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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉIREACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Dé Máirt, 10 Márta 2015

Tuesday, 10 March 2015

The Committee met at 5 p.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.

Context Phase

Mr. Simon Carswell

Chairman: This is the 13th public hearing of the Joint Committee of Inquiry into the Banking Crisis. Today we will hear from Mr. Simon Carswell, author and journalist, on relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector. This is the first of several sessions on this theme this week. Mr. Carswell is Washington correspondent with *The Irish Times*, a position he has held since December 2012. Previously he was finance correspondent and covered the banking crisis from 2007 to 2012. He is the author of two books, *Something Rotten: Irish Banking Scandals* and *Anglo Republic - Inside the Bank That Broke Ireland*, a bestseller in 2011. A graduate of Trinity College Dublin and Dublin Institute of Technology, he was also a news reporter and news editor at *The Sunday Business Post*. He is a regular contributor on radio and television and was named national journalist of the year in 2011 by National Newspapers of Ireland for his coverage of the banking crisis for *The Irish Times*. He is very welcome to the inquiry.

By virtue of section 17(2)(*l*) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the Chairman to cease giving evidence on a particular matter and continue to so do, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given. As informed previously, the committee is asking witnesses to refrain from discussing named individuals in this phase of the inquiry.

Members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

Mr. Simon Carswell: Let me start by providing some background information on my work as a journalist. I am Washington correspondent with *The Irish Times*, a role I took up just over two years ago, in January 2013. Prior to that, I was finance correspondent with the newspaper reporting on the banking sector and before that I worked for *The Sunday Business Post* for seven years, first as a business reporter from 1999 to 2004 and then as news editor from 2004 to 2007. I started as finance correspondent at *The Irish Times* in September 2007 as queues of depositors started to form at Northern Rock bank in the first run on a British bank in more than a century. As this was the first story on which I worked at *The Irish Times*, one could say my arrival at the newspaper coincided with the start of the global financial crisis which hit the UK and Ireland.

In 2004 I began researching and writing a book on the history of scandals in the Irish financial sector. That book, *Something Rotten: Irish Banking Scandals*, was published by Gill & Macmillan in 2006 and covered scandals in the Irish banks dating back to the early 1970s up to the 2004 overcharging scandal at AIB. I examined the culture within Irish banking during that period. While covering the deepening banking crisis, internationally from 2007 and domestically from 2008, for *The Irish Times*, I began to work on another book in mid-2010 that became *Anglo Republic - Inside The Bank That Broke Ireland*. That book, published by Penguin Ireland in September 2011, was my own inquiry into what had happened in the run-up to the 2008 Irish banking crisis and the 2010 international bailout. Both books were written while I was on short periods of paid leave from *The Sunday Business Post* and *The Irish Times*.

I continued to report on the banking sector until December 2012 when I was appointed to my current role, based in the United States. In a letter dated Friday, 13 February 2015, received from the committee requesting my attendance, it asked me to appear before it to talk specifically about the relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector. Specifically, it has asked me to speak about how the property sector - investment and-or development - and the banking sector interacted with government, elected representatives and the State during the period prior to the banking crisis in Ireland and the nature of the relationships between these groups. It has also asked me to talk about controls or structures, if any, to regulate these relationships and whether being a small country is a factor, or not, in any such relationship. I will try my best to address these topics in this discussion.

I must point out that it has been over two years since I wrote regularly and in depth about Irish banking. I have since immersed myself in a broad range of very different subjects. Also, as I live in the United States and have not been able to access many of my notes from my time reporting on the banks while with *The Irish Times*, I may not be able to shed light on some of the committee's queries, but I am happy to help where I can and will try my best to answer any question it want to ask me. I must also stress that I am bound by journalistic privilege that prevents me from disclosing sources of information in any work I have done where these sources have asked me to maintain their anonymity.

On the subject of discussion, I would characterise the relationship between the major players in the property sector, the construction industry, government, certain elected representatives and the banks, as well as the relationship between the Government, the banks and the financial supervisory authorities, as extremely cosy in the period leading up to the 2008 banking crash. To take a phrase from former Finnish civil servant Peter Nyberg's thorough report on the causes of the banking crisis, the various players, including politicians, builders, bankers and regulators, displayed "behaviour exhibiting bandwagon effects both between institutions (herding) and within them (groupthink)." Nothing I came across in my research would contradict that statement. On the wild frontier of the Celtic tiger era, Anglo Irish Bank was the one trick pony in a frenetic land grab, leading a poorly regulated and highly competitive race for market share and profit.

These relationships appear to have been too cosy to have allowed any one of these collective groups, be it banks, government, builders or regulators, to shout stop and offer the kind of critical dissent that might have changed the behaviour of all and the direction in which the country was heading. If one of these groups had had the courage to put its head above the parapet, I believe there might not have been the crisis we had or at least it might not have been as severe as it was. For these parties, it was too comfortable and self-serving for some to stay in the crowd and stick with the consensus, particularly when so many were making so much money. The result was that contrarians were ridiculed, silenced or ignored to ensure the credit fuelled boom continued for years as their past warnings did not come true. These cosy relationships would prove extremely costly. While the cost of the banking bailout to the Irish people stands at €64 billion, excluding recoveries coming from the sale of shares in the banks or better than expected returns from the National Asset Management Agency, it is worth stressing that the overall losses and capital wiped out by the crash amount to far in excess of this sum. The losses on loans, mostly to the property sector, across all of the banks in Ireland came to well in excess of €100 billion, including tens of billions of euro covered by the UK Treasury. This is sometimes forgotten.

For the record, I do not accept the proposition put forward by many of the key players involved in policy-making, banking, building or regulating that there were so many people responsible for the crisis that it is difficult to pin individual blame on a few. Moral responsibility for the excesses of this period can be cast widely, but legal responsibility for what happened and what was permitted to happen far less so. There were a limited number of people involved in key decisions, in particular those decisions taken in response to the crisis that had major consequences.

In the decade leading up to the crash long-standing relations had developed between the political classes and the property-banking nexus. The investigations by the Mahon tribunal of inquiry illustrate the corrupt connections between politicians and landowners-builders and it is worth stressing that the tribunal only covered elected representatives and property deals in Dublin. In times more recent than the property deals examined by the tribunal senior Government figures and politicians, notably from Fianna Fáil, were seen on quasi-social occasions such as high profile horse racing meetings rubbing shoulders with prominent builders. Even if some politicians and public representatives mixing in these circles did not directly encourage the property boom - there was certainly a number of very prominent cases where senior politicians did, both in terms of their public remarks and policy decisions - these associations at least created the perception that the most powerful people in the country supported and championed the property industry.

Politics and business regularly overlapped. There are examples of politicians and public representatives getting involved in land speculation deals, building projects and property investments, in one notable case, in partnership with a major figure from banking, while continuing to serve as public representatives, right up to and during the economic crisis. Builders and property developers were also active in politics. Of the donations received by the political parties in Ireland in the four years between 2002 and 2005, building, property development and construction related companies, with builders and developers personally, donated tens of thousands of euro to Fianna Fáil which was in government during these years. That party accounted for almost the entirety of the political donations made by the property sector to political parties in these years. Individuals who worked in the political arena afterwards took up highly paid roles representing and lobbying on behalf of construction and financial industry groups, interacting with people with whom they had previously worked closely in politics. Easy and ready access to politicians brought easy and ready access to policy and decision-making that drove the growth of the property and financial sectors.

There are a number of well documented examples of these sectors bearing strong influence on the policy making process in the years running up to the crisis. These helped to inflate the credit bubble and frenzied property buying and weakened potential policy or regulatory actions that might have dampened activity, both in the property market and the banking sector. Certainly, there were no effective controls in place to regulate these relationships.

Government tax policies and incentives for the commercial property market have been widely attributed as a factor in inflating the property bubble. These subsidies were left in place and were only starting to be phased out during the frothiest years of the property bubble as a result of the relations between the property sector and Government-elected representatives and aggressive lobbying by commercial interests.

Despite an outside expert urging the Fianna Fáil-led Government in high-profile reports in

2000 to remove tax incentives for property investors, the party was lobbied intensively by the construction industry and incentives were left in place in the 2001 budget. Mortgage interest relief was reintroduced for investors, helping them to offset the cost of their property speculation against their taxes. Such measures only added to increased activity in the property market. Had the incentives been removed it might have made some think twice about investing more in property and cooled the market somewhat.

That Government and the next Fianna Fáil-led Government said they would end the tax incentives for a multitude of property development types, from multi-storey car parks to student accommodation to nursing homes to over-the-shop apartments, but they were ultimately extended from 2004 until 2006 and in some instances right up to the start of the financial crisis in 2008, the years covering the most frenetic period of the property-banking bubble. These decisions were taken after heavy lobbying by the construction industry. The Government of the day said in 2004 that it would review these tax-based property incentives. In the 2006 Finance Bill some tax reliefs were eliminated by the Government while the decision was taken to phase out other reliefs up to 2008.

The financial sector was equally robust in pushing its own interests with Government and Government officials, through established relationships between its representative groups, when it came to legislative changes it wanted or when it was unhappy about measures that might rein in the activities of its industry. In 2006, the banks wanted a change in the rules on what collateral could be used to borrow in the international markets. They lobbied heavily Department of Finance officials and Government to the highest levels in a well-co-ordinated campaign that included representations made at a private dinner in one of the country's biggest banks for a senior member of Government. This is illustrative of relations between the banks and the pro-banking Government of the time. At one point the Department of Finance was described by one of its own officials as being "under siege" in the lobbying campaign by the financial industry. The aim was to get legislation passed to allow the banks to issue bonds backed by commercial mortgages. The financial sector won out. The legislation was passed in early 2007, at the peak of the property boom, making it easier for banks to borrow more money to provide more loans to more customers.

The Financial Regulator was shown to be equally malleable by outside interests when it came to moves that might have taken some of the heat out of bank lending. In 2006 the Financial Regulator started to consider the introduction of compliance statements for the directors of banks. These would allow the regulator to force management and the boards of the banks to stick by assurances they gave, for example, agreeing to reduce their lending into one particular area, and would have given the regulator an important tool to exert greater control over the activities of the banks. After intensive lobbying by the financial services industry, the Department of Finance asked the regulator to drop the process of consultation with the industry on the measure. It was shelved in favour of the measure being considered in a wider overhaul of financial services legislation at some later unspecified date. One of the reasons cited for dropping it was that it would damage the country's international competitive edge in financial services. This was a regular refrain from the banks, and was repeated by the Government and Government officials when it came to opposing stronger regulatory tools to curb the activities of the banks. As Governor Honohan stated in his report on the causes of the banking crisis, more aggressive action was not taken to stop the practice of lending 100% mortgages to home-buyers because excessive weight was given to the damaging effect of competition from foreign banks on domestic lenders if curbs were introduced, "probably in light of lobbying objections from institutions". This shows how the Financial Regulator was, as well as trying to regulate the banks, on the bandwagon with the industry and Government in trying to promote Ireland as an attractive destination for international banks to conduct business.

The lobbying by the banking industry extended to one notable case involving Irish Nationwide Building Society. For years the senior management at the building society had been lobbying for a change in legislation that would have allowed the building society to demutualise and be sold immediately in a private trade sale in one fell swoop, instead of waiting a period of five years after demutualisation for a trade sale. That legislation came under the Fianna Fail-led Government in the summer of 2006 and the lender was almost immediately put up for sale. At that time Irish Nationwide was dressing itself up for a trade sale by showing itself to be as profitable as possible. This coincided with a period when the building society pushed itself very heavily away from its traditional roots as a mortgage lender that helped people buy homes into a more lucrative guise as a boutique lender to builders, and even a partner with some of its developer customers on speculative projects. Some of the heaviest losses incurred by the building society were on loans provided in the period leading up to and after the passing of this demutualisation legislation.

