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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉIREACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Déardaoin, 21 Bealtaine 2015

Thursday, 21 May 2015

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

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

DEPUTY CIARÁN LYNCH IN THE CHAIR.

Nexus Phase

Central Bank - Mr. John Hurley

Chairman: So with that said, as we've a quorum, the Committee of Inquiry into the Banking Crisis is now in public session. Is that agreed? And can I ask members and those in the public Gallery to ensure that their mobile devices are switched off? We begin today with session 1, public hearing, discussion with Mr. John Hurley, former Governor of the Central Bank of Ireland.

And in doing so I would like to welcome everyone to the 28th public hearing of the Joint Committee of Inquiry into the Banking Crisis. Today we continue our hearings with senior figures who had key roles before and during the crisis and the focus of this morning's session is on the years 2000 ... of 2000 to 2008, the implementation of the new Central Bank and financial regulation structures following the Central Bank and Financial Services Authority Act 2003 and the years building to the start of the crisis in 2008. The focus of this afternoon's session is on the years 2008 to 2009, the critical years in the build-up and immediate response to the crisis. John Hurley was appointed Governor of the Central Bank in March 2002, a position he held until his retirement in September 2009. Prior to this he has had extensive ... an extensive career in the Civil Service and served as Secretary General at the Department of Health and the Department of Finance. Mr. Hurley, you're very welcome before the committee this morning.

Before we start hearing from the witness, I wish to advise the witness that by virtue of section 17(2)(*l*) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If you are directed by the Chairman to cease giving evidence in relation to a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given. I would remind members and those present that there are currently criminal proceedings ongoing and further criminal proceedings are scheduled during the lifetime of the inquiry, which overlap with the subject matter of the inquiry. Therefore, the utmost caution should be taken not to prejudice those proceedings. In addition, there are particular obligations of professional secrecy on officers of the Central Bank in respect of confidential information that they have come across in the course of their duties. This stems from European and Irish law, including section 33AK of Central Bank Act 1942. The banking inquiry also has obligations of professional secrecy in terms of some of the information which has been provided to it by the Central Bank. These obligations have been taken into account by the committee and will affect the witnesses asked and the answers which can be lawfully given in today's proceedings. In particular, it will mean that some information can be dealt with in a summary or aggregate basis only, such that ... such as that individual institutions will not be identifiable.

Members of the public are reminded that photography is prohibited in the committee room. To assist the smooth running of the inquiry, we will display certain documents on the screens here in the committee room. For those sitting in the public Gallery, these documents will be displayed on the screens to your left and right. And members of the public and journalists are reminded that these documents are confidential and they should not publish any of the documents so displayed. The witness has been directed to attend this meeting of the Joint Inquiry into the Banking Crisis. You have been furnished with booklets of core documents. These are before the committee, will be relied upon in questioning and form part of the evidence of the inquiry. So with that said, if I can now ask the clerk to administer the oath to Mr. Hurley, please.

The following witness was sworn in by the Clerk to the Committee:

Mr. John Hurley, former Governor, Central Bank.

Chairman: So once again, to welcome Mr. Hurley before the inquiry this morning. And Mr. Hurley, if I can invite you to make your opening remarks to the committee, please. Thank you.

Mr. John Hurley: Thank you and good morning, Chairman and members of the committee. I propose in my opening comments this morning to set out three areas which I've been asked to address in my written statement. These are: firstly, the impact of the Central Bank and Financial Services Authority Act 2003 on the role and responsibilities of the Central Bank; secondly, the approach taken by the Central Bank in responding to one of its key objectives, that of contributing to financial stability; and, thirdly, the appropriateness of the decision of the Government to guarantee certain liabilities of the bank on 29 September 2008.

In relation to the first matter, there is, I believe, some confusion about the effect of the 2003 Act on the role of the Central Bank. The bank is sometimes perceived as being a co-regulator or co-supervisor, which it was not. In fact, under the 2003 Act the Central Bank was divested of its responsibility for prudential regulation and supervision of financial institutions. As a result it was unique among the so-called periphery countries.

Part of the reason for the confusion about the role of the Central Bank relates to the power of the bank to issue formal guidelines to the Financial Regulator under section 33D of the Act. Any such guidelines must be concerned with policies and principles in pursuit of Central Bank functions, mainly financial stability. The bank considered the financial stability reports prepared and agreed with the Financial Regulator as constituting the appropriate advice. The bank never saw a reason to issue formal guidance. Such guidance which was required to be published in *Iris Oifigiúil* would have arisen only if the Financial Regulator did not accept the overall risk assessment set out in the reports. That situation simply never arose.

As an autonomous entity within the Central Bank, the Financial Regulator had responsibility for prudential regulation and consumer protection. The 2003 Act was absolutely prescriptive in this arm's length legal autonomy. The relevant powers of the Central Bank were transferred to the Financial Regulator and under section 33C of the 2003 Act the regulator had a separate governing structure with a membership of ten directors, including its chairman. To underline its autonomy *vis-à-vis* the bank, section 33C(11) of the Act provided that the Financial Regulator was required to perform the functions transferred from the Central Bank on the basis of its own opinion, belief or state of mind. The bank had, however, the core responsibility to contribute to financial stability, a role shared with the Financial Regulator and the Department of Finance, and I will comment in some detail on this role later.

The decision to remove the prudential powers of the Central Bank over the banks was opposed at the time by the Central Bank and the Department of Finance. An appendix to the McDowell report set out an alternative approach locating the Financial Regulator within the Central Bank and subject to a single board. I strongly supported that approach and worked hard to promote it when I was Secretary General of the Department of Finance. Eventually, under the 2003 Act the Government adopted a structure that gave the Financial Regulator its own board, the regulatory authority, within a restructured Central Bank. During the financial crisis the Government decided to reunite both functions again in a unitary organisation with one board, chaired by the Governor.

In seeking to clarify the respective roles of the Financial Regulator and the Central Bank I want to emphasise that this is not intended to be a criticism of the Financial Regulator. I do not believe that regulation could, on its own, have stopped this crisis from happening. The forces that were at work, both domestic and international, were very formidable and involved many authorities and organisations, including the Central Bank. I accept the Central Bank's share of responsibility for what has occurred.

The Financial Regulator adopted a policy of principles-based supervision. This was in accord with the philosophy of the time and reflected a shift in favour of market discipline with a greater emphasis on the role of boards and managements of banks. The Basel accords and EU directives under which the Financial Regulator functioned were the internationally recognised blueprints for regulators at the time. The Basel-based framework has now been shown to have been fundamentally flawed and unsuitable to the challenges of the time. Among the main weaknesses were that both the quality and the quantity of capital requirements were far too low and liquidity risk was largely ignored. These flaws are addressed in Basel III which includes for the first time the promotion of macro-prudential regulation.

The supervisory framework here was favourably assessed in 2006 by the International Monetary Fund. The weaknesses in the Basel-based framework were not appreciated at the time. I believe these weaknesses are relevant in the context of assessing the performance of the Financial Regulator and, to some extent, the Central Bank in a pre-crisis period. The central question is the extent to which flawed yardsticks as well as more general market failures impinged adversely on the performance of the two entities. To this would be added the significant over-correction of property prices in Ireland. The unprecedented global recession was also a major factor.

Turning now to the second issue, financial stability, the prevailing international orthodoxy in the pre-crisis period was that monetary policy, financial stability analysis and micro-prudential regulation constituted a sufficient framework to maintain overall financial stability. Macro-prudential analysis was normally referred to as financial stability analysis at the time. It involved the identification of risks and vulnerabilities in the financial system and communicating these to a broad range of stakeholders, including, for example, other authorities, market participants and the general public. This approach was followed in Ireland by the Central Bank. As was also the practice internationally, moral suasion was the main instrument employed. The crisis has given rise to a search for a new approach and the centrepiece now is a major emphasis on macro-prudential regulation. Its instruments are still being defined and developed.

In his evidence to this committee, Mr. Regling, managing director of the European Stability Mechanism stated, "Today, every[body] who deals with these issues talks a lot about macro-prudential supervision, but that was not very fashionable at the time globally, and not alone in Europe." As a result of the de Larosière report in 2009, much more emphasis is now being placed on macro-prudential regulation. He recommended that an EU level institution be entrusted with this responsibility. The European Systemic Risk Board has now been assigned this task.

Turning now to the reports themselves, at the outset, I wish to acknowledge that the financial stability reports published by the bank underestimated the risks facing the Irish financial system. This is because they did not foresee how the international financial crisis would combine with our existing domestic weaknesses to create such a critical position for Ireland. The reports were concerned about typical recessions of the past several decades. The scale of the international crisis, the worst since at least the 1930s, was not anticipated by any institution, domestic or international. The effect on Ireland was magnified by the interaction of these risks, domestic and international, which dramatically increased the social, economic and financial consequences for Ireland. This is not to fully recognise the part played by our domestic weaknesses prior to the crisis, including the dominant role of the property market. However, I believe these weaknesses on their own would not have given rise to anything like the severity of the crisis we experienced. I believe Lehman's was more than the trigger or catalyst. It precipitated the near-collapse of the international banking system. It destroyed, on a wide scale, trust between lenders and borrowers, the very foundation block of the banking system. The market suffered what has been called a type of financial cardiac arrest affecting most western banks. In particular, it triggered large-scale declines in the value of many assets, especially property, across the world. It is clear that, in hindsight, the warnings in our financial stability reports should have been much stronger, and I very much regret that the bank underestimated the risk that subsequently materialised. The fact that similar criticisms can be made of central banks in other countries that experienced systemic crisis is no consolation to me. However, for an insight into the thinking at the time, the very favourable assessments of both the international economic environment and the Irish economy by most domestic and international commentators need to be taken into account. In particular, these assessments reflected the soft landing consensus. To save time, I do not propose tor recite these assessments here. They're set out in my written statement.

