it has not been technically impossible anywhere else? The question is really, was the will in place or was it not? My reading of the discussion is that there really was not, partly for political reasons possibly, partly because not all authorities were convinced that this was needed----

Deputy Kieran O'Donnell: Can I just ask two very quick questions? They are both interlinked.

Mr. Peter Nyberg: Because of that, the DSG could not co-ordinate anything in that respect.

Deputy Kieran O'Donnell: Could I just put it - on page 7, Mr. Nyberg says that the Government actively supported the market over an extended period against the apparently fairly weak but clear opposition of the Department of Finance, and that was over a six-year period. What did he mean by that statement?

Mr. Peter Nyberg: Well, tomorrow the committee will talk to Mr. Wright and discuss his report.

Deputy Kieran O'Donnell: I suppose I am asking for Mr. Nyberg's opinion today.

Mr. Peter Nyberg: Yes, and I have had the opportunity to read his report, of course, and the report of the commission is very much along the same lines as Mr. Wright's report. There were warnings, they were not very strong and they were not very insistent.

Deputy Kieran O'Donnell: Warnings from?

Mr. Peter Nyberg: Warnings from Department of Finance staff. They were general fiscal policy warnings on overheating, stuff like that.

Chairman: As we come to the conclusion of this morning's hearings I will be re-inviting the lead questioners to move us towards closure. I just want to confirm something I raised with Mr. Nyberg this morning regarding the frequency and level of short-term wholesale borrowing for long-term lending. Did Mr. Nyberg say that the practice was actually in breach? Was the extent of short-term borrowing for long-term lending, was there actually a breach of regulations or of what would be considered traditional practice?

Mr. Peter Nyberg: Not that I am aware of, not that the commission was aware of.

Chairman: Was there consideration by the banks themselves or by the lenders that were lending to the banks to borrow short-term money? Was there any flag raised at this time that there may have been an over-exposure to foreign banks coming into the Irish market and lending short on long-term risk?

Mr. Peter Nyberg: Not that I can recall at this moment. It is of course different when one looks at the end results. Every bank had its own internal structure for handling the risks between long and short maturities. Every bank's borrowing portfolio had a different structure in a way because of that.

Chairman: Am I correct in saying short-term lending is funded through bond structures? When we talk about bondholders and bondholders being paid, these are the type of instruments that the bondholders relate to, yes?

Mr. Peter Nyberg: Bonds are simply longer-term financing and available to the bank for a longer time. In a way one can say it is the foundation of bank funding.

Chairman: These external loans that were financing Irish banks, when the crash came, these were the people that had to be paid back through the guarantee.

Mr. Peter Nyberg: Yes.

Deputy Pearse Doherty: Just a couple of questions and hopefully, like Senator MacSharry's, they will be "Yes" or "No". There has been a lot of discussion on external factors - efficient markets and all the rest - but can Mr. Nyberg confirm to the committee that it is his view that the Irish crisis was essentially home-grown?

Mr. Peter Nyberg: Yes, that is exactly the point. Nobody forced the Irish banks to grow, nobody forced Irish companies or Irish households to invest and borrow either. It was voluntary.

Deputy Pearse Doherty: Regarding the co-operation Mr. Nyberg received, he mentioned in his report that access to relevant documents or interviews was not fully unproblematic. A small minority of these organisations and individuals chose to be represented by lawyers. His report goes on to make a recommendation. Could he inform the committee of the organisations he felt were not as co-operative, as is suggested by that footnote?

Mr. Peter Nyberg: I am not prepared to name any names, but I can say that in the end everything turned out well and all problems could be solved. The message is primarily that more time and more resources were expended than would have been reasonable in my personal view.

Deputy Pearse Doherty: Mr. Nyberg got the information in the end. He mentioned Mr. Wright, who will be before the committee tomorrow. He made a clear finding in his own report concerning the fitness for purpose - or not - of the Department of Finance. In his report, Mr. Nyberg made several criticisms relating to the office of the financial regulator and the weaknesses and deficiencies there. Does he believe that at the time, the Office of the Financial Regulator was fit for purpose?

Mr. Peter Nyberg: There were no technical problems in the institution. It had enough resources and very smart and conscientious people. They just looked at different matters than what they should have. That can happen to anybody, I am sure. I really do not know.

Chairman: What should they have been looking at?