Irish Nationwide's senior management was perceived as having strong political connections. That, I believe, coupled with the fact that the building society had operated unchecked by any kind of effective regulatory action on corporate governance issues for many years, gave the lender a sense of invincibility and misplaced confidence in terms of the financial risks it took on, to carry on its business as it saw fit. Despite repeated problems of corporate governance at the building society, the regulator adopted a stand-off approach with the lender, preferring to wait until the institution was sold in a trade sale as a means to resolving these problems rather than tackling them head on. This wait-and-see game proved to be extremely costly given the kind of loans that were advanced during this period. Irish Nationwide has cost the Irish public €5.4 billion, an extraordinary loss rate on a lender that had €12 billion in loans.

As for the interactions between the regulator and Anglo Irish Bank, their cosy relationship meant that the bank's massive exposure to the property market was allowed to balloon out of control with devastating consequences for the country. Remarkably, regulators knew that the bank was aware that it was in breach of its own internal limits on property lending. It is even more remarkable that regulators were comforted by the fact that the bankers knew that they were in breach of their own limits. This is the kind of strange logic that existed in the country's poor regulatory regime that showed the weaknesses of light-touch regulation and how bankers could skirt around the rules.

In 2008, Anglo Irish Bank had a strong link between its boardroom and Government buildings, though it is still unclear just how useful this connection was to the bank at the time of its greatest need, in the days leading up to 29 September 2008, the night of the guarantee. It raises a question, which I cannot answer: did these connections play a factor in the thinking of those in charge on that fateful night behind the decision not to take the bank, the only Irish financial institution that had gone over the cliff edge at that stage, into public ownership by way of nationalisation legislation or to consider some other stop-gap measure rather than a costly blanket guarantee? Given Anglo Irish Bank's frantic, last-gasp efforts to raise concerns and press influence in political and regulatory circles about its deteriorating funding position, it would appear that the bank's connections were not so well developed to be effective.

While Anglo Irish Bank was very close to the country's most active builders and property developers, and so too was Fianna Fáil, it might be too far a leap to conclude that Anglo Irish Bank and Fianna Fáil were equally close. The bank and the party certainly had a number of deep contacts at the highest levels. My research found that these contacts bore little fruit for the bank, although it is unclear what influence Anglo Irish Bank's developer customers might have had with their friends in politics. For the most part, in the run-up to the crisis, the bank was too busy lending money to builders and making vast profits from the booming property market to be distracted by developing and working political contacts. In the post-guarantee period, prior to the bank's nationalisation, there were more pronounced efforts made by the bank to curry favour in political circles.

As for the future, the recent publication of the Registration of Lobbying Bill 2014 to regulate lobbying of Government members and State officials by corporate and other concerned interests is a step in the right direction. This will force groups, companies and organisations involved in lobbying Government to file the details of their contacts with the Standards in Public Office Commission. Further steps could be taken, such as the compulsory logging of all contacts, even informal ones, that the Taoiseach and Ministers have with outside parties concerning representations on policy and-or legislation, and for these contacts to be disclosed publicly and regularly. Often it is only through freedom of information requests by the media that these contacts emerge. Some contacts, however, may never appear in official records because departmental officials know not to commit to paper certain things that might be "FOI-able".

The committee has also asked me to discuss whether Ireland being a small country is a factor in terms of the relationships mentioned above. I cannot answer that because who knows what would have happened if Ireland was three times the size. However, I think that the fact that this is a small country should serve as another reason it is so important to document all contacts that policy-makers and their advisers have with outside interests on policy representations, as onerous as that record keeping might be. Any concerns about unintended consequences of forcing those connections and contacts out into the open are, in my view, over-played.

Sunlight is good medicine. This country needs to let in far more light and be far more transparent, along with being more open to listening to and accepting of countervailing views, if it is to recover fully from the recent dark past.

Chairman: I thank Mr. Carswell. Before I bring in members of the committee I will set some broader scene questions with him. Mr. Carswell's 2006 book entitled *Something Rotten: Irish Banking Scandals* covered various scandals at Irish banks dating back to the 1970s up to 2004 and that includes the overcharging scandal at AIB. How would he describe the relationship that existed between the regulatory authorities of Ireland and the banks and also how would he describe the relationship between the banks and the Central Bank during those years up to the crisis?

Mr. Simon Carswell: I would regard the relationship between the regulatory authorities, including the Central Bank, as not assertive, not intrusive enough, too passive and too deferential. Bankers could argue their way out of issues and regulators would sit back or turn a blind eye. It was a very passive relationship between all those parties those you mention.

Chairman: In that period of time, who would you think should have been responsible for crying "Stop" in the pre-crisis period and when should it have happened?

Mr. Simon Carswell: I believe responsibility lay with the boards of the banks and the management of the banks in the first instance. They are ultimately responsible for what their financial institutions do. Then the Central Bank and the regulatory authorities should have seen the banks had lost the run of themselves and there were certain issues in their institutions such as limits on lending. Successive Governments were responsible to step in if there were any regulatory gaps. The role of the auditors and, as has emerged in the crisis, the rules auditors worked by, were too narrow and backward looking, rather than forward looking and pointing out risks which existed in particular institutions. Regarding when they should have shouted “Stop”-----

Chairman: Both in terms of what would have been the optimum intervention point and what point you think it was actually too late.

Mr. Simon Carswell: -----you have to look at the credit growth in the banks and when that was at its peak. There are a number of periods when that happened. There were two big bursts in lending from 1997 to 2001 and then again from 2002 to 2007 when the rate of credit growth and the amount of lending going on was over 20% in that period. Within that there were two significant bursts. It was more than 30% for six months in 2004 and nearly 30% again in 2006. The warning bells should have gone off in the early 2000s. At that point they should have stepped in and said it was excessive.

Chairman: Who should have stepped in?

Mr. Simon Carswell: The regulator should have stepped in. The regulatory authority said there were issues. The Central Bank warned in 2003 there was excessive credit growth. The Central Bank should have stepped in and told the regulator that something needed to be done.

Chairman: I first invite Senator Michael D’Arcy, you have 15 minutes.

Senator Michael D’Arcy: I welcome Mr. Carswell and thank him for coming. His book is a very good read, one of the best reads I have come across to date. What is his interpretation of the Anglo business model in terms of risk, which some of the other banks have struggled to get a handle on?

Mr. Simon Carswell: I believe Anglo had two fatal flaws regarding its concentration in the property market. It had convinced itself it was not a property lender. It also got too close to its borrowers. Simply put, it had too many eggs in one basket. The bank had four main areas of cover in how risk was approached and how it protected its loans. The first was cash flow and rental income from buildings and properties. The second was the value of the property itself. The third was cross-collateralisation where Anglo had borrowers’ other assets in its portfolio. If the first three areas did not work out then the fourth area of cover was the personal guarantee where Anglo itself could go after the developer or builders.

Stripped away, all those securities it believed it had all centred around property. I believe the bank recognised this and that it was getting too heavily into the property market. An internal instruction was issued that Anglo would try to bring property development on the loan book down to 20% and reduce this over time to 15%. That it was unable to stick to those limits shows how close the bank was to its borrowers. It was unable to pull back from that sector. Later credit reports in 2005, 2006 and 2007 show the bank could not meet the restraint it wanted. At that stage, the risk was its closeness to borrowers. In the book I quote a former senior Anglo executive where he felt that customers were running the bank. I would tend to agree with that.

Senator Michael D’Arcy: On page 57 of *Anglo Republic - Inside the Bank That Broke Ireland*, Mr. Carswell states that AIB established a win-back team. He wrote, “In 2004 AIB chief executive [who I will not name] established a win-back team as part of the bank’s efforts to understand why the bank was losing business.” Were the other banks outside of Anglo prepared to move in a different direction in order to win back business they had been losing to Anglo?

Mr. Simon Carswell: I believe there was a marked shift by the other banks, once they saw how much money Anglo was making. The other banks would also have seen Anglo championed by the investment community. The sheer scale of the profits made at Anglo was too tempting for the other banks - they really had to try and get a slice of the action. For example, AIB set up this win-back team to look at how it could get some of that business which Anglo was getting. The other banks also got involved, maybe not as aggressively as AIB. There was the added injection of foreign banks, particularly Bank of Scotland Ireland, owned by Halifax Bank of Scotland and also Royal Bank of Scotland through Ulster Bank, which very aggressively got into the market. The saying in AIB was that "Anglo joined us for breakfast and now it is eating our lunch." This shows the competitive edge there. Other banks were very concerned that Anglo was stealing the march on them, to the extent that Anglo might even mount a takeover for Bank of Ireland. That is how impressive Anglo's growth was and how much money it was making.

Senator Michael D'Arcy: Mr. Carswell made the point that there was a date when there was a 30% increase in lending. At what stage does he think the Anglo model ramped up to a degree where it was no longer sustainable?

Mr. Simon Carswell: I believe it is more of an evolutionary issue and it was heading down a particular channel or route. There was no particular point where it could pull back. If there was a point in time where Anglo could have shouted "Stop" would everything have been okay? Given the strength of support for Anglo, even in 2004 it would have been too late. I said in the book that it would take a benign dictator to try and stop that juggernaut of support in the market and around the banks, and to rein that back.

Senator Michael D'Arcy: Anglo was lending money out but was required to have minimum capital ratios. On page 59 of his book Mr. Carswell says that the chief executive of Bank of Ireland "could not get to grips with Anglo. I said it in my own organisation, if there was ever a downturn or liquidity crisis they were done for, they were gone." As subsequently noted, that liquidity crisis did come. Was there a model in place that Anglo could possibly have survived if that liquidity crisis had not occurred?

Mr. Simon Carswell: I do not think so. One is looking at the other side of the balance sheet there rather than the loans. There was a huge push to lend as much as one could but the funding side of that struggled to keep up. Anglo was able to borrow in the wholesale markets to fund that lending growth because of Ireland's entry into the euro and the access to vast pools of funding without currency risk. That gap got bigger and bigger as the bank tried to keep up with providing loans to customers in the market. At a particular point, over 50% of its funding was from wholesale markets. It was borrowing very very short and lending long; the average duration of its borrowing near the peak of its lending was well below a year, and the average length of a loan was three or four years. With such a gap, if there is any kind of stress in the liquidity market, that bank will be in serious trouble. It is not unique to Anglo. Many of the banks in the market had that very heavy reliance on wholesale funding.

Senator Michael D'Arcy: In his submission this afternoon Mr. Carswell stated:

> At one point the Department of Finance was described by one of its own officials as being "under siege" in the lobbying campaign by the financial industry. The aim was to get legislation passed to allow the banks to issue bonds backed by commercial mortgages. The financial sector won out. The legislation was passed in early 2007, right at the peak of the property boom, making it easier for banks to borrow more money to provide more loans to

more customers.

Is that legislation the Asset Covered Securities (Amendment) Act, No. 13 of 2007?

Mr. Simon Carswell: Yes.

Senator Michael D'Arcy: How did that further exacerbate the boom?