So far as the financial system was concerned, the assessments made by the International Monetary Fund, both in its Article 4 reports and in its 2006 financial stability assessment update on Ireland, were quite positive. The International Monetary Fund concluded in 2006, following its stress testing of Irish banks, that they could cope with substantial falls in property prices. As late as 2008, the OECD stated that the rise in property prices was largely driven by higher incomes and demographics and that the Irish banks were well capitalised and profitable and should have considerable risk absorption capacity. Given their cross-country perspectives and their experience of crises, the Central Bank regarded the views of OECD and IMF as very important. Against this background, the financial stability reports highlighted the risks and vulnerabilities in the Irish financial system in the light of the information available at the time. These risks included, in particular, the high level and rate of credit growth, the high concentration of loan books to property-related business, the high increases in property prices, and the increased funding gap. Notwithstanding the warnings in the financial stability reports, they all assessed the overall health of the banking system to be sound based on the internationally accepted yardsticks, notably capital adequacy.

The draft financial stability reports were prepared initially by the financial stability unit of the bank and processed through the financial stability committee, which included senior staff of the Financial Regulator. They were subsequently agreed, normally at two joint meetings of the Central Bank board and the regulatory authority. The risks outlined, together with the Financial Regulator's own assessments, were to be the basis for regulation. Once the reports were agreed, I took full ownership and responsibility for them and launched them at press conferences, where my introductory comments highlighted the key risks. The financial stability reports formed the basis for my discussions with the Minister and the autumn letter sent by me each year to the Minister in advance of the budget. They were also discussed at round-table meetings with the banks.

The reports of the Nyberg commission and Regling and Watson suggested that there was a basis for taking some action by about the end of 2005. I've recently re-read some of the relevant documents from that time to get some insight into our mindset. This is not easy with the elapse of close to ten years since the 2005 financial stability report was published. Nevertheless, with the benefit of hindsight, I agree with the view that there was a basis for action in 2005. The Central Bank should have escalated and reinforced its warnings on risks and vulnerabilities at the time. At the time, the bank considered that the approach taken was the correct one and I would like to set out why it held that view.

The Central Bank was aware of plans to phase out tax incentives for property. In October 2004, because of the increases in property prices and also the growth of the property sector, I raised the issue in the Governor's pre-budget letter to the Minister for Finance. I advised that no further extension should be allowed to the termination date of mid-2006 for the range of tax-driven incentives. In the event, a review of tax incentives was announced in the budget in 2004. The review was completed in 2005 and the budget in December 2005 announced their phased withdrawal. The Central Bank was also very much aware that a slowdown in credit growth and property prices was dependent to a significant extent on the future increases in interest rates. It was clear that interest rates would not remain for long at their historic low levels and the Central Bank made this known to other authorities, to the banks and to the general public.

In my introductory comments at the launch of the 2004 financial stability report, I warned that the then level of interest rates did not reflect where the euro area economy would be in the medium to long term. In the round-table discussions with financial institutions in December 2004, the Central Bank representatives pointed out that the equilibrium rate for retail mortgages was approximately 6%. While it could take time to reach that level, it was twice the prevailing rate. The spring bulletin of February 2005 and the summer bulletin of May of that year also cautioned about the effects of rising interest rates on borrowings. The impact of rising interest rates was widely picked up by the media following our reports. One leading newspaper reported that interest rates may double. Other media also gave good coverage to prospective interest rate increases. A further message to the same effect was given at the same time ... at the time of the publication of the financial stability report in 2005 with, again, extensive coverage by the media. In preparing that report, the bank emphasised the psychological impact of the expectation of interest rate increases. In the event, interest rate rises were later than expected by markets because of adverse developments in the euro area. Interest rates did increase in December by 0.25%. This was the start of aggressive monetary tightening, with six further increases of the same amount in the period between December 2005 and March 2007. Because of the importance of the effect of interest rate rises for credit growth, the Central Bank's warnings on prospective rate increases were persistent and strong.

Towards the end of 2005, house price growth eased considerably as part of an international trend. The real price index of commercial property, as the Nyberg commission shows, was fairly flat since about 2000. The Central Bank considered that increases in interest rates were the most effective way of cooling the property market and, with a lag, easing credit growth. The bank also considered the exchange rate to be an important factor in slowing the economy. The euro appreciated by 35% and 12% against the dollar and sterling, respectively, between 2000 and 2005. As indicated, the decision of the Minister for Finance to phase out the tax incentives for property was also expected to play an important part. So too were the measures being considered by the Financial Regulator on risk ratings for high LTV mortgages and speculative commercial property. The bank considered that this range of measures should be sufficient to reduce the growth in property prices and, later on, credit. However, it wasn't until about 2006 that evidence of some slowing in house price growth started to emerge. Later in the year, there were the first indications that growth in credit was beginning to ease. Many of the aggregates continued to moderate throughout ... through 2007. It seemed that the expected soft landing had begun. The delayed response to the measures outlined earlier, and the weaknesses which were subsequently revealed in the risk management practices of the bank, had significant consequences for the banking sector. My description here of the thinking during the relevant periods is not intended to take from the fact that, with hindsight, we were wrong.

Turning to the third matter, the appropriateness of the guarantee, by way of background, I in fact returned to the Central Bank shortly after the collapse of Lehman's on 15 September 2008. I'd been absent from the bank from 19 July due to a serious illness. I was briefed by staff in the Central Bank on the deteriorating liquidity situation. At that time international financial markets were extremely turbulent and liquidity provision by the ECB was increasing significantly. One bank, Anglo, was very seriously affected, while other banks were also experiencing increasing outflows. If outflows continued on the scale experienced, it would only be a matter of time before the Irish financial system was threatened. Following discussions in the Department of Finance, the deposit guarantee limit was increased, and a strong statement of support from the Minister for Finance was issued, confirming the Government's commitment to the Irish financial system. Consideration was also given around this time to the desirability of guaranteeing the liabilities of the banks. While I did not support such a guarantee when it was first raised, I was conscious that if matters deteriorated significantly, and the Irish banking system faced imminent collapse, there would, in the absence of a European initiative, be no choice but to do so.

The matter was subsequently discussed at joint meetings of the boards of the Central Bank and the regulatory authority and it was accepted that such an approach could be necessary in the light of the liquidity pressures. In the meetings held during the weekend before the guarantee decision, it appeared likely that the financial institutions would have significant liquidity ... sufficient liquidity to get through the following week. The liquidity outlook changed quickly on the morning of 29 September, when it became clear that, without assistance, Anglo would not be able to open for business the following morning. Arising from contacts with the ECB, the view at the time was that Ireland was expected to stand behind its banks and a Lehman's-type situation was to be avoided. When the Anglo situation arose, the major concern was how to prevent contagion from Anglo spreading to other banks, which were not then illiquid but were experiencing significant outflows. Arrangements for the provision of assistance to Anglo had already been made in the ... the Central Bank and the necessary letter of comfort from the Minister for Finance was subsequently received. Emergency liquidity assistance was extended to Anglo overnight to enable it to open for business on the morning of 30 September.

The bigger issue was how to avoid the risk to the entire banking system materialising, with catastrophic consequences for the entire country. Without decisive intervention, the risk of such an eventuality was very likely. I supported the guarantee in these circumstances. The question of emergency liquidity assistance, at national risk, for an Irish bank had been under consideration since the Northern Rock crisis in 2007. The granting of ELA to Northern Rock, and its becoming public, had undermined public confidence in the bank, increased panic and gave rise to a bank run that eventually required nationalisation as well as guarantees by the UK Government. Here, all the necessary arrangements, including the identification of non-ECB-eligible collateral in the banks and the legal arrangements for their transfer to the Central Bank, had been made. The roles of the Minister for Finance and ECB had been fully taken on board. The real concern in relation to ELA was the potentially serious effect it might have on a financial institution where market confidence had already been shaken, as well as the risk of contagion to other financial institutions. The provision of ELA was not seen as a solution to the systemic crisis that had arisen. The additional funding for Anglo agreed with the AIB and the Bank of Ireland in the context of the guarantee decision was designed to mitigate the risk of negative market reaction, with severe consequences for the credibility of the guarantee for the other banks if liquidity flows into Anglo did not materialise in sufficient quantity.

The option of nationalising Anglo, together with the issue of a guarantee for the remaining banks, was considered on the night. Overall, it was considered that the signal effect of nationalising Anglo would be more negative than positive and could raise markets' concerns about the systemic weakness of the financial system and, as with ELA, threaten the credibility of the guarantee. Moreover, there was a strong view on the night that the Government had one opportunity to assuage the markets. The markets were extremely volatile, with the decision of the US Congress to reject the proposed troubled assets relief programme, TARP, was likely to result in increased market volatility the following morning. If the decisions taken were considered inadequate and failed, the consequences for the banking system would be devastating and lead to very serious economic and social fall-out for the country as a whole. I supported the decision taken as being the one most likely to ensure that these consequences for the banking system and the country would be avoided.

Before concluding, Chairman, I would like to take the opportunity to say that the Central Bank, in identifying the risks and vulnerabilities pertaining to the Irish financial system in its financial stability reports, considered at the time that its assessment was sufficiently strong and balanced and that it would provide the necessary guidance for the other authorities, market participants and the general public. In hindsight, these assessments, as I have indicated, were not adequate. I fully accept the role of the Central Bank and my role as Governor in underestimating the risks to the Irish financial system, which had such serious consequences for our country and from which we are only now beginning to emerge. Again, I would like to reiterate my regret that the bank underestimated the risks that subsequently materialised. These turned out to be much greater than we had anticipated.

To conclude, Chairman, I hope that my recollection of events will be of assistance to the committee in the very important work that it is now undertaking. Thank you very much.