Mr. Peter Nyberg: They should have been looking at the concentration of credit and how the banks, in practice, used the risk mitigation procedures that were formally in place but in practice did not really work. They should have been looking at how lending criteria had changed over time.

Chairman: I refer to Deputy Higgins's earlier comment relating to how the mortgage lending went from three times a person's income to 12 times a person's income, house values and all the rest.

Mr. Peter Nyberg: Yes.

Deputy Pearse Doherty: In his report, Mr. Nyberg mentioned that some of this was obvious, and in-depth analysis would have teased this out further. He mentioned concentration of credit and I will return to my original point. With Anglo Irish Bank, 20 debtors held 50% of the commercial loans, with a value of €21 billion. Is there anything in Mr. Nyberg's extensive experience which suggests any other jurisdiction in the world would have 50% of commercial loans with 20 individuals? This is information that the Financial Regulator had at that point in time.

Mr. Peter Nyberg: I would imagine that if one looked at Iceland, one would probably see things like that. What the Deputy is asking indirectly is why did nobody stop this. That is one of the big conundrums of this issue. It is not only about the regulator. If the media or a committee of the Parliament had indicated that this seemed too hot and had to stop, it would have stopped. If one of the risk-mitigating institutions had seen what we see now, there would have been no systemic crisis.

The Deputy is asking "Why is this?". I tried to explain it by saying that everybody was following everybody else. That is groupthink and herding. With regard to why they do that, it is-----

Deputy Pearse Doherty: The specific question was whether the Office of the Financial Regulator was fit for purpose. I take it the witness is not going to go down that road, which is fair enough.

Mr. Peter Nyberg: I am not going into that because it is not the only one involved.

Deputy Pearse Doherty: The Nyberg commission did not have access to recordings in the treasury rooms of the various banks. We have just come through an experience here where investigators of an institution gave it a clean bill of health but it was found that the institution was far from deserving it. This was discovered because of secret recordings, with the management unaware it was being recorded. We know in life that when somebody is interviewed, he or she prepares for it. Was the Nyberg commission aware of recordings in the treasury rooms of the various banks? We know the witness read transcripts of some of the Anglo Irish Bank tapes. Did the commission decide not to request those recordings and, if so, why?

Mr. Peter Nyberg: One of the problematic issues from the beginning was the very strict timetable we had. We had to make a choice about what we would look for and what we would not. It is well known that banks record anything that might be important with regard to what transactions are real and those which are not. If we had thought we had time to go through something like that, we probably would have asked for them. We did not ask for them for the simple reason that once we had gone through the documentation and interviews, there was no time left. It might have been useful but I do not know if it would have made a great difference. With the terms of reference we had, we did not do it.

Deputy Eoghan Murphy: Mr. Nyberg wrote his report in a way that tiered the banks, including Anglo Irish Bank, Irish Nationwide Building Society and the others. That is how they are treated.

Mr. Peter Nyberg: That is because of the terms of reference, with Anglo Irish Bank and Irish Nationwide being particularly mentioned.

Deputy Eoghan Murphy: Could anything be implied from the way the work was done in terms of levels of responsibility or degrees of culpability?

Mr. Peter Nyberg: The short answer is “No”. The long answer is that whenever there were market differences with Anglo Irish Bank, Irish Nationwide and the others, they are presented differently. When there were none, in the commission’s view the banks were more or less the same.

Deputy Eoghan Murphy: So somebody is not less culpable because they were following or herding.

Mr. Peter Nyberg: To be frank, it proved much easier to lump the other banks together than to lump them with Anglo Irish Bank and Irish Nationwide.

Deputy Eoghan Murphy: The witness did not get to read all of his opening statement but he spoke about areas that in his view might be useful for further evaluation of the causes of the crisis in Ireland. He mentioned other banks not needing Irish public support; these are foreign-owned banks that received overseas government support via their parent banks. How important is that, as the witness in his report has briefly touched upon foreign banks and their activities in the Irish market?

Mr. Peter Nyberg: The foreign banks were competing with all the banks so what they were doing is of importance. It might be interesting to see whether those banks had the same kinds of problems as the Irish banks. The foreign owner might ask what is being done. Left to themselves, they might have developed differently. It was for the sake of comparison.

Deputy Eoghan Murphy: It was a comparative purpose.

Mr. Peter Nyberg: Yes.