Mr. Simon Carswell: At that point assets were backed by residential mortgages so investors looked at the quality of the assets backing their bonds, so what was the quality of the loans that were packaged up in these bonds that were being sold in the money markets to raise more money to lend by the banks. At that time, a lot of assets that the Irish banks used were backed by residential mortgages. They were regarded as much more likely to be repaid, therefore of better quality. By including commercial mortgages in those packages of bonds the banks were following an international trend. There were other countries doing that. What that did was it allowed, for example, in particular, Anglo, because it had more commercial mortgages than other banks, to be able to package them up, go to the market and say, "Invest in our bond, buy our debt," and subsequently they would get money in and be able to use it to lend on into the banks.

I think one of the issues raised during the lobbying for that Bill was raised by the regulatory authorities which said that there was greater inherent volatility by comparison with other asset classes in terms of valuation and default experience. So that legislation was passed in the face of some opposition from the regulatory authorities.

Senator Michael D'Arcy: On page 122 of Mr. Carswell's book, he discusses the displeasure of Anglo Irish Bank towards stockbroking firms, and the firm I am talking about here is Davy:

> By this stage Davy had grounds for suspicion that a major bad debt problem was building up at Anglo. The stockbroking firm had a busy private clients division which backs up property investment for wealthy customers. Davy turned down a number of property deals that were subsequently snapped up by Anglo for customers in its own wealth management division. The firm couldn't see how some of these deals worked.

Subsequently Anglo registered its displeasure directly with Davy's but also to the Financial Regulator in that it applied significant pressure. Could Mr. Carswell expand upon that portion of his book?

Mr. Simon Carswell: Which part in particular?

Senator Michael D'Arcy: In relation to Davy's which had issued advice that the share prices of Anglo were not a good buy.

Mr. Simon Carswell: Certain brokers within that company took a view that Anglo's business model was under pressure. They felt that the property market was turning and they also---

Chairman: What period was this?

Senator Michael D'Arcy: October 2007.

Mr. Simon Carswell: It was 2007 and into 2008. There were a number of brokers in that firm who said, "We think Anglo has reached the peak of the market and it is no longer a stock that we would tip to our investor clients." Anglo had a reputation for aggressively attacking any dissent in the market and it responded very negatively when it heard through investors in the investment community that there were a number of brokers who were saying to their clients, "No longer back Anglo." Many international investors took interest in it. Often when there is a contrarian in the investment market who puts its head up and says, "We have changed our view in contrast to everyone else," many of the more high-risk investors would think that is worth looking at and as a result some of those people would either start looking at shorting the stock, which is making money from the share price falling. I think the response of Anglo was, "We need to fight that, we need to counter that very negative talk against the bank in the market."

Senator Michael D'Arcy: Would it be normal that the bank in question, which had the advice note from a stockbroking firm, would contact the Financial Regulator?

Mr. Simon Carswell: It would not be normal but it would have been normal for Anglo.

Senator Michael D'Arcy: Not for other banks?

Mr. Simon Carswell: I believe Anglo stood out as being a bank that was much more aggressive in dealing with people who were talking it down. I do not think the other banks would have been concerned if there had been a broker dissing their stock or talking the stock down.

Senator Michael D'Arcy: In page 210 of his book *Anglo Republic* Mr. Carswell quotes an article from *The New York Times*, the headline of which was, "Can one bank bring down a country?" Can one bank bring down a country?

Mr. Simon Carswell: It has the potential to, yes. I think it can be very dangerous if it is allowed to grow to such an extent and a bank that is growing at 30% a year for such a long period, that drags other banks in its wake, can pose major risks to a country.

Senator Michael D'Arcy: On page 218 Mr. Carswell writes that on the night of the guarantee, the Monday night, 29 September 2008, both AIB and Bank of Ireland anticipated that Anglo would be nationalised at the weekend. What is his understanding of how or why Anglo was not nationalised on the weekend following the guarantee?

Mr. Simon Carswell: In the aftermath of the guarantee being introduced, Anglo used the guarantee to go out into the market and attract deposits very aggressively. It was not alone. Only one or two banks said they were told by the regulator not to use the guarantee to solicit deposits. Certainly, it made such news that day that Ireland was regarded as a safer bet because the Government was standing behind it.

The perception on the night was that Anglo was still going to be nationalised even after that decision was made. The view was that the decision made on the night of the guarantee was a stopgap measure that might buy the banks some time. The Government, through the Central Bank, in consultation with the banks that went in that night, asked each bank for €5 billion to tide Anglo over which, if one looks at the rate of loss of deposits for the bank, would have brought it to the weekend, maybe a little bit longer. So the measures that were introduced that night were regarded by people leaving the building that night as buying time. I think the view was that nationalisation was still very much on the table but the regulatory authorities expressed concern that a bank could not be nationalised mid-week because of the complications and technical issues that come with that. The belief was that nationalisation would still happen at the weekend.

Senator Sean D. Barrett: I welcome Mr. Carswell and echo what Senator D'Arcy said about the book. Did Mr. Carswell cover the McDonough report on financial regulation and the hostile reaction to it by the Central Bank?

Mr. Simon Carswell: I did not but I am aware of the debate about it.

Senator Sean D. Barrett: Might that have led to some of the problems that Mr. Carswell has been describing to Senator D'Arcy?

Mr. Simon Carswell: I believe so. I think the debate at that time arose from the scandals that are outlined in *Something Rotten: Irish Banking Scandals*, the first book. The regulatory regime that was established in 2003 was in direct response to some of those scandals that emerged, particularly with customer funds, the likes of the bogus non-resident accounts arising from the DIRT issue and also some of the overcharging by some of the other banks in the market and the purpose of that regime was to protect the consumer. In terms of the creation of a regulatory regime, in 2003, the regulator was set up as an independent entity within the Central Bank. The focus, in establishing it in that way, was too much on the consumer.

Senator Sean D. Barrett: By elimination, there should have been greater focus in the prudential area.

Mr. Simon Carswell: In terms of the structure of the Central Bank as established, one of its specific roles, which gives an idea of the priorities within the new regulatory regime, was that of consumer director as a member of the board of the authority. However, it did not have a prudential director as a statutory member of the board, which says more about the emphasis that was on the consumer. As emerged from the crisis, there should have been more focus on the prudential aspects of the financial system. Everybody will remember the advertisement in which the phrase "I don't know what a tracker mortgage is" was used. A more appropriate phrase might have been "I don't how safe my money is and I don't know how safe these banks are."

Senator Sean D. Barrett: During Mr. Carswell's discussion with Senator D'Arcy about the paragraph on commercial mortgages he referred to the compliance statements for the directors having been dropped by the Financial Regulator in 2006. I refer in this regard to page 5 of the statement. Perhaps Mr. Carswell would elaborate on what was involved in that regard? What were the compliance statements and what impact might they have had had the regulator not dropped them?

Mr. Simon Carswell: A multitude of things could have been included in the compliance statements for the industry at the time of the consultation process. The industry includes not only the banks but all financial institutions, including in the insurance area. Concerns would have been raised about whether the measure was too heavy. The regulatory authorities were set up on the basis that they were principles based, which is what we now see as light-touch. This is potentially an onerous statement and onerous rules to apply to directors. The concerns raised by industry played well with the Department of Finance concerns. This relates back to the more general issue of one of the mandates of the Financial Regulator within the Central Bank being to make Ireland attractive as a place in which to set up financial business. They did not want this type of rules-based compliance statement to be introduced at that time because it would have caused a problem for the sale of Ireland as a pro-business country for the financial sector.

Senator Sean D. Barrett: Were copies of those rules ever published or was the opposition behind the scenes?

Mr. Simon Carswell: I do not know.

Senator Sean D. Barrett: Mention is made on page 123 of the book of a strong letter from the Governor of the Central Bank arising from the article by John McManus in *The Irish Times* stating that Anglo might be in trouble on funding. Anglo rebutted that so strongly the Governor responded saying that the bank could do without that type of reporting at a time of growing crisis in world banking. Was that type of correspondence between the Central Bank and one of the commercial banks usual at that time?

Mr. Simon Carswell: Statements would be made by the regulatory authorities when there were concerns about the stability of the banks. For example, after what is known as the St. Patrick's Day massacre in 2008, when there was short-selling in two of the Irish banks in particular, but mostly in Anglo Irish Bank, a strong statement of confidence issued from the Central Bank and the Financial Regulator's office to counter that negative market comment. Throughout 2008 and up until after the putting in place of the bank guarantee statements were made by the Office of the Financial Regulator in which concerns were raised concerns about market comment and comment by newspapers.

Senator Sean D. Barrett: Does that negative so-called light-touch regulation? It is more hands-on, is it not?

Mr. Simon Carswell: It is more hands-on in the sense that it helps the banks and the financial sector. It is a different kind of approach to what had been going on. By that stage in 2008 it was a case of all hands on deck in terms of doing and saying what one could to get confidence back into the banking sector.

Senator Sean D. Barrett: In his work on the book and articles did Mr. Carswell come across what Morgan Kelly called "contrarians" in the Central Bank, other banks or the audit profession?

Mr. Simon Carswell: Beyond the books, during the five-year period I was covering the banks I would have come across a number of them in those institutions. A particular one that comes to mind is a person in AIB who had major reservations about what the bank was doing in the property market and would have raised that at very senior levels within the bank.

Senator Sean D. Barrett: So they were people in the banks who knew that 2008-10 was on the way, so to speak?

Mr. Simon Carswell: I cannot speak to whether they knew that. Certainly, there were individuals within the banks who would have raised reservations about where the banks were going. Another notable example is mentioned in *Anglo Republic*. In this regard concerns were raised about the banks' funding and, as I said in response to a question from Senator D'Arcy, the gap between short-term funding within the bank and long-term lending. It was noted within the bank - if my memory is correct, I think this was in 2006 - that the bank was potentially very exposed if there was any kind of issues in the funding markets.

Senator Sean D. Barrett: It is stated on page 217 that on 29 September 2008 the chairman of AIB held the view that Anglo and Irish Nationwide were two delinquents and needed to be taken out by the State. Does that indicate that the view was that some banks could still be saved and that not all needed to be guaranteed?

Mr. Simon Carswell: On the night, the sense was that if there was going to be a guarantee for the sector, they would all participate in it. Again, the point was to not isolate any one institution as being the weakest or the strongest. If it was announced the next day that a guarantee had been introduced but that it was only for Anglo Irish Bank and Irish Nationwide this might have raised questions the other financial institutions individually. The blanket guarantee provided cover for all institutions. By the same token, some of the other banks were concerned that they would have been lumped in with those two institutions because the perception would be created in the market that if Anglo Irish Bank, which many people knew was in serious trouble, was being guaranteed the other banks being guaranteed were equally in serious trouble.

Senator Sean D. Barrett: Based on Mr. Carswell's experience, what sort of rules should we have been implementing? The committee will be suggesting measures to prevent a recurrence of this. What rules would Mr. Carswell suggest we should put in place?

Mr. Simon Carswell: The rules that would be required have been already introduced under the new regulatory regime. It is important lending in particular areas is curbed, so that the regulator could, in respect of likely exposure in a particular sector, step in and apply limits and force the financial institution to abide by that. This needs to be backed up by aggressive action to ensure those limits met. It is not only rules, but actions, that are required. If both of these requirements are met there is a much greater chance of preventing something like this happening again.

Senator Sean D. Barrett: Did we understand the implications of joining the euro and the free movement of capital at the beginning of that decade?

Mr. Simon Carswell: I do not think we understood the risk around applying monetary policy across so many countries. Monetary policy is applied first and foremost to the biggest economies. A blanket monetary policy was applied across a patchwork quilt of different economies, some of which needed low interest rates and others of which needed high interest rates. Applying one interest to all economies creates the type of uneven credit scenario we witnessed during the crisis, leading some countries to experience to boom in lending we experienced.