Chairman: Thank you very much, Mr. Hurley, for your opening comments and just with regard to the latter part of your opening statement this morning relating to the guarantee, that matter will be dealt with later on this afternoon when the focus of that session will be on the years 2008, 2009 - the critical years in the build-up and immediate response to the crisis. Before I bring in this morning's lead questioners, Mr. Hurley, maybe if I can just deal with one or two matters quickly with you and maybe that is just to get a brief explanation from you as to how you saw your role as Governor of the Central Bank and, in that regard, did you see your role as being independent from the Department of Finance and from the banks themselves?

Mr. John Hurley: Yes, the Central Bank is independent and independent from the banks themselves, but it operates through its ... first of all, through its reports, through the financial stability analysis reports and through other reports, but it has a specific role in relation to financial stability and it deals with that through the various reports that it publishes.

Chairman: And in regard to the Department of Finance and Government itself, does the Central Bank operate independently from them?

Mr. John Hurley: It does but it reports to the ... it reports on financial stability issues to the Minister and has regular contact with the Minister on these issues.

Chairman: In the structure in which you worked, which was set up in the 2003 Act, in that structure was the Office of the Financial Regulator, ultimately, accountable to you?

Mr. John Hurley: No, the Financial Regulator was accountable to its own board; it was not accountable to the Governor of the Central Bank. The Governor of the Central Bank had a responsibility in relation to financial stability and fulfilled that responsibility through its reports but the Financial Regulator didn't report to the Central Bank.

Chairman: Just to clarify that, so what you're saying this morning is that the Office of the Financial Regulator was not left under the control of the Central Bank as a result of the 2003 Act?

Mr. John Hurley: As a result of the 2003 Act, there was an overall board, an overarching board, but the board of the Financial Regulator had its own responsibilities under the Act and fulfilled those responsibilities in accordance with the provisions of the Act. It had its own board, and its own board made decisions in relation to financial regulation.

Chairman: So who, ultimately, was the Financial Regulator accountable to?

Mr. John Hurley: The Financial Regulator would've been accountable to the Minister and to the Government through its board. But in relation to the ... to the Central Bank, the overall responsibility of the Central Bank was set out in the Act but the carved-out functions of the Financial Regulator were operated by the Financial Regulator in accordance with that Act.

Chairman: So is it your view or not that the office of the regulator was an entirely separate entity from the Central Bank in which you were the Governor?

Mr. John Hurley: No, it was not an entirely separate entity.

Chairman: So what was the connection?

Mr. John Hurley: There was a linkage to the joint board but they'd had independent responsibilities. They were set out in the Act in relation to regulation. The Central Bank had an overall responsibility in relation to financial stability, which it exercised through the Act, but the Financial Regulator had its own independent responsibilities.

Chairman: Okay, thank you. We may return to that later on this morning, Mr. Hurley. Senator D'Arcy, you have 25 minutes.

Senator Michael D'Arcy: Thank you, Chair. Mr. Hurley, thank you for coming. Just ... in your interaction with the Chairman, Mr. Hurley, are you saying then effectively that the buck did not stop with you in terms of your responsibility for banks?

Mr. John Hurley: The Central Bank had a role in relation to financial stability. That was an overall role it ... which was part of the functions of the Central Bank but within that particular organisation, the financial stability ... the Financial Regulator had carved-out responsibilities. And that carved-out responsibilities related to the regulation and supervision of banks and, in that respect, it was independent ... in that respect, reporting to its own board. But there was an overall responsibility for the board I chaired for the Central Bank in relation to financial stability.

Senator Michael D'Arcy: So, did the buck stop with you or not?

Mr. John Hurley: In relation to ... in relation to ... in relation to overall financial stability, we produced the reports of the Central Bank, we gave the advices and recommendations and our view on financial stability was the view as we outlined. But financial regulation was something that was carved out from the Central Bank, had a specific role and responsibility and that is clear in the Act.

Senator Michael D'Arcy: I am aware about the carved-out responsibilities, Mr. Hurley. But, I suppose, what the Chairman started off this morning with ... what I'm trying to clarify, is in terms of your overall responsibility for the financial sector for stability. That was your overall responsibility.

Mr. John Hurley: Yes, it was. The overall responsibility of the Central Bank, through the financial stability reports and through the actions of the ... it was the overall responsibility, but there were carved out responsibilities within the Act.

Senator Michael D'Arcy: I'm aware of that. But what I'm trying to see was ... who was the person who had the final responsibility. Is that you or is it the opposite, the Financial Regulator?

Mr. John Hurley: The overall responsibility ... overall financial stability was a responsibility of the Central Bank and it was a responsibility of me. We produced the financial stability reports and made the assessments but within that there are different functions. Financial regulation is operated and was carved out separately but the overall financial stability of the system and the overall reports of the Central Bank set out our assessment in relation to financial stability and we carry responsibility for those.

Senator Michael D'Arcy: So ... and I don't want to put a leading question to you, Mr. Hurley ... in the final analysis, for overall responsibility for the Irish financial institutions, the Irish banking sector, did the buck stop with you?

Mr. John Hurley: Yes, we were responsible for contributing to financial stability overall ... contributing to financial stability. There is no way the Central Bank itself can assure financial stability. The ... the Act says we contribute to financial stability because there are so many other players involved. But we set out our assessment in the financial stability reports, gave our assessment on the future evolution of the sector and the risks to the sector and we carry responsibility for that.

Senator Michael D'Arcy: Mr. Hurley, the ... have you followed evidence being given by previous witnesses to date?

Mr. John Hurley: So far as I can, yes.

Senator Michael D'Arcy: And, specifically, I'm talking about senior executives from the financial institutions - AIB, Bank of Ireland, Ulster Bank - that have before ... appeared before us previously. And one of the themes that has ran through that, Mr. Hurley ... one of the major issues was that the banks did not have access to consolidated data in relation to developers, to major projects or, in particular, to the commercial real estate sector. The commercial bank did have access to that consolidated data and it ... it would appear that the commercial ... or that the Central Bank did not choose to do anything about the massive growths in the balance sheet of the banks. The figures that we have quoted on a number of occasions, Mr. Hurley, from '01 to

‘08 is a 29% to 30% year-on-year increase in the balance sheet of the banks. Could you comment why the Central Bank chose not to impact upon those enormous growths?

Mr. John Hurley: The Central Bank regularly referred to the growth in lending in its financial stability reports, commented upon this, and set out in those reports the risks resulting from the increased lending, but it also balanced that against other assessments in the reports. And the view in the reports if you ... when you go through them, is that the type of risk that eventually emerge weren’t seen as likely at the time. We regarded the banks as sound at the time. We believed on the basis of the assessment coming through the financial stability reports that that was the position. We did warn about the growth in lending and the growth in credit and that was set out very clearly in the reports, with all the warnings of the Central Bank in each of the reports. We set out the warnings in relation to the growth under the different aggregates regularly and I pointed it out when launching financial stability reports on each occasion, and my introductory statement to the financial stability reports would have pointed out these risks.

Senator Michael D’Arcy: Mr. Hurley, I have read the financial stability reports and I will come back to them in a moment. One of the criticisms was that the banks were unaware that certain people who they had lent money to also had a cross-collateralisation, a cross-securitisation of loans with another bank and each bank was unaware that that other ... that same individual was indebted to another institution. On how many occasions did the Central Bank request the top ten exposures from the primary financial institutions within the commercial real estate sector?

Mr. John Hurley: The situation in relation to the detailed lending within the individual banks would have been dealt with directly by the Financial Regulator in dealing with the individual institutions. The overall reports coming to ... through the financial stability reports from the Financial Regulator would have been the basis on which those reports were done, but the detailed information in relation to the individual banks would have been gone from the Central Bank when the Financial Regulator was created.

Senator Michael D’Arcy: While the functions were divested to the Financial Regulator, your role, as we’ve stated at the very start, was to oversee the financial stability of the entire sector.

Mr. John Hurley: Yes.

Senator Michael D’Arcy: On any occasion, did you request from IFSRA the top ten exposures, analysing the risk that the financial stability reports ... that you’ve stated in the FSR reports, was any of that analysis done in relation to the commercial real estate sector?

Mr. John Hurley: In developing the financial stability reports, the data, and all the relevant data that was necessary would have been collected and would have been analysed by the financial stability unit in the Central Bank.

Senator Michael D’Arcy: Yes.

Mr. John Hurley: And the view in the financial stability report would have been arrived at on the basis of that assessment. There was very good co-operation with the Financial Regulator throughout this period but we didn’t encroach on the functions of the Financial Regulator. The Financial Regulator was established as a separate entity with its own board. It had its own responsibilities, and we were divested of those responsibilities in the 2003 Act, and so we had to accept that we were no longer regulating the Irish financial institutions. So we had a ... we certainly had got a stability role but it very much depended on the accumulation of data and the information we were getting and then assessments being made on the basis of that. We were no longer regulating the Irish financial institutions.

Senator Michael D'Arcy: But you had authority over the financial stability of the entire sector. What I'm trying to scope, Mr. Hurley, is you had access to the consolidated data, in particular for the commercial real estate sector, and I'm trying to scope did you request that data, did you analyse that data of the top ten exposures within each financial institution to protect the stability of the financial sector within our jurisdiction?

Mr. John Hurley: The data in relation to ... the financial stability unit would have collected the data that was necessary to complete its financial stability reports. I don't think they would have delved into the detail of particular exposures in financial institutions, that would have been seen as a responsibility of the Financial Regulator. But the overall aggregate data would have been collected to arrive at the conclusion in the financial stability report.

Senator Michael D'Arcy: Should they have?

Mr. John Hurley: Well, I don't think that the ... the Central Bank, in a situation where a new regulatory structure was set up, should not have been deeply involved in the regulatory process. In terms of the overall data that was being supplied to enable financial stability reports to be developed, that was considered adequate to enable a view to be taken on financial stability but the Central Bank was no longer regulating financial institutions.