Deputy Eoghan Murphy: The witness did not get to read out the part of his statement regarding regulation. He indicated that it appears the problem may be a widespread tendency to repeatedly gradually weaken implementation of existing regulations, including, for example, Ireland's historic sector concentration lending guidelines. Is that a specific point to Ireland with regard to our problems or has Mr. Nyberg encountered it elsewhere?

Mr. Peter Nyberg: It is something that is encountered elsewhere as well. The only really concrete issues I mentioned are those in Ireland. The point I am trying to make is that during the last 20 or 30 years, simple guidelines have been replaced by extremely complicated models of risk which depend on specific mathematical formulae. Reality really is not very specific mathematically so maybe it would be easier to consider going back to something that is more easily regulated and, when it blows up, does not take the whole country with it.

Chairman: There is an old saying in Ireland that a meeting is not over not until everything has been said, but until everyone has said something. There is a little more time I would like to accommodate. A number of members have indicated and I will accommodate every other member who wishes to come in, but on the timeframe of one question within one minute, with Mr. Nyberg to reply. I will go through them as they presented. I call Senator Michael D'Arcy. My apologies. I will first call Senator Marc MacSharry.

Senator Marc MacSharry: This follows on from my earlier questioning. Mr. Nyberg said economies must adjust to the constraints of participation in the euro and the ECB. What counter-cyclical measures does Mr. Nyberg feel are adequate to replace the fact that they are unable to control interest rates when crises or potential crises loom?

Mr. Peter Nyberg: The interest rates affect economies in several ways. One is through the capital coming in and the second is through demand changes. Depending on what one wants to affect, one can either use fiscal policy, that is, the government can support or restrain the real economy more or less, depending on what they want to do. When it comes to capital imports, it is really difficult because foreign banks can operate in Ireland as well as Irish banks, but there is always the possibility, for instance, of affecting Irish banks through lending constraints provided by the Central Bank or a financial regulator. For instance, the Financial Regulator has the right - I think it still does - to regulate the capital needed against certain lending. If more capital is needed, banks will lend less, for instance, which means that at least through the banks that are subject to Irish law, there will be less lending to that sector. Then, there is the question that it does mean any lending coming in through that sector might come through different sources or different institutions. There is taxation available. If one wants to reduce investment in housing, one sets a tax on housing.

Senator Marc MacSharry: Stamp duty.

Mr. Peter Nyberg: Demand will go down. There are things of that order.

Chairman: I made an error earlier. Senator D'Arcy should have been before Senator MacSharry. My apologies.

Senator Michael D'Arcy: Thank you, Chair. Mr. Nyberg said earlier in his submission that the Central Bank was in contact with the European Central Bank prior to the guarantee. In light of that and in light of the establishment of NAMA, and then in light of the national bailout, is it possible for us to conduct and conclude our work without representatives from the European Central Bank attending?

Chairman: That has already been dealt with so I will just take a very brief response.

Senator Michael D'Arcy: I am asking that question mainly because Mr. Nyberg had sight of more than most in regard to the Irish banking sector. I am asking for an opinion.

Mr. Peter Nyberg: Senator D'Arcy is asking my opinion as Nyberg and not as the writer of the report. I guess, given that it is just my personal opinion, the committee can always ask the Irish part of the discussion if it wishes. Why not? Why would one have to? Then, one has to make an assessment. It is viable. One makes use of what one can and then one has to use one's head.

Chairman: I am sure everybody does. I call Deputy John Paul Phelan

Deputy John Paul Phelan: I want to bring Mr. Nyberg back, finally, to that interview he gave on 29 September 2013 during which he discussed, as Deputy Doherty raised earlier, the Anglo Irish Bank tapes.

Chairman: I am not clear where Deputy Phelan is going. I do not want the Deputy to lose his minute with me arguing with him. Will he be mindful?

Deputy John Paul Phelan: The Chairman should be mindful with other members as well.

Chairman: I have intervened with other members as well when I believe we might be treading into an area. I will give the Deputy his time but I am just flagging something.

Deputy John Paul Phelan: The Chairman did not intervene on this issue with other members. I just want to point that out.

Chairman: Not on the Anglo Irish Bank tapes.