Chairman: Before I call Deputy O'Donnell I would like to clarify a point with Mr. Carswell in regard to the Asset Covered Securities (Amendment) Act 2007. Can you explain what that Act did?

Mr. Simon Carswell: Prior to that Act, banks could take bundles of residential mortgages and use those mortgages to borrow in the debt markets. They would create a bond and go into the debt markets and sell the bond. That legislation allowed commercial mortgages to be used, which had not previously been allowed, to raise funding in the market.

Chairman: In chapter 5 of your book you explain how that Act came about and you say there was a concerted lobbying campaign. Could you expand on that?

Mr. Simon Carswell: I think I said it was a well co-ordinated lobbying campaign. It would have been co-ordinated by the financial industry groups and also individually. The senior bankers in each institution would also have sent letters to Department of Finance officials to say that this was a good thing. They would say the same thing, although they might change it slightly. That is what led to the comment from a Department of Finance official that they felt they were under siege at that point.

Also, as part of the lobbying campaign, we are aware of a high-profile private meeting that took place between a senior banker and a member of the Government at a dinner. We know from the correspondence after that dinner, which I got under freedom of information, that the legislation was discussed. The banker described the legislation as enlightened and innovative, and a model for the political, public and private sectors. I will quote from the letter that was sent by the senior banker to the member of the Government:

> I can honestly say that I find it hard to remember when I have had as enjoyable, insightful and stimulating few hours discussion. You raised a particular interesting issue, indeed challenge, on the question of influencing or at least informing the debate on where and how we take forward this great project that is modern Ireland.

That was an example of the type of access the industry got to the Government on that issue.

Chairman: How did that Act relate to the standing of the security of the bank? Did it make the bank more or less robust?

Mr. Simon Carswell: It would have allowed the bank to raise more funding. That would have helped the bank; it would have made the bank more stable. However, it also would have allowed the bank to use the money it had borrowed by selling the bond through passing it on in lending to customers. On one point, one could say that it makes the bank stable. If the money just sits there, that is fine as it is stable. However, if it uses it to lend more money to customers, clearly it is increasing its risk depending on where the money goes.

Deputy Kieran O'Donnell: I welcome Mr. Carswell. I wish to clarify something. Page 218 of Mr. Carswell's book refers to the night of the guarantee, when bankers from AIB and Bank of Ireland were in the discussions. Mr. Carswell said that the two banks thought the money would only be needed for the short term as the bankers were led to believe from the discussions that night that Anglo Irish Bank would be nationalised the following weekend. Who led them to believe that Anglo Irish Bank would be nationalised the following weekend?

Mr. Simon Carswell: I think it was presumed. I am not sure if it was stated explicitly that Anglo Irish Bank would be nationalised at the weekend. The view was that nobody on the night knew what the effect of the guarantee would be, which is why they wanted €5 billion both from AIB and Bank of Ireland. I think that the bankers when leaving had the sense that the bank was going to be nationalised that weekend.

Deputy Kieran O'Donnell: In Mr. Carswell's discussions with the banks, and obviously there is the issue of confidentiality, did the issue of nationalising Anglo Irish Bank specifically come up for discussion during the discussions with the Government on the night of the guarantee? When they met in Government Buildings did the nationalisation of Anglo Irish Bank come up for specific discussion?

Mr. Simon Carswell: I am not aware if it came up for specific discussion. There were representations made. Affidavits have emerged in more recent times which outline the accounts of each of the bankers who were in those meetings. I am sure the Deputy is aware of them. I think the representations that were made on that night by at least one of the banks was, "You need to take out Anglo Irish Bank and Irish Nationwide because they are major issues". They were causing problems for them. AIB and Bank of Ireland felt that having Anglo Irish Bank and Irish Nationwide Building Society not dealt with and the perception of the market that there was something very wrong with Anglo Irish Bank - Irish Nationwide Building Society was not quoted on the market-----

Deputy Kieran O'Donnell: In respect of the discussions Mr. Carswell had with the bankers, did they leave on the night of the guarantee with the distinct impression that Anglo Irish Bank was going to be nationalised the following weekend?

Mr. Simon Carswell: I cannot speak for the bankers as to what they thought-----

Deputy Kieran O'Donnell: Mr. Carswell stated specifically in his book that the two banks were led to believe from the discussions that night that Anglo Irish Bank would be nationalised the following weekend. It is a critical point in terms of the guarantee. Obviously, we are getting evidence from many people appearing before the committee. In Mr. Carswell's view, was the distinct impression given that it would be nationalised?

Mr. Simon Carswell: It would be best to ask the bankers when they appear before the committee. I refer the Deputy back to what I wrote in the book. I think there was a sense, leaving that night, that Anglo Irish Bank was going to be nationalised. Nobody knew what would happen with the guarantee when it came into force, whether they would get funding and how the market would react.

Deputy Kieran O'Donnell: At that time there was the issue of solvency, particularly with regard to Anglo Irish Bank and Irish Nationwide Building Society and obviously for the other banks as well. Given the fact that they were considering nationalising Anglo Irish Bank, clearly that gave some indication of issues with solvency. There is a very narrow edge between liquidity and solvency in terms of a rapid run on liquidity. In Mr. Carswell's investigations, did the issue of solvency arise?

Mr. Simon Carswell: On the night of the guarantee?

Deputy Kieran O'Donnell: Yes.

Mr. Simon Carswell: I do not know if it came up specifically; I think the focus was on liquidity. However, in the run up to the night of the guarantee, there were certainly discussions around the solvency of the banks. In particular, a memorandum was released in which a senior Department of Finance official questioned just how much the capital losses would be at Anglo Irish Bank and Irish Nationwide Building Society and the need-----

Deputy Kieran O'Donnell: Is that the famous note of €8.5 billion?

Mr. Simon Carswell: Yes, and €2 billion for Irish Nationwide Building Society. It is not clear from the note whether it means the existing capital and then €8.5 billion and the existing capital at Irish Nationwide Building Society and then €2 billion. It is not clear whether there were other sums involved, but the question was being asked. Much of the attention that has been brought to this issue is that it was all about liquidity, but that note tells me that there were discussions around solvency.

Deputy Kieran O'Donnell: When did that take place?

Mr. Simon Carswell: From memory, it is a memorandum on a meeting that took place the Thursday before the guarantee.

Deputy Kieran O'Donnell: Finally, Mr. Carswell said in his statement, with regard to Anglo Irish Bank, that in the post-guarantee period prior to the bank's nationalisation, which was in January 2009, there were more pronounced efforts made by the bank to curry favour in political circles. Will he elaborate on that?

Mr. Simon Carswell: In the period after the guarantee Anglo Irish Bank was of the view that the Government was calling the shots, because it had the guarantee and Anglo Irish Bank was a financial institution covered by the guarantee. A concerted effort was made by the executive management team at Anglo Irish Bank to establish contacts with politicians. Certainly a meeting took place in the weeks after the bank guarantee between the bank and members of Fine Gael.

Deputy Kieran O'Donnell: Fine Gael or Fianna Fáil?

Mr. Simon Carswell: Fine Gael.

Deputy Michael McGrath: I welcome Mr. Carswell and thank him for his attendance. I refer to chapter 14 of his book dealing with the guarantee. Perhaps I can put some matters on the record and ask Mr. Carswell to confirm if he believes they are accurate. Mr. Carswell refers to a view within Anglo Irish Bank on 29 September 2008 that it would be short at least €1.5 billion the following day and that the bank would not be able to open the following morning. Was that the clearly understood position within Anglo Irish Bank on that date, that it was an existential crisis for that bank as it would not be able to open on the following day?

Mr. Simon Carswell: Absolutely. The efforts made by the bank on that day, Monday, 29 September, and the fact that it approached Bank of Ireland and subsequently approached AIB shows what an emergency it was at Anglo Irish Bank at that point. Also, they knew they were going to run out of money that night.

Deputy Michael McGrath: Mr. Carswell said the bank had lost €1.8 billion in deposits over the course of the day, 29 September, and did not have any reserves left. The bank had borrowed €900 million from the Central Bank, and there was more than €2 billion of debt which had to be repaid the following day and if depositors came knocking, Anglo would not have been able to pay them.

Mr. Carswell also made reference to-----

Mr. Simon Carswell: If the Deputy does not mind I will just get a copy of my book.

Deputy Michael McGrath: That is fine. I will not be quoting extensively from it. I just want to tease out some points. I am on page 213.

Mr. Simon Carswell: The Deputy is on the second edition.

Deputy Michael McGrath: I am; page 213. Mr. Carswell names an individual who I will not name but he states that the view within the bank, at the very end of September 2008, was that there were only €500 million of bad loans on an overall loan book of €73 billion. That was the position as Mr. Carswell understands it from the perspective of the institution at that time.

Mr. Simon Carswell: Yes.

Deputy Michael McGrath: That was the extent of the losses on the loan book.

Mr. Simon Carswell: That is what the bank thought the losses were.

Deputy Michael McGrath: Yes. Regarding the evening of 29 September, Mr. Carswell has a detailed chronology but he is clear, and it is on the record, that Anglo was not involved in the discussions later in the evening of 29 September. Their involvement was earlier in the day, with bilateral meetings with the other banks, the pillar banks, and so forth.

Mr. Simon Carswell: Yes.

Deputy Michael McGrath: On the question of solvency, which Deputy O'Donnell touched on, does Mr. Carswell believe there was an understanding within Anglo Irish Bank that at the end of September 2008 it was potentially facing a solvency crisis?

Mr. Simon Carswell: I do not think so. In terms of the figures the Deputy mentioned, they believed there was only €500 million of bad debts. I think they believed that. Given where the market was at that point they felt there was not a solvency issue; at least that is what they were presenting in private meetings at that time.

Deputy Michael McGrath: Does Mr. Carswell think they believed that?

Mr. Simon Carswell: I do. The big debate is on what the bankers knew at a particular point in time. I speak a lot about the difficulties in how banks value loan books at particular moments and assess the quality of loans. Are borrowers repaying everything? At this point, and it was established - there was certainly some reference made to it in the market - there was a very heavy roll-up of interest, which would suggest that the banks were not getting their loans repaid, but I do not believe that had fed through the system in terms of their auditing and preparation for later accounts.

Deputy Michael McGrath: Within the authorities, namely, the Central Bank and the Financial Regulator, does Mr. Carswell believe there was any sense at that time, in the eye of the storm at the end of September 2008, that we were looking potentially at solvency issues or did they believe it was a liquidity issue as well?

Mr. Simon Carswell: I think their focus was very much on the liquidity issue and the funding side of the balance sheet. I do not think they had jumped to the "what if" scenarios around the solvency of the banks, with the exception of the Department of Finance official I mentioned earlier in their memorandum. I think it is the same memorandum, but I could be wrong, where it is ruled out by a member of the regulatory authority, that there is not a solvency issue with the banks. That answers the Deputy's question as to what they thought at that moment.

Deputy Michael McGrath: I ask about the workings of the credit committee and the risk and compliance committee within Anglo Irish Bank during the critical years from, say, 2003 onwards. How would Mr. Carswell characterise how they worked and the governance arrangements that would have applied?

Chairman: I will allow the Deputy a brief supplementary, and that will be his last question.

Mr. Simon Carswell: Could the Deputy repeat the question?

Deputy Michael McGrath: On the credit committee and the risk and compliance committee within Anglo, how would Mr. Carswell characterise their workings during the years when there was a major expansion of credit from the bank to the property and related sector?