Chairman: It's about 15 minutes now, Senator.

Senator Michael D'Arcy: With hindsight, should they have? With the benefit of hindsight?

Mr. John Hurley: Well, with hindsight, I actually feel that the divesting of regulation from the Central Bank was a mistake and I do believe that we should really in a small country have kept these functions together.

But once it happened, the Act had to be respected and the responsibility of the Financial Regulator had to be respected.

Senator Michael D'Arcy: Mr. Hurley, the credit sector concentrations and prudent underwriting standards in the banks were also important to financial stability. Do you believe there was adequate discussion of the breaches of lending policies and sector risk concentration and limits at board meetings of the CBFSAI?

Mr. John Hurley: The overall growth in property lending was of course a key feature that was supplied to enable financial stability reports to be developed, but the detail of that within the different sectors and within different parts of that sectors wouldn't be something that the Central Bank would focus on. It focused on the overall and came to conclusions on that basis. The separation of functions, it was clear in the Act and we respected that.

Senator Michael D'Arcy: Did you respect it too much? Should you have delved further?

Mr. John Hurley: We had to ... the Act was established to create regulation as an autonomous entity within the Central Bank ... It was also indicated that they would carry out their functions according to their own lights and responsibility. We accepted that but we did have a responsibility to gather the overall data together to try to come to a conclusion on the sector and that's what we did and we tried to do that without encroaching on the responsibilities of the Financial Regulator. We worked well together in terms of the relevant responsibilities. The Financial Regulator has its responsibility, as we had ours, but we were conscious that we were no longer the regulator.

Senator Michael D'Arcy: The policy tools that were available ... the effective instruments available to deal with the excessive credit growth and the sector risk concentration, can you access the use ... and the use of these instruments?

Mr. John Hurley: I'm not sure that I understand the question.

Senator Michael D'Arcy: The policy tools, the quantitative controls, qualitative controls ... that you could have ... the Central Bank could have requested to be used, I assume via the Financial Regulator.

Chairman: Oh, these would even be powers that would be in the beholdment of the Governor of the Central Bank-----

Senator Michael D'Arcy: The Central Bank-----

Mr. John Hurley: I'm sure that in relation to information that would have been required to enable financial stability reports to be developed, that there would not have been a difficulty in accessing information if that was required.

Senator Michael D'Arcy: No, I'm not ... I'm sorry, I'm not talking about the compiling of a financial stability report. What I'm asking about, the powers that were available to you and I quote document Vol. 1 ... Vol. 1. of the core documents, page 3, from the letter from the current Governor of the Central Bank, Professor Honohan, that there were powers available and tools available to the Central Bank Governor, if they chose to use them. Quantitative controls, qualitative controls, call for deposits and other powers that would have restricted the quantum of funds that would have been available to the financial institutions to lend.

Mr. John Hurley: The powers available to the Governor of the Central Bank and the Central Bank at the time were a general power of guidance. The detailed powers were actually with the Financial Regulator. We had ... we could have issued formal guidance to the Financial Regulator in relation to functions set out and that, but we didn't do that because what we did was, we agreed with the Financial Regulator jointly financial stability reports. We had a number of iterations to do this, and the reports were agreed and the risk framework was agreed. And once the risk framework was agreed regulation was to take place within that context. We never issued formal guidelines to the Financial Regulator and we didn't think it was necessary to do so.

Senator Michael D'Arcy: With hindsight, should you have?

Mr. John Hurley: Well, if we knew now what ... if we knew then what we knew now, of course, but the point is-----

Senator Michael D'Arcy: You knew the risks-----

Mr. John Hurley: Sorry?

Senator Michael D'Arcy: You knew the risks, you itemised the risks in the financial stability reports from '04, '05, '06 and '07. But you ... what you said was you did not foresee ... sorry ... "The Bank emphasized downside risks to the banking sector but it did not foresee the dramatic consequences that flowed from the interaction of the international financial crisis with our domestic vulnerabilities." The international financial crisis was outside of your control, but the domestic vulnerabilities were clearly outlined in your FSR reports and you chose not to impact upon those.

Mr. John Hurley: No, we made an assessment in the financial stability reports. We outlined the risks, we outlined them very clearly in every single report. Those risks were clear but we made an assessment on the basis of all of the information that we received and on the basis of the environment of the time, the economy at the time. We made an assessment on those risks and our assessment on the basis of those risks was that the financial stability of the sector at that time was not threatened. Now that was the assessment in each of those financial stability reports. But we did set out, as guidance for the Financial Regulator, the overall risks that were building up in the system. We were not regulating the banks. That function had been removed from the Central Bank-----

Senator Michael D'Arcy: In conversation with the Financial Regulator's office, you said you worked well together.

Mr. John Hurley: We did and ... we did but we didn't interfere with each other's responsibilities. We followed the Act as we were expected to do.

Senator Michael D'Arcy: Were you aware that the overall financial stability of the entire sector was at risk?

Mr. John Hurley: No ... we ... as we developed our financial stability reports we did not believe that the financial stability of the sector was at risk, and it didn't become at risk until the crisis developed into something else and the international factors developed into something else. Our assessment of financial stability through those years is set out in the reports and we didn't assess the sector as being at risk at that time, but, of course, that changed and developed as the world changed and developed.

Senator Michael D'Arcy: Can I ... in Vol. 1, from page 134 onwards where the FSR reports are available, so these are public documents they're not protected by section 33AK-----

Mr. John Hurley: What page Deputy is it?

Senator Michael D'Arcy: 134 onwards. Your photograph is on the very start of all of them.

Mr. John Hurley: Yes.

Senator Michael D'Arcy: And as you said earlier, they were agreed with the Central Bank.

Mr. John Hurley: They were agreed with the Financial Regulator.

Senator Michael D'Arcy: And the Financial Regulator. Can I just ... I'm just going to take one aspect of those, and I'm using that as domestic risk.

Chairman: Can you say the page please, Senator?

Senator Michael D'Arcy: 134, but it's from there onwards, the FSR reports.

Chairman: So 136 is where you are coming from there, is it? Yes, 136.

Senator Michael D'Arcy: It's 134 onwards, Chairman, and I've done analysis of the personal indebtedness, Mr. Hurley. In '95, it was 71% of the GDP of the nation. I'm only going to use three figures, please; '06 it was 192% of the personal ... of the GDP of the nation; and on page 182, on the right hand column, in '07 it says: "The overall level of indebtedness could reach 248 per cent of GNP by end [of] 2007 compared with 222 per cent at end-2006." What was going to happen when there was a downturn, when the public were indebted to the tune of 248% of the GNP of the nation?

Mr. John Hurley: But the overall assessment of financial stability was that financial stability was sound. These were particular-----

Senator Michael D'Arcy: That's sound? We were now ... They were now ... The Irish people were now the most indebted-----

Chairman: I just need to allow him ... Mr. Hurley to respond now.

Mr. John Hurley: These were indicators that were pointed to by the Central Bank as risks to financial stability in all of the reports. The reports are very transparent in relation to this. All of this data was pointed out and an assessment was made of the risks. And the risks at the time were assessed on the basis that financial stability was sound and was okay but this all changed later on, you know, when the overall financial crisis hit, but at this particular time, the assessment in the financial stability reports were what it was.

Senator Michael D'Arcy: But Mr. Hurley, in 1995 the indebtedness of the personal sector was 71%. Twelve years later it was 248%, now, 71% of GDP and 248% of GNP. That happened effectively on your watch, and that compiled with the level of indebtedness to the commercial real estate sector and I want to quote page ... I believe this document is section 33AK-protected ... sorry one moment.

Chairman: We can't reference to the viewing Senator, yes?

Senator Michael D'Arcy: Yes. It's analysis that was concluded by ... based upon the assessment of a financial institution, which I'm not naming ... but, what I'm asking Mr. Hurley, for a comment upon the level of indebtedness of the personal sector coinciding with the indebtedness of eight financial institutions and I'm quoting Vol. 2, page 176, that is not available, I believe it is a section 33AK-protected document, approximately 82% of a loan book of a financial institution is commercial real estate, 1% is residential and about 17 other are corporate loans. Both of those coincided to the crash of the entire banking sector that occurred upon your watch. Could you comment upon that please?

Mr. John Hurley: When we were assessing the growth in credit and the growth under the different headings we made that very clear in all our documents and reports. This was not a secret. The Central Bank made the growth in the different aggregates very very clear. We made an assessment on the basis of that.

Senator Michael D'Arcy: What did the Central Bank do under your tutelage to impact upon massive growth in the personal indebtedness sector and the massive growth in the bank balance sheets? What did they do, what policy tools, what instruments did you use-----

Mr. John Hurley: What the Central Bank did was it first all started in 2004, as I said in my opening statement, to deal with the incentives for property development. It advised very strongly that these would be looked at and these were. The Minister took a decision in 2004.

He came back in 2005 having conducted two consultants' reports and set out a path by which these would be, by which these would be adjusted. That was one key element that was part and parcel of what the Central Bank did. The Minister responded at that time. Secondly, I set out in my opening statement the path that we expected interest rates to take and the impact that interest rates would have on the growth in credit. This was clearly set out and we knew that the mortgage rate would double. We knew it would go to 6% and we spent '04 and '05 saying this. We went to the banks with round-table discussions in December 2004 and pointed out what was going to happen the interest rate.

Senator Michael D'Arcy: Apart from the FSR-----

Mr. John Hurley: I mean, these were the key elements to the assessment by the Central Bank at the time and in fact, as interest rates increased and went through 2006 and into 2007, yes, as I said in my opening statement, credit started to ease, growth in house prices started to ease but with a lag. The increases were much later than had been expected. So the assessment set out by the Central Bank at that time was that this would ease over time but it took longer than expected and it was really the additional credit and growth in credit that took place in that intervening period which has done the bulk of the damage.