Deputy John Paul Phelan: On a direct quote from Mr. Nyberg on that day, he said in the interview that those tapes gave "a very lively and unpleasant feeling for the kind of hubristic company culture that existed in Anglo at the time". I would like him to expand on what he meant by the "hubristic company culture". To the ordinary person in the street, I think "hubristic company culture" might be termed as being arrogant. Is that what Mr. Nyberg meant?

Chairman: Do not be leading the witness. If the Deputy asks the questions, that is fine, but do not put words into the witnesses' mouth in terms of what the Deputy thinks he actually means.

Deputy John Paul Phelan: With due respect, Mr. Nyberg can-----

Chairman: Mr. Nyberg can answer the question himself. His English is quite proficient.

Mr. Peter Nyberg: I thank the Chairman. It is simply being convinced that one knows a lot, can do more, and does not really have to consider larger considerations. In America, there is this saying “masters of the universe”. Maybe it is something close to that.

Chairman: When Mr. Nyberg talked about the power and the glory earlier, that is the type of environment he is talking about.

Mr. Peter Nyberg: A first cousin, anyway.

Senator Senator Susan O’Keeffe: At the time of the bank guarantee, many commentators and many members of the public believed that the guarantee came about because of an unnatural closeness or an unhealthy closeness between some bankers and some politicians. Mr. Nyberg also spoke to some politicians and some bankers. I wonder what his view might be of that relationship.

Mr. Peter Nyberg: I am aware of the discussion and I was aware of the discussion during the commission time. I should say that, of all the interviews that I had, as far as I remember, only one interviewee referred to, sort of, linkages between politicians and bankers. Funnily enough, it did not concern his own bank but another bank. Otherwise, I found no evidence of the kind of relations the Senator is referring to. It does not mean necessarily that they did not exist; I just did not find anything and nobody referred to it. As the Senator will no doubt appreciate, what we have been discussing here is that there are numerous other very good reasons why the Government might have decided to give the guarantee. It might have simply wanted the Irish economy to avoid a full stop.

Senator Senator Susan O’Keeffe: Perhaps nobody referred to it because they were not asked directly.

Chairman: I am sorry. I allowed the Senator just one question. I call Deputy Joe Higgins.

Deputy Joe Higgins: In the introduction to his report on page 2, Mr. Nyberg stated Anglo in particular was widely admired domestically and abroad and lauded by many investors, consultants, analysts, rating agencies and the media. He said the long upswing in the property market, accompanied by relentless media attention, eroded the risk awareness both of banks and their customers in Ireland. In page 5 of the report, he says that in the view of the commission the main issues that need to be addressed were why so many professionally adept Irish bankers and public servants, as well as politicians, entrepreneurs, experts, media and households simultaneously come to make assessments and decisions that have later proven seriously unsound in a number of ways. Finally, he said on page 5 that for a systemic financial crisis to occur, at least the following factors must be present, and he listed seven. The seventh one is media that are generally supportive of corporate and bank expansion, profit growth and risk taking while being dismissive of warnings of unsustainable developments. In Mr. Nyberg’s estimation, what role did the mainstream media play in the course of the Irish property bubble being blown up?

Mr. Peter Nyberg: As the report indicates, the media reported positively on banks, the real estate market outlook and on everything which had to do with the so-called Irish tiger. The interesting thing there, of course, is that very few people read banking or official annual reports, but everybody reads the media or looks at the TV, and what comes from there, in the view of the commission, has an effect. Which effect, and exactly how is something we did not look into, but we thought that it was worth mentioning. I notice that the committee might wish to look into that, and that is welcome.

Deputy Michael McGrath: Mr. Nyberg conducted a commission of investigation in private. We are conducting a parliamentary inquiry in public. Mr. Nyberg said a number of the witnesses he personally interviewed felt the need to be represented by their lawyers, as such. My question is what is his sense of the type of engagement we are likely to get from any of the main actors involved in the banking crisis, and how different is their attitude likely to be, given that we are going to be in a public forum. Could he give us any sense of what to expect or any advice because we have a very different animal in a public inquiry conducted by parliamentarians versus a private commission of investigation where everything was anonymous? The inquiry is very different. Could Mr. Nyberg give us any guidance as to what sense of engagement we are likely to get? To my mind, that would be helpful.