The Chairman has asked me to put my final question. Mr. Carswell has documented a lot of very useful information in his book but where does he believe there are potential gaps in our knowledge of the crisis and the crisis management, and where does he believe the inquiry could usefully focus its work to try to fill in those remaining gaps?

Mr. Simon Carswell: The Anglo credit and risk infrastructure or committees were set up to find a "Yes" in loans that came in from customers and loan proposals. It was almost regarded as a lender's failure to get a borrower's loan deal over the line. That was seen as a problem for the lender and not the borrower, so the comment I made earlier that the bank was too close to its borrowers stands. They were way too close, and I used the word "cosy" in my opening statement. I think they were very cosy, and in terms of the inability of both the lenders looking to get the loan deal over the line and the people looking to approve that loan deal, that whole scenario was established to do whatever they possibly could to get that money to the borrower. The question not asked at a much broader level by the senior management of the bank was, "Should we be doing all this lending into property?" In the credit and risk committee that was never discussed.

Deputy Michael McGrath: What about the gaps in our knowledge?

Mr. Simon Carswell: The gaps in our knowledge will come from the confusion around what people were thinking on the night of the guarantee. There is very little paperwork on the guarantee, and we need to find out exactly what was the thought process behind the decision-making on the night of the guarantee, to go through the pros and cons list that was provided by the investment banks, the reason other options were not considered, and why this one was considered. There has been some discussion on that publicly by one former significant member of Government but we have not heard their thinking on the thought process behind the reason it was chosen, and also the reason the other options were ruled out.

Deputy Joe Higgins: Mr. Carswell mentioned that by around 2004 it would have taken a benign dictatorship to reverse the direction in which Anglo was going in terms of the huge growth and profit-taking, and he referred to a juggernaut of support in the markets, which I take it would mean banks, bondholders, developers, etc. On the other side of the equation, where was the voice of the small people at that time, say, the young working people who were seeing the price of a home increase by the equivalent of the average industrial wage each year and who were forced into 40 year mortgages? Was that voice heard anywhere in the markets?

Mr. Simon Carswell: Earlier in the process, in the late 1990s, there were certainly some discussions to the effect that people cannot afford to buy a home so what do we do? Do we try to take some heat out of the property market or do we do something else? The "something else" was that we need to pay people more money, in broad terms. In terms of the wage growth that was set and the wage increases provided to people to be able to afford property, that was going at it the wrong way. Rather than trying to put a limit on the market and take some of the heat out of the property market, the developments in pay and the increases in wages came at it at the other end so that people could afford to borrow.

Deputy Joe Higgins: Should there be legislation controlling speculation, profiteering on building land, and the feed through to the price of an ordinary home?

Mr. Simon Carswell: It is a very broad subject but speaking from a banking perspective as to what should be done to curb speculative development and speculative lending, certainly curbs could be put in place by the regulatory authorities if there are runaway banks giving too much money to one sector in particular. That is certainly a way of tackling exorbitant growth in property prices.

Deputy Joe Higgins: Amazon's advertisement for Mr. Carswell's 2006 book, *Something Rotten: Irish Banking Scandals*, states the following:

> Ireland has tolerated a culture of poor standards and weak regulation in its financial services sector ... A tradition of silence and evasion prevailed. Driven by an insatiable hunger for profits, some bankers had taken huge risks. But whistleblowers were unwilling to remain silent, and they revealed the murky details, exposing sinister banking practices.

Considering what was known in the early 2000s about these scandals and what was in the public domain, would Mr. Carswell have expected the regulatory and political authorities to be far more alert to what could develop in the banking system with the property bubble in the making? Does it look like they learned, or did not learn, from scandals such as this?

Mr. Simon Carswell: I think it is safe to say they did not learn. If one looks at the culture within Irish banking over the period of the scandals the Deputy mentioned from the first book, I believe there was a switch in the 1980s to performance related pay and that that is really what drove this activity by the banks - the desire to maximise earnings. It was always about beating the previous year's profits and bankers being set higher targets to meet goals, not just by their own institutions but also by the market. They wanted to see the share price go in one particular way. That should have alerted either the regulatory authorities or government authorities to understand what was going on in banking at the time and to take more aggressive action.

Senator Sean D. Barrett asked how the nature of the regulatory regime had changed in 2003. The focus was on protecting the consumer, not prudential standards in the banking sector.

Deputy Joe Higgins: In his statement Mr. Carswell details the cosy relationships between major players in the property sector, the construction industry and government and elected representatives. If one had not had this relationship, would the property bubble not have blown up?

Mr. Simon Carswell: I believe it certainly is a factor in the credit bubble and the property bubble.

Deputy Joe Higgins: Was the presence of the Irish Financial Services Centre, IFSC, a factor in the light-touch regulation which developed? Did the IFSC Clearing House Group see regular meetings between senior public servants from the Taoiseach's Department, the Department of Finance and financial institutions? Did this play a role in the alleged light-touch regulation which transpired during the bubble?

Mr. Simon Carswell: I believe there has always been a desire for the Government to do what it can to expand the IFSC. The IFSC Clearing House Group puts the industry in a unique position in that a very senior civil servant chairs the group. This gives the financial sector unique access to policy-making decisions and members of the Government.

Deputy Joe Higgins: Mr. Carswell's opening statement tells us, "There are examples of politicians and public representatives getting involved in land speculation deals, building projects and property investments, in one notable case, in partnership with a major figure from banking, while continuing to serve as public representatives, right up to and during the economic crisis." Is it Mr. Carswell's view that this nexus of public representatives and land speculation deals would have had a decisive influence in allowing laxity in regulation and the type of legislation that might have been put through Parliament? Would such decisions be influenced by this type of relationship?

Mr. Simon Carswell: It certainly has an impact. There is a skewed relationship if a person close to a politician is involved in the property industry and if those trying to buy their first home do not have access to the same people. One group potentially has greater influence over the decision-making process.

Chairman: I am proposing to take a ten minute break as soon as Senator Susan O'Keeffe finishes her questions.

Senator Susan O'Keeffe: When Mr. Carswell mentioned the person at senior level in AIB who had serious reservations, did he continue to say, or not say, whether these reservations had been taken on board? I do not believe he finished the thought.

Mr. Simon Carswell: My understanding is that the reservations were raised but not taken on board.

Senator Susan O'Keeffe: In the course of his investigations, during the time he was writing books and as a financial correspondent, did anybody ever telephone or meet Mr. Carswell to ask him to stop? Were his telephones ever tapped?

Mr. Simon Carswell: No.

Senator Susan O'Keeffe: We talked a little about the banks packaging their loans and using residential mortgages to do so.

Mr. Simon Carswell: Yes.

Senator Susan O'Keeffe: It did not become legal to package commercial mortgages until 2007 when legislation was passed.

Mr. Simon Carswell: Yes.

Senator Susan O'Keeffe: Does Mr. Carswell know if commercial loans might have been packaged prior to that date and nobody knew, or did this not happen?

Mr. Simon Carswell: I am not aware of it happening before the legislation was passed. If one looks at the amount of lobbying for it to happen, it suggests it had not been done in the past. They really wanted it.

Senator Susan O'Keeffe: Are we aware of any change in the way banks made loans after 2007? Did it make them more or less careful, or did it have any impact at all on the quality of loans?

Mr. Simon Carswell: Does the Senator mean after the legislation was passed?

Senator Susan O'Keeffe: After the 2007 legislation was passed. Did they start to lend more because they had this capacity, or did it make any difference?

Mr. Simon Carswell: I do not know the amount borrowed using the amounts raised on that debt after that legislation was introduced.

Chairman: Did the product range change, for instance, the mortgage products that were made available afterwards? For example, did they include 100% mortgages or interest-only mortgages?

Mr. Simon Carswell: No, the legislation was passed very late in the day in 2007.

Senator Susan O'Keeffe: Other countries had that legislation, whereby commercial mortgages could be used in that way.

Mr. Simon Carswell: They did. In a way it levelled the playing field internationally, certainly for Ireland in getting onto the playing field.

Senator Susan O'Keeffe: What is Mr. Carswell's explanation for the way in which some loans were made, with unverified assertions, inaccuracies, incomplete and no information provided? Does he have a feeling for, or an understanding of, why the banks became so careless in the way they allowed loans to be made?

Mr. Simon Carswell: It was so profitable because the property market was rising and they wanted to get the money out as quickly as possible. In some instances and some financial institutions the paperwork was done afterwards, at the same time the money was given. All of the verification checks to make sure the customer was good for it were made as the loan was given. Again, it goes back to the very close relationship between some of the banks and the borrowers. The banks knew them so well that it was felt there was no issue and no worry about getting the paperwork done. The key was getting the money out as quickly as possible. Many rival developers were bidding for the same land and each developer may have been backed by a different bank. It was the competitive race to buy the land which drove this process.

Senator Susan O'Keeffe: The banks started to become involved in the actual vehicles and to take shares in property development. How did this change the relationship, in having banks involved in developments? Was this appropriate, different or not a problem?

Mr. Simon Carswell: That happened at Anglo Irish Bank and Irish Nationwide. They became players in the deals. Anglo Irish Bank had a wealth management division where many people had money on deposit, many of whom would also have been borrowers at the bank. When there were opportunities to do deals for the wealth management division, the bank used the pot of money already in the bank to help to buy these deals. Irish Nationwide was actually a shareholder in some developments with one of its biggest customers.

Senator Susan O'Keeffe: Would it be fair to say the wealth management division in any bank became the engine room for some of this activity?

Mr. Simon Carswell: I do not think one could say it was an engine room, but it was certainly a pot of cash within the bank which could be used to help in property speculation. It was certainly a pot of cash that was within the bank that could be used to help in the property speculation. In some instances, the actual supposed equity or cash that was used in these deals would itself be borrowed so that in some transactions there would be debt on debt on debt and very little cash in the transaction. Again it comes back to the fact that the banks were competing with each other with their customers to buy very valuable land.

Senator Susan O'Keeffe: I have two final questions. Is Mr. Carswell aware of whether any of those private clients in banks were themselves politicians? When Professor William Black appeared before the committee he talked about the myriad ways in which bankers take money out of the system, that is, they took cash out for themselves. Is that something Mr. Carswell looked at or knows about and could he suggest in any way how bankers took the money out for themselves?

Mr. Simon Carswell: I did not hear his testimony so I do not know what he was getting at.

Senator Susan O'Keeffe: Is Mr. Carswell familiar with any way in which bankers, the people who ran the banks, could take money out of the banking system for themselves, their own private flow of money out of the bank?

Mr. Simon Carswell: I think they used to invest in shares. Most of the banks would offer share incentive schemes to their executives. In particular, in Anglo Irish Bank, the senior management team would have significant amounts of shares, proportionately more than one would see at AIB or Bank of Ireland. In terms of getting money out, they bought in but they did not cash out those shares because it would have been perceived as a weakness if the executives were cashing from their own bank. I am not sure, I do not get how the Senator is saying they take money out.

Senator Susan O'Keeffe: That is fine. The other question was whether Mr. Carswell was aware from his research if any other members, private clients of banks, were themselves politicians? Did anybody ever make that observation or suggestion or does he know?

Mr. Simon Carswell: There are politicians who were customers of the banks but whether they were involved in these deals-----

Senator Susan O'Keeffe: I mean at that level, I do not mean-----

Mr. Simon Carswell: Not that I am aware of at that level. I know of one politician who was involved in a property land speculation deal involving a senior member of the banking industry.

Senator Susan O'Keeffe: Is that a story we are aware of or is it in his private knowledge?