Chairman: Final question Senator, and I'll bring you back in at the wrap-up.

Senator Michael D'Arcy: Okay. Apart from the FSR reports and the pre-budget letters, how did the Central Bank ensure that the Government was at all time informed about the current macroeconomic situation and understood that the effect the macroeconomic developments could have on the financial stability on the banking sector in its entirety?

Mr. John Hurley: What happened in terms of relationship with the Government was we produced our annual report and we produced financial stability reports. The annual report went directly to the Minister and the Government and he presented it. The financial stability reports were discussed by me with the Minister on many occasions. In addition we would have talked about the evolution of the economy, talked about the risks that were emerging and our assessment overall of the banking system given to the Minister, so let us be clear about it, we did not expect that the banks were going to implode, and the Minister was never told by me that the banks were going to implode. What the Government was told and the Minister was told that there were risks to the system, that property was a significant risk, that it would adjust, and in that adjustment there would be implications for the economy. The primary implication that was seen was the fiscal implication. It was seen that there would be a very very large gap to be filled, but it wasn't expected in the course of that period that this would destabilise the banking system.

Senator Michael D'Arcy: Mr. Hurley, why did you not use-----

Chairman: Last question now Senator.

Senator Michael D'Arcy: Why did you not use the tools that were available to you within the powers of the Central Bank Act in conjunction with the Financial Regulator to impact upon the excessive lending that occurred during your tenure as Governor?

Mr. John Hurley: The-----

Senator Michael D'Arcy: Why did you not use those powers?

Chairman: Senator, I'm going to move on then.

Mr. John Hurley: The power of the Central Bank was a power of guidance set out in the 2003 Act.

Senator Michael D'Arcy: Why did not you use-----

Chairman: Sorry, Senator, the question is made. I will allow Mr. Hurley and I will bring you back in the wrap-up. Mr. Hurley.

Mr. John Hurley: The power of guidance was a power in the Central Bank Act. The formal power of guidance wasn't exercised, but the overall guidance given by the Central Bank is clear in each of the financial stability reports and each of the press conferences that I gave, and that was the framework within which our banks were to be regulated. Now, formal guidance would have been given if it was considered to be necessary. It wasn't considered to be necessary because the report set out clearly what the framework was and they were agreed.

Chairman: Thank you very much on that. Just one other matter there before I move on to Deputy Doherty, Mr. Hurley. Coming back to the credit sector concentrations and prudential underwriting in regard to the Central Bank's role in managing financial stability and overseeing measures to ensure financial stability, do you believe that there was adequate discussion of breaches of lending policies and sector risk concentration limits at board meetings of the CBFSAI?

Mr. John Hurley: Breaches of these would have been primarily dealt with and discussed at the regulatory authority. The ... in relation to individual breaches and breaches in individual institutions, this would not have been a function of the Central Bank or the board of the Central Bank.

Chairman: But risk concentration levels, would they not have been seen-----

Mr. John Hurley: Overall risk concentration levels for the sector as a whole, yes of course it would, and these were actually dealt with in the financial stability reports themselves, and the commentary on the reports is there for all to see.

Chairman: And your view of the discussion that was given to them and the proportion of discussion that was given to them at board meetings of the CBFSAI, do you believe that that was adequate and sufficient?

Mr. John Hurley: At the time we considered that it was. We believed that the assessments in the report and the guidance in the report was sufficient, but clearly there was significant growth in all of the aggregates, but that said the overall assessment at the time going through the reports was that the stability of the system was fine. Where this all changed of course was as the international crisis evolved but leading up to that particular period the assessments were the assessments and we believed very strongly that they were correct.

Chairman: Thank you. Deputy Doherty - 25 minutes.

Deputy Pearse Doherty: Go raibh maith agat, a Chathaoirligh, agus fáilte roimh an tUasal Hurley. I just want to pick up on that point. You've made the point a number of times this morning that the financial stability was sound at that period and in today's ... in your view today that it changed as the international crisis developed. Is that your assessment and can you put a date on when that international crisis developed?

Mr. John Hurley: What was ... what was really, I think expected ... we expected a gradual easing of the overall growth levels to take place. And we expected within that ... within that pattern, that financial stability would be ... would be secure. And that ... in my opening statement, I talked about how I saw that happening as we came through 2004 and 2005. We ... we expected ... we didn't expect what happened subsequently in terms of the continuation of that but then the interest rate increases came on board and managed to push back against growth.

Deputy Pearse Doherty: Mr. Hurley, maybe I didn't make my point clear ... clear enough. I understand from your testimony this morning that you still believe that the financial stability of the ... of the system was sound up until the international crisis. Am I correct?

Mr. John Hurley: Yes-----

Deputy Pearse Doherty: ----- in my belief? I am correct. And in terms of the international crisis, as you say it developed ... that changed the financial stability of the system. When ... what period are we talking about?

Mr. John Hurley: Well, I think ... I think the ... it ... it was really when the American situation happened. The ... the ... coming right up to ... to the Lehman situation. I think once ... once as we went through the period 2008 ... 2000 on ... on ... on in these periods is when the significant problems started to emerge.

Deputy Pearse Doherty: So so your testimony is ... your testimony today is the financial stability ... financial stability was sound up until the period of 2008-2009. And if that is your view today, can I ask you how you can ... how you can express that view given what we know today ... in terms of credit concentration limits, in terms of over-exposure to property, in terms of a commercial and housing property bubble, and in terms of the fact that some financial institutions were nearly exclusively devoted to lending into the property sector? How can the statement that you have made today sit ... sit beside the evidence that we have today in 2015 that this is what was going on within certain financial institutions in the periods from 2004 up until 2007 and 2008 where you believe that financial stability was sound?

Mr. John Hurley: Well, we in our reports assessed financial stability on that basis, taking everything into account. Of course, we didn't see the dramatic change that was going to take place.

Deputy Pearse Doherty: Mr. Hurley, with respect, I am asking you not what ... what you said in your reports at that time. I'm asking you for your view today, which ... you've expressed your view that the financial stability of the system was sound up until the period of 2008. And again, financial stability in ... and it's in the memorandum of understanding in Vol. 1: "A financial stability matter may include but would not be restricted to any event which could threaten the stability of an important financial institution or a number of institutions. " So how could you ... how can you say that the financial stability was sound today, right up until 2008 when we know of the ... of some of the evidence in terms of concentration of lending, exclusive lending to property sectors by some financial institutions, unenforceable ability of collateral in large numbers by certain institutions and all of what we has flowed from the years 2008 that the public are aware of? How do you make that statement? How do you convince this committee that, even today, the financial stability, which is the individual institutions as well as in the memorandum of understanding, were sound at that period?

Mr. John Hurley: Well, when you look through the stability reports, that was our assessment. Yes, but that ... that was our assessment, Deputy. As you ... as you ... as you moved through the particular reports, we made that assessment on the basis of all the data at the time. Now, of course, the world changed, but at that time, we made the assessment as you ... going through 2004, 2005 and so on, that assessment was made on the basis of all of the aggregates that we were looking at. Now-----

Deputy Pearse Doherty: I appreciate that Mr. Hurley. Again, I am not referring to the assessments that you made in the years of the financial stability reports. I am actually asking your view today, in retrospect, and what you've said is that you believe that the financial stability was sound up until the period of 2008. Do you stand over the fact that today, in 2015, you still are of the view that financial stability was sound up until that period?

Chairman: I'll give the witness time to answer but I hear the question that's been asked. Mr. Hurley.

Mr. John Hurley: Looking back at it now and looking at the growth, the risks were much higher than we actually imagined. Well, you are asking me my assessment at the time. My assessment at the time was the assessment set out in the financial stability reports. I mean the world changed in the meantime but we, in good faith, made assessments at the time. And, clearly, all of this changed over the short period of time. Now, we did expect as a result of the reports going through 2004, 2005, 2006 ... we did expect, you know, that the assessments there would be sufficient to assist the stability of the system, but the pressures that came on subsequently changed all of that.

Chairman: Mr. Hurley, I would just remind you. There are limitations, I understand, this morning with regards to section 33AK with regard to how questions can be answered. But the Deputy is asking you specifically as to what your present view now is on those matters. And I will press you to answer that question.

Mr. John Hurley: My present ... sorry, could you repeat the question, Deputy?

Deputy Pearse Doherty: My question is quite simple. You've made the point that you believe the financial stability of the system was sound up until the period of 2008. Today is 2015. I am asking you how do you stand over those comments that the individual institutions which were part of that financial stability were sound up until that period, given all that we know in the intervening years? Do you still ... are you still of that view? Are you telling the committee that you're still of the view that the financial stability was sound in 2008? Not what you said at the time, but what you're saying now. What is your view now?

Mr. John Hurley: What I'm saying now, of course, the threats now are much higher, but the assessment at the time was the assessment at the time. It was our belief at the time on the basis of the data. Now, of course, the world has changed and we ... we look ... we look back very much on that situation. But at the time they were our assessments and we did ... we carried out those assessments in absolutely good faith.

Chairman: I'm going to push this once more and I will remind you that you are under oath, Mr. ...this morning ... Mr. Hurley ... that you are asked to be asked questions. The question is being put to you is: on the situation now, reviewing it, do you believe that with the full insight that you have that those reports were accurate with the fullest of information that you actually have?

Mr. John Hurley: Our financial stability reports?

Chairman: Yes, and do you still stand over them as being accurate?

Mr. John Hurley: Yes I do. Our financial stability reports were the best that we could do at the time. The situation has changed since. But we, in good faith, conducted our analysis and our ... our assessment and I stand over those reports at the time. But now, of course, with everything that has ... with everything that has happened, and with all of the developments that have taken place internationally, of course, the risk ... the risk profile changed.