Mr. Peter Nyberg: First, the commission of investigation was not private, it was just as official as this one. The only thing that was private was the names. Even then, the commission tried to give as full an account as possible without naming names. As I said in my introduction, and as the commission's report indicates, my feeling is that anonymity at least for us was important to get engagement and for discussing sensitive issues, ones which are very painful in many ways for those with whom we had discussions. I would imagine that as time goes by, some people might want to have their say in public because the general discussion is not necessarily always balanced, while others might not wish to do so. The committee no doubt will discover which are which.

Chairman: In due course.

Mr. Peter Nyberg: In due course.

Chairman: Did Mr. Nyberg have powers of compellability?

Mr. Peter Nyberg: Yes, we did. Actually, we never had to use them. People were very co-operative, but occasionally, especially on Saturdays, I wondered whether if things became difficult that one could suggest that if people did not want to discuss matters in private, they could be discussed in public and then I would expect that they would probably come and discuss them in private. Nobody did.

Chairman: It was never an issue.

Mr. Peter Nyberg: I am glad to say it was never an issue. Public discussion is much more demanding both of the interviewees and the interviewers than private discussion.

Chairman: Not to be too demanding, I will try to bring things to an end.

Senator Senator Sean D. Barrett: I again thank Mr. Nyberg. On page 89, it is stated that among non-executive directors it appears that the banking knowledge and expertise necessary to assess the lending and funding risks inherent in bank business models was insufficient. In return for being the lender of last resort, should Parliament - this committee - insist on a *quid pro quo* from banks if they want this protection and would Mr. Nyberg apply any of them in regard to the deficiencies he found in those non-executive directors?

Mr. Peter Nyberg: It is a good question. The reason I hesitate is that all bankers are not good bankers and all non-bankers are not bad. It is more a question of how one approaches risk management. What happened in the run-up to the crisis is that the selling of credit, of money, became more important than handling the risky assets that the banks got. What non-executive directors need to do is to quite often be more challenging to executives than they often are. If they have strong experience, either in finance or somewhere else which is close to finance, then it would be more helpful. It is very individual. It is not really easy to do it through regulation.

Deputy Kieran O'Donnell: In the recent interview with RTE, Mr. Nyberg said a few individuals clearly tried to warn various institutions of what might be coming but they were not listened to. It might be interesting to understand why that was the case. Who was Mr. Nyberg talking about?

Chairman: The Deputy knows as well as I do, following the advice we have been given-----

Deputy Kieran O'Donnell: I am not talking about specific individuals.

Chairman: Is Deputy O'Donnell talking about the agency?

Deputy Kieran O'Donnell: No.

Chairman: I do not want to use up the Deputy's time but I will spoil any showboating for the television cameras. There will be no showboating in respect of this matter. I ask the Deputy to frame his question differently.

Deputy Kieran O'Donnell: I would not in any way direct Mr. Nyberg on how to answer it but I am of the view that it is a reasonable question.

Mr. Peter Nyberg: They are people who were contrarians and who did not have the same kind of judgment or assessment as most other individuals in their institutions. Some them are known. Morgan Kelly is one typical example but there were others, even though they were few.

Deputy Kieran O'Donnell: Did Mr. Nyberg speak to any such individuals in the Department of Finance?

Mr. Peter Nyberg: I am not going to go into details.

Deputy Kieran O'Donnell: I thank Mr. Nyberg.

Chairman: I thank Mr. Nyberg for his participation. This has been a very informative and valuable meeting in terms of adding to our understanding of the factors which led to the banking crisis in Ireland. One of the purposes of our meeting with Mr. Nyberg - and those with Mr. Robert Wright, who will be before us tomorrow, and Professor Honohan, who is due to come before us in the new year - was to discuss not just the information and knowledge he gathered during his the work he did examining the period of the crisis but also to see how the committee might add value to that work. Another was to discover from him areas which the inquiry might be able to examine and which were - as a result of the nature of its terms of reference - either not considered by or accessible to his commission. I note that, in his submission, Mr. Nyberg highlighted those areas in respect of which the inquiry might add value or carry out additional work. On behalf of the committee, I thank Mr. Nyberg for his contribution to these proceedings, for the answers he provided to members' questions and for the additional advice and recommendations he provided.

I propose that the committee go into private session in order to deal with a number of issues. We will resume at 9.15 a.m. tomorrow, when Mr. Robert Wright will come before us.

The joint committee went into private session at 1.25 p.m. and adjourned at 1.30 p.m. until 9.15 a.m. on Thursday, 18 December 2014.