Mr. Simon Carswell: I have written it.

Senator Susan O'Keeffe: I thank Mr. Carswell.

Chairman: Before we take a short recess, I want to round off one area which was touched on in a number of questions, namely, the competition that was taking place between the different lenders and the loans going to developers. Mr. Carswell gave an image of particular tracts of land where competition was taking place. During that process, was a marked weakening of the security being sought by Anglo Irish Bank and other banks as competition heated up a topic among the building developer community? Were they discussing it themselves?

Mr. Simon Carswell: I am not aware if there was any such discussions. I think they were too busy making money to be worried about-----

Chairman: -----how they were getting money.

Mr. Simon Carswell: Yes.

Chairman: Was there any sense that the protocols to draw down the funds were becoming more lax? Was that being discussed by-----

Mr. Simon Carswell: Sorry, Chairman?

Chairman: Was there any sense that the protocols to draw down these funds were becoming more lax? Was there any comment to suggest it was easier to get money than, say, last year or that it might have been tougher to get €50 million two years ago but now it seems easier, or that it was significantly easier to get large sums of money from one bank?

Mr. Simon Carswell: There was a frenzy to lend to the developers. Perhaps I can give an example. In some instances the banks would approach the borrower asking if he was interested in the land and, if so, the bank would help the borrower to buy it. The developer might be on the radar but may not have been interested until the bank raised the issue. Certain developers aligned themselves with certain banks so that competing race to buy land was very frenetic as the property market was rising. Clearly, at particular points in time, as Anglo's business model was doing so well, the other banks starting coming in. In the period from 2004-07 in particular, there was a marked increase in competition between the banks and the foreign lenders were very actively becoming involved in the property development.

Chairman: In each case when securitised loans were made did the examination become stricter, more lax or did it remain the same?

Mr. Simon Carswell: I think it became more lax.

Chairman: Can Mr. Carswell give an example?

Mr. Simon Carswell: In the case of Anglo there would have been corridor credits where the money was approved much more quickly than it may have been previously. In the case of Irish Nationwide there would have been some very quick turnarounds. Anecdotally, one heard stories all the time during the boom that one bank would take much longer than another and some were aggressive lenders. They could agree the deal there and then in principle over breakfast or on the building site as they were showing the bankers around the site they wanted to buy.

Chairman: I thank Mr. Carswell. I propose we take a brief recess and return at 6.45 p.m. Is that agreed? Agreed.

Sitting suspended at 6.35 p.m. and resumed at 6.45 p.m.

Chairman: We are back in public session. We will continue our engagement with Mr. Carswell. The next questioner is Senator Marc MacSharry.

Senator Marc MacSharry: I thank Mr. Carswell for being here. In a speech given in Dublin City Library in 2012, he said:

> You hear talk now about Trichet, Jean-Claude Trichet, the European Central Bank president, threatening Ireland and some say the fear was that they would withdraw the funding from the Irish banks. I'm not sure they could have done that but what they could have done is put pressure on the Government by increasing the charge and increasing the interest rate on that.

Why did Mr. Carswell say this about the threat of the ECB to withdraw funding? Why would or could it not have done it?

Mr. Simon Carswell: Those public comments were made prior to Jean-Claude Trichet's letters to the then Minister being made public. I was speaking somewhat blind about the content of those letters. My understanding was that the threat at the time if the Government did not accept a bailout of the country - the fear within Government - was less about the money being withdrawn because it had been already been lent by the national Central Bank. The ECB's way of cranking up the pressure on the Irish Government was it could increase the borrowing cost of that money. If you go back again to what was the trigger for the bailout, it was the exposure of the national Central Bank and the European Central Bank borrowing to the Irish banks and how quickly that went up.

Senator Marc MacSharry: I get that. To follow on, it was before the letters.

Mr. Simon Carswell: Yes.

Senator Marc MacSharry: Now that we know what was in the letters and they are in the public domain on the ECB website and so on, what does Mr. Carswell think now?

Mr. Simon Carswell: Of what?

Senator Marc MacSharry: Of that statement. Would or could they have withdrawn funding? Mr. Carswell said at the time he was sure they would not.

Mr. Simon Carswell: Legally could they have done it, or practically could they have done it? There is a difference. Practically I do not think they could have done it. You cannot withdraw funding if it is already lent. They could certainly put pressure on to increase the cost of it. That was the lever they could have pulled to put pressure on the Government. It came under exceptional liquidity assistance funding, ELA. It jumped so quickly because the money was borrowed by all of the banks but in particular by Anglo Irish Bank through the ELA facility at the national Central Bank. It had to be approved by the European Central Bank and required two thirds of the governing council to vote on it. The "could" I mentioned in that statement that I made - what is the date I gave the speech?

Senator Marc MacSharry: It was in 2012 in Dublin City Public Libraries.

Mr. Simon Carswell: I think my knowledge of it at that point, prior to the letters being released, was that practically I just do not think the European Central Bank could have withdrawn funding, but it could have used that lever to increase the cost. If you increase the cost of funding to the banks they have to pay it and they could not afford to pay it, so that would have caused problems.

Senator Marc MacSharry: In the post-letters environment, what does Mr. Carswell think the letters meant?

Mr. Simon Carswell: What do I think the letters meant? In what context?

Senator Marc MacSharry: In the context of withdrawing assistance. Was there an implicit or explicit threat to Ireland that if it did not take action A, response B would happen from the ECB?

Mr. Simon Carswell: I think it is in there, yes. It was certainly played out. When people want to apply pressure in this kind of very official correspondence, they do not say, "If you do not go into a bailout I am going to pull your money or I am going to start increasing your costs". Obviously, the Government gets the correspondence and looks at it and says, "What can he do here? How can he increase the pressure on the Government to accept the terms of an EU-IMF bailout?"

Senator Marc MacSharry: Mr. Carswell thinks it could not have done it, the Government would have known it could not have done it and could have done what it liked, basically.

Mr. Simon Carswell: No, that is not what I am saying. What I am saying is that the pressure could have been applied in a particular way. It is still pressure.

Senator Marc MacSharry: It could increase the cost and that was it. Does Mr. Carswell think the ECB could or would have let Ireland burn bondholders?

Mr. Simon Carswell: Which bondholders?

Senator Marc MacSharry: Any of them, effectively, any of the senior bondholders, any of the----

Mr. Simon Carswell: The senior bondholders.

Senator Marc MacSharry: Yes.

Mr. Simon Carswell: No. I do not think they would have let the Government allow the burning of senior bondholders because of the contagion effect across all of the banks. If you go back and look at what was on the table at that point, there was money - I cannot recall the exact figures - senior bonds were due by Anglo Irish Bank. Because it was a defunct lender, obviously in the world of capitalism it should follow that those people should not be repaid because the bank is bust. When the attempt was made to apply losses on senior bondholders it was like, "You cannot do that. There will be this contagion effect and all of your banks will be affected". The ability to raise bonds and money as a result of that decision would be damaged.

Senator Marc MacSharry: Is Mr. Carswell familiar with the testimony given by Professor Honohan to the committee?

Mr. Simon Carswell: Partly. I have only seen whatever was on the news broadcasts.

Senator Marc MacSharry: Is Mr. Carswell familiar with the fact that Professor Honohan corrected the evidence and then published it?

Mr. Simon Carswell: I am aware of that.

Senator Marc MacSharry: Has Mr. Carswell any view on that?

Mr. Simon Carswell: I was surprised when I saw it because he said something different in here in this forum from what he had written in his report.

Senator Marc MacSharry: Does Mr. Carswell have a view on why?

Mr. Simon Carswell: I have no idea. I cannot speak for the Governor and have no idea what his thinking is or why he said what he said.

Senator Marc MacSharry: So you were just surprised.

Mr. Simon Carswell: Yes.

Senator Marc MacSharry: Okay. That is it.

Deputy Eoghan Murphy: I thank Mr. Carswell. He had a special position at the time of the crisis because he was a journalist and was able to see people speaking and acting publicly as well as speaking to them privately. He was able to see things like briefings behind the scenes or lobbying activities and was probably made aware of them. Was there a concern during the run-up to the crisis either personally within himself or in the profession about the extent and types of those relationships? In Mr. Carswell's opening statement he talks about cosy relationships.

Mr. Simon Carswell: It depends what you are talking about. Much like the debate around whether it was a liquidity or solvency crisis, the focus - I started in *The Irish Times* reporting day-to-day on the banks in September 2007. It was all about liquidity at that point. My focus in particular was how exactly banks were funding themselves, how this international crisis was affecting their funding. In the latter part of 2007 and early 2008, did the banks have sub-prime assets on their books? That was the real warning sign - if we saw some of those sub-prime assets on the books of the banks they could potentially be in serious trouble. The crisis evolved and became more about domestic deposits through mid-point in 2008 and as we know with September 2008. The concern about the relationships I speak about in the opening statement did not really figure in my coverage at that point because the focus was very much liquidity. Certainly the questions started being asked. As I mentioned before, in the report in May 2008 the level of interest roll-up, which is a sign of distress - borrowers cannot pay their interest so it rolls up - indicated that it was a risk to the banks. In the middle of 2008 we started wondering how exactly these banks were being affected. Then the liquidity crisis reached a peak with the guarantee and thereafter, in the following two years right up to the present, it is about solvency and the quality of the loans in these institutions.

Deputy Eoghan Murphy: At the time of the guarantee and that crisis period, was Mr. Carswell concerned with the pace of decision making about how certain relationships might have been affecting how decisions were taken?

Mr. Simon Carswell: To address the first part of that question, I was certainly concerned, although concern is the wrong word to use. I was surprised at the pace at which the crisis was developing, how quickly it happened. I did not necessarily jump to what access do people have at this time. We were following it as a day-to-day crisis, it was panic stations for a lot of these financial institutions in the second half of 2008. We now know that Anglo was €0.5 billion a day, up to €1 billion a day. The money was draining out of the bank. There were daily meetings in the banks and daily reporting of just how bad it was to the Central Bank and Financial Regulator.

Deputy Eoghan Murphy: Did Mr. Carswell notice any change in the relationships between the key actors that he had spoken to as the crisis erupted and post the guarantee?

Mr. Simon Carswell: Certainly I saw much greater interaction between the Central Bank, the regulatory authorities and the banks. I do not know if they met every single day, but there was almost daily meetings.

Deputy Eoghan Murphy: Was this in the period building up to and after the guarantee?

Mr. Simon Carswell: Yes, specifically in the period up to the guarantee. As the guarantee came into effect and one could see the money coming back into the banks, the crisis declined.

Deputy Eoghan Murphy: Was Mr. Carswell aware of the blame game erupting between the principal actors at that time?

Mr. Simon Carswell: I do not know if I would agree with the use of the phrase "blame game". I think there was a sense that some institutions felt they were not as weak as another institution or that such an institution was much weaker than they were. Again, the concern during that week was with the blanket guarantee, that it was not differentiating between the weakest and the strongest. We now know that most of the institutions - given what they had on their loan books but which had not come through at that stage - were in dire straits, certainly from a liquidity point of view but some banks had solvency issues. The market had not fallen to the extent that it did later which exposed those solvency issues.

Deputy Eoghan Murphy: The banks were briefing against each other?

Mr. Simon Carswell: I would not say they were briefing against each other, it was more a case of - particularly on the night of the guarantee, as I understand it - a fear among the other banks of being lumped in with Anglo Irish Bank and Irish Nationwide. The other banks wanted it to be known that they were not as bad as Anglo Irish Bank and Irish Nationwide.