Deputy Pearse Doherty: I'll move on because quite a bit of my time has gone on that simple question.

Chairman: Sure and I'll ... I'll accommodate you for that.

Deputy Pearse Doherty: What do you see as your main objectives as Governor of the Central Bank after the regulatory restructuring of 2008?

Mr. John Hurley: After the restructuring it was really to, apart from the European functions, there was a financial stability function to contribute the financial stability. And we did that through our financial stability reporting, jointly with the Financial Regulator, in the ... in assessing the data that came from all sources. That was set out in our financial stability reports and published.

Deputy Pearse Doherty: Yes. The memorandum of understanding, and this is in Volume 1 of the evidence book, page 29-32. The memorandum of understanding between the Central Bank and the regulator dealt with the responsibilities of both the CBFSAI and the ... IFSRA. Was the excessive credit growth of the banks a development that should have been dealt with by the Financial Regulator or by the Central Bank?

Mr. John Hurley: The overall growth was ... was an issue that was set out in the reports by the Central Bank. The ... the overall direction was set out in the reports and the overall guidance was given in ... in the reports, but the detailed action would have been for the ... for the ... for the regulator in the particular ... in relation to the other institutions. But the overall assessment was set out in the reports.

Deputy Pearse Doherty: Can you outline to the committee your responsibility to analyse micro-prudential ... the micro-prudential health of the financial system?

Mr. John Hurley: The micro-prudential health set out in the memorandum of understanding was ... a facility was made available to the Financial Regulator through the economic service to conduct micro-prudential supervision, as necessary. That's what the memorandum of understanding said.

Deputy Pearse Doherty: So, Governor, you were, under the memorandum of understanding - again, this is on page 30 - your responsibility was, where appropriate, to analyse the micro-prudential health of the ... of the system. Is that correct?

Mr. John Hurley: It ... what that actually section means is that the services of the economic unit are available to the Financial Regulator to analyse micro-prudential issues.

Deputy Pearse Doherty: Right. Can I just read from page 30 and it says,''To carry out the Bank's mandate for financial stability, the Governor and the Board's responsibilities therefore involve:" I will skip to "iv) *analysis of the micro-prudential - where appropriate - as well as macro-prudential health of the financial sector*." It doesn't seem to say to me that they'll make this facility available to you. It reads, "the Governor and the Board's responsibilities therefore involve: iv) *analysis of the micro prudential - where appropriate* - [and] *macro-prudential health of the financial sector*." Did you ever carry out that responsibility at the time-----

Mr. John Hurley: In relation to-----

Deputy Pearse Doherty: Sorry, just until I finish. Did you ever carry out that responsibility laid out to you in the memorandum of understanding at your time as Governor of the Central Bank?

Mr. John Hurley: The micro-prudential analysis was a matter for the Financial Regulator, using the economic services at the Central Bank.

Deputy Pearse Doherty: Governor, I am reading from the memorandum of understanding. It's on page 30 and dispute anything I am saying here if I am reading it wrong. It says, "To carry out the Bank's mandate for financial stability, the Governor and the Board's responsibilities therefore involve:" It mentions three things and then it goes on to the fourth, and it says, "*analysis of the micro-prudential - where appropriate - as well as macro-prudential health of the financial sector*." Given that that is what is in the memorandum of understanding between the Central Bank and the Financial Regulator, how can you say that analysis of micro-prudential is solely the responsibility of the Financial Regulator? It clearly states here it is your responsibility also, where appropriate.

Mr. John Hurley: It would be a responsibility if issues emerged from that, but the initial responsibility in relation to analysis at micro-prudential level was not for the Central Bank. The Central Bank was not dealing with the individual institutions. It was a matter for the Financial Regulator.

Deputy Pearse Doherty: But you had the power to analyse the micro-prudential health of individual financial institutions. Am I correct so far in that point?

Mr. John Hurley: The power was there-----

Deputy Pearse Doherty: Yes.

Mr. John Hurley: -----but the assessment in the memorandum of understanding - there was a division of responsibility. We dealt at the macro level. We didn't deal at the micro level.

Deputy Pearse Doherty: The memorandum of understanding also talks about the regulator's responsibility in this regard as well in terms of prudential supervision, but they are not here. You are, today. You had that power. The question I would ask, because it goes on to say, "In this context, the Governor and/or the Board's objective is to identify developments which could endanger the stability of the system as a whole." So in that period where you never used that power that you had in terms of micro-prudential analysis of the financial institutions, were you not aware of any developments which could endanger the stability of the system as a whole that would have prompted you to look closer in relation to micro-prudential stability?

Mr. John Hurley: We didn't deal with the micro aspects in the Central Bank; we dealt with macro. The micro aspects were for the Financial Regulator in relation to individual institutions.

Deputy Pearse Doherty: But you had the power, if you wanted to.

Mr. John Hurley: Yes, but the Financial Regulator was established with its own responsibility and its own independence. I mean, Deputy, what that suggests is maybe really the division of responsibility shouldn't have occurred at all, but it did.

Deputy Pearse Doherty: With respect, Mr. Hurley, this is a memorandum of understanding with the Financial Regulator and the Governor and the board of the Central Bank. This is after the legislation took place and this is how the division of labour was supposed to operate, which allowed you this power in terms of micro-prudential analysis of the health of the financial system.

Mr. John Hurley: The micro-prudential analysis was done as on request, if particular issues cropped up in individual institutions. It wasn't done as part of the overall responsibility of the Central Bank for financial stability. It was done on an institution-by-institution basis, if it was needed.

Deputy Pearse Doherty: Can I ask you how involved were your engagements with the financial institutions in terms of communicating the Central Bank's opinion regarding the financial stability issues and, if not directly involved, what directions, if any, did you give to others in the Central Bank or Financial Regulator on these engagements?

Mr. John Hurley: The overall contact with the financial institutions changed enormously as a result of the creation of the Financial Regulator. The direct contacts with the financial institutions came through the Financial Regulator. We published the financial stability reports and met, on occasion, financial institutions to talk about broad issues, financial stability issues. But our contacts changed very significantly after the creation of the Financial Regulator.

Deputy Pearse Doherty: Okay. Mr. Hurley, I would like to refer to the 2004 board discussions, which have been summarised for the committee in the booklet of core documents. It's in Vol. 1, page 106. This is in relation to a discussion on the 2004 financial stability report and the summary as given reads, "a collapse in property prices would not only affect the quality of security for bank loans, it would also have widespread economic implications as the construction industry was now a major component in the Irish economy." With that in mind, Mr. Hurley, is it reasonable or not to say that in 2004 the board of the Central Bank had taken note of the systemic nature of the Irish property loan book and that the Irish Central Bank was aware the Irish commercial and residential property loan book had the potential to cause systemic problems?

Mr. John Hurley: The fact of the matter is, the property loan book was always in danger of causing systemic problems, but our assessment was, on the basis of the information that we had at the time and through those reports, that that wasn't a real risk at the time. Our overall assessment set out in the reports is pretty clear.

Deputy Pearse Doherty: Yes. So, it wasn't a real risk, but you were acknowledging in 2004 that the property loan book could cause a systemic risk to the banks.

Mr. John Hurley: Yes, of course.

Deputy Pearse Doherty: Okay.

Mr. John Hurley: I mean, it is one of the many risks that are set out in a financial stability report, but you must come to an overall conclusion.

Deputy Pearse Doherty: Okay. Mr. Hurley, I'd like to refer to the summary of the 2004 minutes in the Irish Financial Services Regulatory Authority, which are in Vol. 3, page 25 - I will quote it anyway - which has been presented to the committee in core booklets.

Mr. John Hurley: What page?

Deputy Pearse Doherty: It is Vol. 3, page 25. The summary reads as follows,

> The Authority noted than an inspection ongoing at bank A focused on the rate of growth of the loan book and large exposures.
>
> An inspection ongoing at bank B focused on the commercial property exposure.

The question I have, Mr. Hurley, is would the Financial Regulator's office have shared this type of information with the Central Bank, that is, that the rate of growth in the loan book of financial institutions, the large exposures contained therein and the inspections of commercial property exposures?

Mr. John Hurley: I can't find this document.

Deputy Pearse Doherty: Vol. 3, page 25. It's a quote from a summary of the 2004-----

Chairman: It's on the screen in front of you, Mr. Hurley.

Deputy Pearse Doherty: It's basically an inspection that was carried out by the Financial Regulator in two banks, one in relation to the rate of growth of loan book and large exposures, the other one on bank B focused on commercial property exposures. Would you have been aware of those inspections?

Mr. John Hurley: No, I don't believe that we would have been aware of particular inspections of institutions.

Deputy Pearse Doherty: Okay. Would you have been aware or not of the review of the commercial property lending activities of the Irish domestic banks that was undertaken by the Financial Regulator's office in late 2007 and early 2008?

Mr. John Hurley: I don't believe so, but I would need to see the particular - I don't believe so.

Deputy Pearse Doherty: Was the Central Bank aware or not of the links between wholesale funding and the commercial and residential property development in the Irish domestic banking system?

Mr. John Hurley: Of the connection, yes.

Deputy Pearse Doherty: Can I ask you, from the Northern Rock crisis in September 2007 to the collapse of Lehman Brothers one year later, did you ever engage directly with the CEOs of Irish financial institutions either through letter or by phone? I'm not asking you to name them, but did you ever directly engage with the CEOs of the financial institutions?

Mr. John Hurley: We would have had the meetings that I set out with financial institutions. We wouldn't have interfered with the role of the regulator in relation to regulating financial institutions. Once the regulator was created, the relationship between the Central Bank and the banks overall changed significantly.

Deputy Pearse Doherty: Okay. So, the question I have is, is the only engagement the meetings, or would there have been personal contacts between you and the CEOs of financial institutions during the year?