Deputy Eoghan Murphy: What understanding did Mr. Carswell have of the relationship between the coalition partners in government at that time?

Mr. Simon Carswell: What does the Deputy mean exactly?

Deputy Eoghan Murphy: Was Mr. Carswell keeping up contact with senior sources in either of the Government parties?

Mr. Simon Carswell: My memory of that period was that I was trying to talk to everybody I could in all of the different agencies to try to find out what was going on. There was a sense of out-and-out panic. People were trying to figure out what was going on. From the point of view of a journalist it was a fertile time to be reporting on it because one was able to find out a lot more. People across the spectrum were speaking to me and other journalists to try to find out what I had heard. It was a frenzy of trying to find out information about what was going on.

Deputy Eoghan Murphy: As things settled after that crisis period, did Mr. Carswell notice a change between the coalition partners, in terms of the levels of trust between them?

Mr. Simon Carswell: I cannot answer that. I do not know. My focus was very much on the financial banking side. I would say that the coalition partners were up to speed with each other on what was going on. There was a incorporeal Cabinet meeting to agree the guarantee, as we know, so they were all contacted. My understanding is that yes, there was certainly a concerted effort by members of the junior party in the coalition to find out exactly what was going on. I do not think that anyone was kept in the dark.

Deputy John Paul Phelan: I welcome Mr. Carswell. In his response to the Chairman's first question, Mr. Carswell mentioned briefly the role of auditors. Are the rules regarding how auditors audit the accounts of financial institutions post-crisis, effective? Will the changes that have been made be effective into the future? Several witnesses have pointed to a potential conflict, at least, in terms of how auditors are appointed by financial institutions versus their role in auditing the accounts of those institutions. Does Mr. Carswell have any views or comments as to the method by which auditors are appointed?

Mr. Simon Carswell: I am not up to speed on the entire changes that have been made in the accountancy profession in response to the crisis but I can speak about the way things were then in regard to the posting of provisions, that is a bank setting aside money because it expects a certain part of its loan book to go bad and this was very much under-provisioned. I think the crisis showed that banks needed to put aside rainy day money so that should things go bad they would have enough general provisions. There was an attempt, very late in the day, to apply general provisions. After the guarantee period, the banks were saying that the loans had not gone bad but they had put aside a pot of €500 million in case they do. That should have been going on for years, even during the good times but because the credit markets were doing so well, the problems with loans were covered by a rising market. That is what really shrouded all of the problems that occurred in the accountancy profession.

In response to the Deputy's question on how auditors should be appointed, I certainly think there should be a rotation of auditors much more frequently than there had been. I think that would apply a fresh set of eyes to a set of accounts or financial statements. With the nature of auditing, they may need to bring in some future forecasting as well. That might require auditors to hire economists, mathematicians or people who can look ahead and foresee potential problem when one has 50% of the loan book in a particular sector that if the following ten things should happen there could be problems. Auditors will say it is all about looking backwards, but I think there needs to be a focus on forecasting, but as I have said, I do not know if the changes cover that.

Deputy John Paul Phelan: I want to refer briefly to the lobbying issue that Deputy Murphy mentioned. Mr. Carswell referred in his opening statement to cosy relationships, which Deputy Murphy mentioned. In the period prior to the crisis, did Mr. Carswell unearth any evidence of those lobbying relationship between either financial institutions or representatives of the sector and leading political players at the time and how those relationships may have impacted on decisions of the then Government?

Mr. Simon Carswell: It was reported at the time that there was very active lobbying taking place in response to some of the recommendations of an economist after the report he did on the property market in 1999 and 2000. The recommendations in that report were not followed up and I think that lobbying was a factor in that.

Deputy John Paul Phelan: Did Mr. Carswell have evidence of specific lobbying of specific people?

Mr. Simon Carswell: I was not reporting on it at the time. I am referring to other reports, which are not my reports. There would have been lobbying when the review was announced of the tax reliefs in 2004. An announcement was made that the Government was reviewing all the tax reliefs, be it for the multistorey carparks over the shop, accommodation and so on. I think there was period of frenetic lobbying around that time. It was widely known and reported at the time. I do not know what influence that had but the policies - - - - -

Deputy John Paul Phelan: Who was lobbying who, without naming names?

Mr. Simon Carswell: Representative groups of the construction industry were very active.

Deputy John Paul Phelan: Who were they lobbying?

Mr. Simon Carswell: They were lobbying various members of Government and also Department of Finance officials because they formulate tax policy.

Deputy John Paul Phelan: Mr. Carswell mentioned in his book, but I did not bring my copy today, the bonus structure that existed. There were several references throughout *Anglo Republic: Inside the Bank that Broke Ireland* of the bonus structure. Will he give examples of the differences that existed between institutions and also between different bonus levels for senior and lower management levels? Does he believe the bonus structure was a component of the ultimate collapse?

Mr. Simon Carswell: I think it was a factor but I do not know what weighting I would apply to it. It was not just builders and property developers who were getting rich. If profits were met as well as certain targets being met by bankers, they would get substantial share options and if memory serves me, bonus were paid over three years at Anglo Irish Bank. If one is looking at bonus structures now, the changes to be made is to put it over a much longer period and that would certainly make bankers more prudent in terms of having their decisions on loans being viewed over a longer period, so that if a loan goes south the person may not be paid the bonus that was agreed at the time he or she had agreed the loan.

Deputy John Paul Phelan: In Mr. Carswell's new role in the United States, has he obtained any information about the alleged intervention of the then US Treasury Secretary, Mr. Timothy Geithner, which he has written about in his own book, in relation to the prevention of the burning of senior bondholders in 2010.

Mr. Simon Carswell: No, but Mr. Geithner has written the *Stress Test: Reflections on Financial Crises* and I have tried to get an interview with him several times.

Deputy Pearse Doherty: I welcome Mr. Carswell. I will begin with his previous book *Something Rotten: Irish Banking Scandals*. I have referenced it before in the inquiry. He deals with the DIRT scandal on page 151 and he says, "The controversy revealed that in 1980s and 1990s Ireland there existed a culture of State and bank sponsored tax evasion." Could he speak to this for the committee and outline what he means in relation to that culture of State and bank sponsored tax evasion?

Mr. Simon Carswell: The reference I made there was the fact that many players knew that there was a problem with the non-resident accounts. They knew that they were not non-resident. They knew that they were resident so they were therefore bogus. People recognised that there was a problem, Revenue Commissioners, senior Government departmental officials and the Central Bank. Again, I mentioned it earlier, throughout the scandals the flight of capital was a big fear. If we moved aggressively against these accounts, and it was estimated that there were substantial funds in these accounts, would that scare off the actual non-resident depositors in the Irish banks. There was consideration given to how to find out if they were non-resident or not and the proposal at the time from the Fine Gael-Labour Party coalition in 1983 was to get them to swear an affidavit. The view was to ask every non-resident to swear an affidavit that the account and the money in that account belongs to them and they are not living in the Republic. The view was that that would scare them off and they would just take their money elsewhere. I think the flight of capital risk was completely overplayed in this period. To me it was sometimes a convenient excuse when I looked at the scandals in that period. Particularly in the 1970s and 1980s when the country was on its knees financially, it was totally overplayed and there should have been much more aggressive action. There is a whole other inquiry which looked into all of this and the findings were that absolutely all of those players that I mentioned should have taken the action.

Deputy Pearse Doherty: If I can bring Mr. Carswell forward two decades in relation to the relationships that he mentioned. How did the cosy relationships that he mentioned in terms of politicians, developers, bankers and regulators, manifest themselves? How did it work?

Mr. Simon Carswell: That is the difficulty. We do not know exactly the contacts that were made and I made reference to quasi-social occasions in my opening statement. We do not know exactly the interactions that take place but we know they are close. As a journalist I was always interested in this and I tried to get into Fianna Fáil's Galway tent, for example, and I got in one time and I saw it. I saw the close contact between the people they had invited or donors, whoever they were, and various Government Ministers. What struck me at the time was, "I wonder what they are talking about." We do not know. That is the problem. The lobbying that we do know is often found out through freedom of information requests to Government Departments.

The media, and certainly I, as a reporter trying to find out more, would be constantly hitting walls trying to find out exactly the relationships between these people and what it means in terms of forming policy on certain issues and it is not at all transparent.

Deputy Pearse Doherty: In his opening statement Mr. Carswell said, “These cosy relationships would prove extremely costly,” and he went on to talk about the cost of the bank bailout. Where does he put the relationships in terms of the mix that caused the State to absorb €64 billion of banking costs?

Mr. Simon Carswell: As in what factors---

Deputy Pearse Doherty: In Mr. Carswell’s view how important or unimportant were the relationships to the Irish banking crisis?

Mr. Simon Carswell: The relationships are down the blame list as to who is responsible but they are a factor, of course they are. We know, and the three banking reports have gone into this, that the tax incentives that were there for the property market certainly fuelled the boom, not just in buying land but in lending. If a person could get their property sold quickly and could get a tax incentive to do so, to make it cheaper to borrow money or to buy land, then the banks would be encouraged to lend to that person, absolutely.

Deputy Pearse Doherty: Again, in his opening statement, Mr. Carswell said, “Moral responsibility for the excesses of this period can be cast widely but legal responsibility for what happened, and what was permitted to happen, far less so.” It is a different view than that put forward by Dr. Nyberg who was of the opinion in his report that, “The nature of systemic banking crises rarely allows blame and responsibility to be confidently allocated.” Mr. Carswell has purposely challenged this view by saying that there were a limited number of people involved in key decision-making. When we talk about the limited number of people are we talking about single numbers, double numbers, or a couple of dozen? What is Mr. Carswell’s thinking in relation to the number of people that could be held accountable?

Mr. Simon Carswell: If one goes to the list I mentioned to the Chair, the boards and management of the banks, the Central Bank, the Financial Regulator, members of Government, and then I think further down the list auditors would maybe be included in that. As I said in my opening statement, if one of those groups, like a bank, one bank, very openly said, “I am not going to go down there, I am not going down this route,” I think that would have had an effect. Would it have stopped the crisis totally? I do not believe so. It is very difficult to put a specific number but I think it could be brought down to dozens.

Deputy Pearse Doherty: I have two final questions. Was Mr. Carswell’s book ever legally challenged? As a result of his research in his book, is Mr. Carswell aware of whether any borrower of Anglo Irish Bank lobbied the Government in the run-up to the bank guarantee?

Mr. Simon Carswell: I am not aware of any borrower lobbying Government in the run-up to the bank guarantee. Which book is the Deputy talking about for legal challenge?

Deputy Pearse Doherty: *Anglo Republic*.

Mr. Simon Carswell: Neither book has been legally challenged.

Chairman: In Professor Nyberg’s engagement here with the inquiry he presented some views that freedom of information legislation limits the sort of record keeping that might be there in examining issues like this. Does Mr. Carswell have a view in regard to that in so far as officials or other people are reluctant to keep records?

Mr. Simon Carswell: I do not believe there should be any reluctance. I think the communications of civil servants should be open to the public even with the passage of time. I know there is the 30-year rule for State papers for example and obviously there are certain issues which require Cabinet confidentiality but as I said in my opening statement, I think sunlight is good medicine. I think transparency is very important. To get an understanding of what actually happened I think it is important to have contemporaneous access to decisions that are made by Government. When I try to find out information on things that are going on at a particular point in time it is very difficult and freedom of information provides an opportunity or channel to get it, but this is a question I raised about a particular institution, a bank, that there is no transparency. We do not know the process around, "Well, what about that line or this line?" What is the process around why I have been denied access to that information? I think the fact that we do not know makes it even more difficult. I think those concerns that it leads to people not taking notes have been overplayed.

Chairman: In chapter 8 of *Anglo Republic* Mr. Carswell discusses the domestic standing group which is one of the agencies that is one of the terms of reference of this inquiry and he mentions its role in a national contingency plan. He also mentions a presentation that took place on 7 February 2008 at the Department of Finance at which he suggests legislation was drafted empowering the Minister for Finance to introduce guarantees for banks and to nationalise financial institutions. This is in February of 2008. Could Mr. Carswell expand upon what actually happened there and what he recorded or what he uncovered?

Mr. Simon Carswell: My understanding regarding that particular information comes from a document that was released by the Department of Finance to one of the Oireachtas committees. I cannot remember which one. It explored the need to have something in our back pocket in case something happens. That was all part of the crisis management preparations that went on. There was a similar piece of legislation, but much broader, introduced in the UK called the Banking (Special Provisions) Act 2008, which was effectively providing a regulator a toolkit to fix a broken bank or to take it out or decommission it. It was very much of the time that governments were looking at that, in that the crisis was so bad and we had seen five or six months previously what had happened with Northern Rock, so we needed to be prepared. That is where that came from.

Chairman: That was seven months before the guarantee. By Mr. Carswell's examination, was this a modelling exercise or was this in preparation for a concern?

Mr. Simon Carswell: I do not think it was in preparation for a particular concern. I do not think they had an institution in mind. At this stage, I think it was really preparing for the worst, but they did not know which was the worst.

Chairman: Did the nature and design of the guarantee have any relationship with the country entering a bailout programme two years and two months later?

Mr. Simon Carswell: I think that the guarantee that was chosen - how broad it was - absolutely limited options, for example, the decision to cover dated subordinated bonds, which are pretty high-risk debts. People get paid a lot of money to hold them, in the teens in terms of percentage interest on what they would get on those. I was surprised by how broad it was when it was announced the following day. I was certainly surprised that there did not seem to be a very clear explanation as to why that debt was included. It is not quite clear exactly who decided on the night to include it. Somebody asked earlier about gaps in what we know. That is a big gap, in my view, in finding out exactly why dated subordinated debt was included.

Chairman: Prior to the entry into the bailout programme, Irish banks were receiving emergency liquidity assistance, ELA. Does Mr. Carswell understand the criteria on which ELA is provided?

Mr. Simon Carswell: I do.

Chairman: Does Mr. Carswell believe that the banks were meeting the criteria two years after the guarantee to qualify for ELA?

Mr. Simon Carswell: I think they were, yes. I think they were qualifying. I think there was alarm in Frankfurt at the rate of increase. The rate of increase arose because of the end of the two-year period of the guarantee. One thing that surprised me was that the ECB did not see that coming. We knew it was a two-year guarantee from September 2008, so there was always going to be a funding cliff at a particular point. I was surprised that the ECB was shocked that, suddenly, there was this huge increase in ELA borrowing.

Chairman: Beyond that two-year funding cliff, would the criteria for ELA have still stood or would something else have been required?

Mr. Simon Carswell: In what sense?

Chairman: In that the guarantee was going to expire within a two-year period and this was going to change the nature of how the banks were now capitalised and funded. The requirement for ELA was on the basis of what was in place for the two years following the guarantee. Would the nature of the banks' capitalisation and liquidity requirements still have meant that they were inside the requirements for ELA after the guarantee had expired?

Mr. Simon Carswell: I do not know what the Chairman is getting at there in terms of the specifics. I think that the collateral they had-----

Chairman: I suppose what I am asking Mr. Carswell is whether the ELA could have continued on indefinitely.

Mr. Simon Carswell: After 2010?

Chairman: Yes.

Mr. Simon Carswell: No. The ELA was the trigger for the bailout. That was the problem in Frankfurt. The European Central Bank's view was that it had taken on a credit risk with Ireland and it was exposed to Ireland because the State had stood behind the banks. Therefore, it was the State effectively. ELA is not for that purpose, and that is why there was alarm in Frankfurt and that is why there was that pressure that Senator MacSharry and I spoke about earlier.

Chairman: A final question for Mr. Carswell. Is he aware of any independent study or empirical evidence to suggest that nexus relations are any more or less pronounced here in Ireland and what, if any, are the effective means of controlling such relationships for the public good? Has Mr. Carswell any other final comment he might like to add?

Mr. Simon Carswell: I do not know whether it is more pronounced or not in Ireland. As I said in my opening statement, I think the fact that we are a small country and there is potential for more people - different people - to meet more often means that there is a requirement to have a very thorough register of lobbying, for example. I think that it should be as detailed as possible, within reason of course. I used the word “onerous”. I think it is important that we know who has access to Government decisions. It is not a bad thing. We just need to know so that we can figure out if decisions are made because there is certain undue influence brought to bear on a politician. The transparency, I think, will improve the process by which citizens make representations to their elected representatives.

Chairman: I thank Mr. Carswell. I call Senators D’Arcy and Barrett, after which we will conclude.

Senator Michael D’Arcy: I will address two aspects to continue on from the Chairman. In Mr. Carswell’s book, he stated that Bank of Ireland lost €10 billion in deposits in two months in late 2010 and AIB lost €12 billion in deposits in two months and that, in the calendar year, AIB lost a further €13 billion in deposits. Was the ECB right to look for its money back?

Mr. Simon Carswell: The period of time-----

Senator Michael D’Arcy: Two months after the end of the bank guarantee, the funding cliff appeared. Mr. Carswell’s book says that Bank of Ireland lost €10 billion and AIB lost €12 billion. In the previous six months, AIB had lost an additional €13 billion.

Mr. Simon Carswell: Yes, sorry. It was the timing.

Senator Michael D’Arcy: Was the ECB correct to look for its money back in light of the increased ELA? On top of that, Mr. Carswell wrote on page 305 that Anglo Irish Bank had primarily looked for increases of €14 billion from the Central Bank of Ireland. In the same two months-----

(Interruptions).

Chairman: The Senator should switch off his mobile telephone.

Senator Michael D’Arcy: Sorry. Anglo Irish Bank also looked for an additional €45 billion in those two months from the ECB.

Mr. Simon Carswell: There are two issues there. AIB and Bank of Ireland were looking for ECB funding like run-of-the-mill funding that any bank could have got. I am sorry, but I think that is the reference.

Senator Michael D’Arcy: Yes.

Mr. Simon Carswell: It is ECB ordinary funding. The issue with Anglo Irish Bank was - and this is what happened on the night of the guarantee - it ran out of assets that it could use as collateral to borrow. It ran out of its ability to raise money even with Central Bank support.

Senator Michael D’Arcy: There were no assets left with which-----

Mr. Simon Carswell: It had no assets that it or any bank could use to go to the ECB and say, “Can you give us some money and we will do this swap that we would ordinarily do by exchanging assets?” The alarm at the European Central Bank was that the increases had happened so quickly. The alarm bells were Anglo Irish Bank's ELA rather than AIB or Bank of Ireland's, but it was a concern. It would have been a concern as well.

Senator Michael D'Arcy: My last question is on which bank benefited most from the Asset Covered Securities (Amendment) Act 2007.

Mr. Simon Carswell: I just want to clarify about the Asset Covered Securities (Amendment) Act. It is not in itself a nefarious action, but it was an example of lobbying by the financial industry of Government and the Government agreeing to do it. It also brought the banks onto the playing field with the other banks internationally that could raise it. Also, I am not sure of the amount raised under the Asset Covered Securities (Amendment) Act. I am sorry, but what was the question?

Chairman: How much was raised? Mr. Carswell has answered it - he does not know.

Mr. Simon Carswell: I am sorry. That is it.

Senator Michael D'Arcy: No, I am sorry, but that was not the question.

Chairman: I am sorry. Go on.

Senator Michael D'Arcy: Which bank benefited most?

Chairman: Excuse me. Apologies.

Mr. Simon Carswell: I do not know because I do not know how much was raised.

Chairman: Same answer.

Senator Sean D. Barrett: Mr. Carswell wrote on page 129 in the book that directors of the bank borrowed €41 million from Anglo Irish Bank. Is there a number the committee should look at? What is a prudent amount to allow directors to borrow from a bank?

Mr. Simon Carswell: I just need to be careful here because it is getting into some ground that perhaps I should not go into when it comes to directors' loans.

Chairman: Okay. Is there anything else, Senator?

Senator Sean D. Barrett: I thank Mr. Carswell. Hypothetically, if we improve regulation, do we run the risk that one of our American experts presented to us of an AIG, a body that is not regulated but has so many connections with the bodies that one is trying to regulate and save that AIG must be included as well? Arising from that, is it possible to have a utility bank that would just look after people's savings and make the rest a casino, or are they inextricably linked, when we try to design a regulatory system for this sector in the future to make sure that none of this happens again?

Mr. Simon Carswell: I think stronger regulation rules, coupled with more intrusive actions by the regulatory authorities to understand if they are following the rules and to make sure they are constantly ahead of the curve. As the Senator will know, the financial services industry is very innovative. It will find new ways to make money, so it is a challenge for regulators to stay ahead of that. If one improves the rules generally and improves the action and interaction of the regulator with the banking sector, it will help more than if one sets up a utility bank and leaves the other banks to it. That just makes things difficult in the market.

Senator Sean D. Barrett: Shadow banks will say they are too big to fail as well, so the State again gets caught on the hook.

Mr. Simon Carswell: I do not think there should be shadow banking. It should be brought within the regulatory remit. It should fall under the watch of the regulator.

Senator Sean D. Barrett: I thank Mr. Carswell.

Chairman: On a point of information, in your opening statement you say that some of the heaviest losses incurred by the Irish Nationwide Building Society were on loans provided in the period leading up to, and after, the passing of this demutualisation legislation. Do you know how many people benefited from the demutualisation of Irish Nationwide Building Society? What was the payout?

Mr. Simon Carswell: It did not happen in the end because the demutualisation happened in the summer of 2006. It was put up for sale pretty quickly thereafter but the financial crisis hit. The number of people involved would have been in the order of 120,000 depositors but they did not get anything.

Chairman: What was the expected payout?

Mr. Simon Carswell: From memory, it was about €10,000 but that obviously depended on how much-----

Chairman: Per member.

Mr. Simon Carswell: Per member. That would have depended on how much they got for the building society. Three years after it was demutualised, it was in the red for €5.4 billion.

Chairman: Which bank was being identified as the one that would buy it when it came onto the market?

Mr. Simon Carswell: A number of parties were mentioned at the time. An American institution, GE Money, was mentioned as a prospective buyer. An Icelandic Bank, Landsbanki, looked at it but it met a sorry end as well. There were a couple of other parties.

Chairman: Were there any Irish banks?

Mr. Simon Carswell: Bank of Scotland Ireland looked at it for a time, in conjunction with a private property company which speaks to just how powerful private property companies had become when one was thinking about buying a bank.

Chairman: Is there anything further you would like to add to your contribution?

Mr. Simon Carswell: I would like to thank the committee for inviting me and wish it the best with its inquiry. My points are made in the opening statement, based around what you asked me to do.

Chairman: I note you made recommendations going forward, which this inquiry would hope to do in terms of giving added value to the examination. I thank Mr. Carswell for his participation in the inquiry. It has been a very informative and a valuable meeting, which has added to our understanding of the factors leading to the banking crisis.

The joint committee went into private session at 7.35 p.m. and adjourned at 8 p.m. until 9.30

a.m. on Wednesday, 11 March 2015.