Mr. John Hurley: There would from time to time, but most of the contacts would have been through the normal functions of the Central Bank in relation to ECB or collateral functions and so on, but not directly interfering with the regulatory function. Once the regulator was established the relationship between the Central Bank and the banks changed dramatically.

Deputy Pearse Doherty: Mr. Hurley, in relation to ECB monetary operations and wholesale markets for funding, if we have a situation where a financial institution had no access to ECB monetary operations and had not been accessing wholesale markets, would that be an issue of concern to the Central Bank?

Mr. John Hurley: If the ECB wasn't able to-----

Deputy Pearse Doherty: No, if a financial institution had no access to ECB monetary operations and hadn't been able to access wholesale markets, would that be-----

Mr. John Hurley: That would be an issue, yes.

Deputy Pearse Doherty: Would that be a stability issue?

Mr. John Hurley: It would be an issue that we would be concerned about, yes.

Deputy Pearse Doherty: Would it have been brought to the attention of the Central Bank?

Mr. John Hurley: I would imagine it would have been brought to the attention of the particular unit in the Central Bank, yes.

Deputy Pearse Doherty: Mr. Hurley, from the evidence before me, and I am led to believe that this evidence, a copy of this document, has been submitted to you and your legal team in electronic format, it appears that in the first quarter of 2008 there was an individual institution that had no access to ECB monetary operations, had not been accessing the wholesale markets for funding in recent months and was relying on retail and corporate deposit initiatives for liquidity.

Mr. John Hurley: I don't think I've seen that document. This is the first I heard of the document, as far as I know. I don't understand what document you're speaking about.

Chairman: We have a little bit of time here to clarify this. Sorry, do you want to explain the method by which it was communicated?

Deputy Pearse Doherty: I believe it was communicated last week or early ... it was communicated last week. It was an individual document that was presented to you, Mr. Hurley. We outlined that we were going to rely on this for questioning to the secretariat.

Chairman: What I can do is ... maybe we can clarify this during the break, legally. And I'll give you a bit of time to deal with this after ... in your wrap-up.

Deputy Pearse Doherty: Whether you've seen the document or not is ... it's obviously important in terms of fair procedures but if I could say to you ... and if you would want to suspend this 'til after the break, that's fine. I can come back then.

Chairman: I agree. We can take it generally now, if you wish, okay?

Deputy Pearse Doherty: But, as I've said, from the evidence before me, from the document that I have seen, there was a financial institution in the first quarter of 2008 that had no access to ECB monetary operations, that had no access for a number of months to wholesale markets and were relying solely ... and were relying on retail and corporate deposit initiatives for liquidity. Would you be familiar with ... with a case of that nature?

Mr. John Hurley: I can't recall a case of that nature but I can't say it didn't happen. But this is news to me and I would need to-----

Chairman: What I will do ... the advice that's available to me at the moment, Mr. Hurley, is that the communication was sent to you. I do know that there is a mountain of documentation that witnesses have to deal with, particularly so the Central Bank. I may advise you to familiarise yourself with that document, if needs be, during the break and we can return to it then.

Deputy Pearse Doherty: Can I suggest that given the ... just the short amount of time ... could we take that break now at this point and we can then conclude the questioning?

Chairman: I think there's one or two things I want to wrap up with before we take ... what I ... if I could leave it until the wrap-up later on, Deputy Doherty, and I'll afford you a bit of time there or do you want to take it immediately when we get back?

Deputy Pearse Doherty: I think it should be taken as soon as we come back so we can flow the ... the discussion can flow from there then.

Chairman: Okay, all right. And I'll afford two or three minutes when we come back at the end.

Could I just deal with one thing before we do go for a break, so, Mr. Hurley? And it is ... and this can allow, maybe, the secretariat, who are monitoring proceedings as well, to get a copy of that letter to you so you can re-familiarise yourself with it during the break. When Professor Honohan was before us earlier in the year discussing the Honohan report, the question specifically was put to him ... and this was the question because I put it to him myself ... is ... did the Governor - and it was in regard to your term as Governor ... did the Governor have the power to issue specific directions relating to a wide range of micro-prudential policies, including credit concentration limits, during the time prior to the guarantee? And the Governor wrote back to this committee on 12 February outlining a series of actions that could have been taken by the Governor and the Central Bank during that period. Are you familiar with that correspondence?

Mr. John Hurley: No.

Chairman: It's part of the witness book and it's part of the evidence and it's being displayed as we are ... but I understand that a copy of that letter was furnished to you as well. So, to familiarise ... you are to read that---

Mr. John Hurley: Yes, I see it now.

Chairman: You are familiar with that letter.

Mr. John Hurley: Yes, I see it now, yes.

Chairman: So, if we take it down then to the second paragraph. I'll go through the four specific actions that the Governor - Governor Honohan - came back ... because I remember quite specifically at the time he asked for further time to give consideration to this because he wanted to answer this as accurately as possible and, therefore, was afforded the opportunity to write back to the committee so he could give it the fullest consideration, and this is his fullest consideration. He goes on to say that:

> Two legislative provisions are relevant. Section 23 of the Central Bank Act 1971 [and this] provides that the Bank has a general power to require banks or a particular bank to maintain specific ratios; this power could conceivably have been used to impose a wide range of limits, including minimum capital and liquidity requirement[s] etc.

He then goes on in the next paragraph to say, "Another provision, specifically Section 33D of the 1942 Central Bank Act, gave the Governor (having regard to his ESCB tasks) or the Board of the Bank (in relation to its objectives and most appropriately the objective of [continuing ... or] contributing to financial stability [he just quotes the Act again] ... power to issue guidelines to the IFSRA as to policies and principles it was required to implement in performing functions, or exercising powers, of the Bank." He then goes on to say that in the ... on the second page of it, "in relation to the power of the Authority to issue requirements on any bank under Section 23A of the 1971 Act as to the composition of its assets and its liabilities, including liquidity buffers, sectoral limits etc." And then, in the next paragraph: "In addition, it may be relevant to add that the Governor was empowered, under Section 17A of the Central Bank Act 1971, to authorise a suitably qualified person to investigate the business of the holder of a licence or ... related [policy]" In fact the letter is up on the committee's website because it was taken or deemed to be additional evidence. Were you aware of those powers?

Mr. John Hurley: The only power that the Central Bank would use would ... was the power under the new Act. The old powers were really the ... I think it was said ... even said here in this particular letter .. that they would not normally be used. The first power really had to do with European operations. It had nothing to do with the powers that were subsequently given to the Financial Regulator under the new Act. And under the new Act, we certainly had power to give guidance to the Financial Regulator but we did that through the reports themselves.

Chairman: I'm going to summarise myself now. I ... we can go in and debate the broader implications of the statutes and Acts and all the rest of it but for ... just for now, were you aware of these powers? Because when Professor Honohan came back to you he was specifically asked with regard to your tenure and what was ... what was the legislative architecture during your term as Governor, not preceding or proceeding your term. We you familiar and were you aware that these were powers that were in your gift?

Mr. John Hurley: There was only one power that would be used, which is the power we were discussing earlier in relation to financial stability. And the power that was not exercised by the Central Bank because we agreed the framework in the context of the financial stability reports. The other powers ... one relate to monetary policy ... is not a power that would be used for these purposes.

Chairman: Because you are familiar with the letter, is the letter accurate or inaccurate by your measurement?

Mr. John Hurley: The letter is ... is accurate in the sense of the theoretical use of the powers. But the only power that would ever be used is the power contained in the new Act.

Chairman: Okay. On the list of actions that I've outlined to you, did you take any of those? And then we'll go for a break.

Mr. John Hurley: In relation to the powers here, no. The old powers would never have been used by the Governor of the Central Bank. The new powers in relation to guidance in the new Act ... that was a different matter. We exercised that guidance through discussions at the Central Bank board but the formal power was never used.

Chairman: I'm just going to clarify ... I will rephrase that question and reframe it again just to get 100% certainty from you, Mr. Hurley. Professor Honohan was wrote ... wrote to this committee after being asked a very specific question with regard to your powers as Governor following his deliberations with this committee on the Honohan report. He took time out to give a very considered response. He felt he wasn't able to answer it comprehensively enough when ... in his engagement with us and subsequently followed up that response with a very considered response outlining a series of actions which, he is saying, were your powers. Whether you availed of them or not is what's not being debated right now, but that they were your powers.

Mr. John Hurley: Two of the powers would never be used. The power that was or could have been used was the power of guidance. And I explained in my earlier comments that we didn't issue a formal ... a formal guidance.

Chairman: All I need to know for now is the powers that Professor Honohan has, in his correspondence to this committee, said that you have. Are you agree ... in agreement with the Professor Honohan's letter or not?

Mr. John Hurley: I believe that the two powers that he mentioned ... the first power that he mentioned related to an entirely different function and would be very unlikely to be used by a Governor of the Central Bank. Theoretically, it might be so. But the ... all of these powers were overtaken by the power in the new Act. And it's the power of guidance in the new Act that would be used.

Chairman: With that said, I propose that we take a break and that we would resume at ... what time is it now? At 11.30 a.m. In doing so, just to remind the witness that once he begins giving evidence, he should not confer with any person other than his legal team in relation to the relevance of matters that are being discussed before this committee. With that in mind, I now suspend the meeting until 11.30 a.m. and remind the witness that he's still under oath until we resume. Upon resumption we will be dealing with the correspondence and just continuing the latter end of Deputy Doherty's question. During the break, we'll be dealing with that piece of correspondence as well. Is that agreed? Agreed. Thank you.

Mr. John Hurley: And I'll get this in the meantime, will, I, Chairman?

Chairman: Pardon? Yes.

Mr. John Hurley: Will I see this in the meantime?

Chairman: I'll ask our legal team now to deal with this matter specifically with you, Mr. Hurley. Thank you.

Sitting suspended at 11.10 a.m. and resumed at 11.37 a.m.

Chairman: All right, with that said, I now call the committee back into public session, is that agreed? And, in doing so, I'd like to conclude this present line of questioning with Deputy Doherty with Mr. Hurley. Deputy Doherty.

Deputy Pearse Doherty: Mr. Hurley, you've seen the letter that we circulated to your legal team last week. The letter from the Office of the Financial Regulator is clear that there was an individual institution that had no access to ECB monetary operations, had not been accessing the wholesale markets for funding in recent months and were relying on retail and corporate deposits initiatives for liquidity. Can you clarify to the committee as to whether this was brought to your attention or not?

Mr. John Hurley: I have no recollection of this being brought to my attention. It may well have been brought to the attention of the unit within the Central Bank but this was not, so far as I can remember, brought to my attention at the time.

Deputy Pearse Doherty: Mr. Hurley, in answer to a previous question, when I asked you if there was a financial institution in a situation like this, when I asked you would this be a financial stability issue, you answered that it would and that you would expect this to be brought to your attention. Would you concur with the ... with what you see in the letter from the office of the regulator, that this does lead, or potentially could lead, to a financial stability issue?

Mr. John Hurley: It could lead to a financial stability issue but you would need far more information to be able to assess that, and it seems to me that, just on the basis of this alone, I wouldn't be able to come to that conclusion. I'm ... it really depends whether there was a connection between the different parts of the institution where ... whether this was brought to the attention of that part of the Central Bank that would deal with these issues. I certainly have no recollection of it.

Deputy Pearse Doherty: Okay. Can I ask you, because you've said it may be a financial stability issue, how could a financial institution that doesn't have access to ECB monetary financing, doesn't have access to the wholesale markets, and hadn't for a number of months, and were solely relying on deposits, not be a financial stability issue?

Mr. John Hurley: On the basis of what's said here, it ... it comes into that realm but I would need far more information to be able to assess that. I couldn't come to a conclusion on ... just on the basis of this paragraph, which I've just seen.

Deputy Pearse Doherty: Would you be surprised, or not, that the Office of the Financial Regulator did not bring this to your attention, if they didn't bring it to your attention?

Mr. John Hurley: No, they were ... I'm sure it might have been brought to attention at a different level but, to the best of my recollection, I didn't see this, and it ... it ... it was purely, I suppose, in relation to issues being dealt with with a particular institution. The fact that there might have been difficulty with ECB funding at the time, you know, certainly was important, but I'd have no recollection of being aware of that at the time.

Deputy Pearse Doherty: But you said you're sure that it was brought to your attention at a different level?

Mr. John Hurley: No, I'm ... I said that it may have been brought to attention at a different level but I have no recollection of this.

Deputy Pearse Doherty: Yes. You're just after saying ... You said, "I was sure", so you want to qualify that to say, "I may ... It may have been brought to my attention".

Mr. John Hurley: I don't believe it was brought to my attention.

Deputy Pearse Doherty: You don't believe it was brought to your ... Should've it been brought to your attention?

Mr. John Hurley: I think it would've been dealt with at a different level in the organisation. I ... I ... I wouldn't have expected ... Just----

Deputy Pearse Doherty: What level? What level is that?

Mr. John Hurley: Presumably the ... the Financial Regulator would be in touch with those who were dealing with the particular day-to-day funding monetary, monetary policy operations within the Central Bank, but I can't say that for certain.

Deputy Pearse Doherty: But if a bank has no access to wholesale money markets and no access to what is deemed as the lender of last resort, the ECB, is that not a serious, serious issue for a financial institution and, therefore, a serious issue for the Governor of the Central Bank in terms of financial stability?

Mr. John Hurley: I can't answer that just on the basis of this paragraph in the letter. I will need far more----

Deputy Pearse Doherty: No, I'm not----

Mr. John Hurley: I will need far more information than that.

Deputy Pearse Doherty: I'm not asking you in relation to the specific institution; I'm asking you in general that a bank, an institution that has ... not a bank, an institution that has no access to wholesale markets, no access to ECB monetary operation, is that not a serious issue for the Governor of the Central Bank in relation to its responsibility for the stability of the financial system?

Mr. John Hurley: It is, it is an important issue but I would need far more information before I could make an assessment on that.

Deputy Pearse Doherty: Okay. What was the reaction - as I said, this letter from the office of the regulator was in the first quarter of 2008 - what was the reaction of the Central Bank to the Irish bank share crash in March 2008?

Mr. John Hurley: It was regarded as serious but it was simply ... It was the Stock Exchange adjustment. Many, many banks and companies at the time were in great difficulty, but I mean, it doesn't really affect the essence of the business.

Deputy Pearse Doherty: Do you believe that the market reaction to Irish banks at that time was with or without merit?

Mr. John Hurley: It was a general trend at the time. The financial sector in general was in difficulty, not just in Ireland but elsewhere, so there was pressure everywhere on financial institutions.

Deputy Pearse Doherty: And the last point of clarification just, I asked you in relation to the minutes of ... of the IFSRA board, which talked about inspections in terms of growth of loan book and large exposures, and with another bank, bank B, in terms of commercial property exposure. You say that wasn't brought to your attention. Would the minutes of this board, the IFSRA board, be brought to your attention? Were they circulated to you and if so, did you read them?

Mr. John Hurley: Minutes of the board would usually be noted at the board meetings, not always but mostly, so far as I know, but I don't recall seeing that before.

Deputy Pearse Doherty: Sorry, just to clarify that and----

Chairman: I need to move on now.

Deputy Pearse Doherty: There's a number of boards here, so the question is ... the question is your responsibility. Did board minutes come before your desk or any board that you were involved in, were they circulated to you?

Mr. John Hurley: Board minutes ... of?

Deputy Pearse Doherty: Board minutes. IFSRA board minutes, these minutes refer to the Financial Services Regulatory Authority, the minutes of 2004, which deal with the inspections which you say was not brought to your attention. The question is, was Irish Financial Services Regulatory Authority minutes brought to the attention of the Governor of the Central Bank and, if so, did you read them up?

Mr. John Hurley: They would ... They would sometimes ... They would be in board documents. I would ... I would have read them but I can't say that they came on all occasions to me and the board of the Central Bank.

Chairman: I'll bring you back in again----

Mr. John Hurley: I can't definitely say that.

Chairman: ----in the wrap-up. Deputy Higgins, ten minutes.

Deputy Joe Higgins: Mr. Hurley, would it be a fair interpretation of your opening statement to say that you dumped responsibility for the excesses of the banks in the lending and property speculation areas onto the Financial Regulator entirely, and that you yourself take no responsibility for what happened?

Mr. John Hurley: I don't think that's true and I wouldn't say ... I hope I didn't give that impression. I certainly have a responsibility in relation to financial stability and contributing to financial stability, and in the context of those reports, certainly have a responsibility for bringing these to attention. I certainly, Deputy, didn't mean to give that impression.

Deputy Joe Higgins: But is it the case that your understanding of your role after the implementation of the 2003 Act was to have no responsibility for regulation? If ... if ... I put it to you that that's how it came across to me, but perhaps I'm wrong.

Mr. John Hurley: No, I think ... I think financial ... We were divested of responsibility for financial regulation, but if major issues arose and they were brought to attention, yes, they would be ... Central Bank would have to be involved and look at those, but, in general, the Central Bank's responsibility was a responsibility to contribute to financial stability and, like other central banks, the way that functioned was through the financial stability reports but it didn't have a responsibility for financial regulation.

Deputy Joe Higgins: How on earth can that be the case, Mr. Hurley? Deputy Doherty has already quoted to you from the memorandum of understanding. Let me quote again: "In this context, the Governor and/or Board's objective is to identify developments which could endanger the stability of the system as a whole and will advise accordingly.;". Now, in ... From the 1990s, lateish, on into the 2000s, house prices were rising crazily every year, profiteering in land and in speculation was rife and daily in the newspapers. Nyberg, in evidence, said that the banks complained to him that they had to chase Anglo, which was growing, in Professor Black's words, "like crazy", and the Central Bank didn't appear to notice the danger that that would bring.

Mr. John Hurley: I don't think you can say that. Sure, no ... it was all over our financial stability reports.

Deputy Joe Higgins: And what did you do about it?

Mr. John Hurley: We ... What we did about it was we identified the risks. It was the basis on which regulatory action would be taken. We publicised the risks; we had round-table discussions with the banks themselves; we had press conferences where we outlined the risks; but we were not regulating financial institutions.

Deputy Joe Higgins: But, Mr. Hurley, with respect, the Central Bank is not a media outlet or a press commentary organisation, it is at the very top of the financial system and it is, as we see in the memorandum and as the Governor Honohan said, responsible for financial stability. So is it the case that you knew that, but you didn't do anything about it?

Mr. John Hurley: Absolutely not. The assessments on financial stability are set out clearly in the reports, in all of the reports. The risks were outlined but the overall assessment is clear; the overall assessment of financial stability was set out in the reports and was a reasonable assessment of financial stability at the time.

Deputy Joe Higgins: Well, Mr. Hurley, a witness in front of this inquiry said, David McWilliams----

Chairman: I'd like you to identify the witness there please?

Deputy Joe Higgins: David McWilliams: "I think the Irish property crash and the banking crash were both incredibly predictable and absolutely preventable." And the same Mr. McWilliams said on "Prime Time" in RTE in October 2003 and I quote:

> The Irish housing market is a scam. It is an enormous financial swindle that could potentially confine an entire generation of young Irish workers to years of bad debt. Far from being a reflection of economic vitality and fundamental demand, the housing bubble is, in the main, a vacuous financial confidence trick that has been foisted upon us by an alliance of banks and landowners. Behind this nonsense is excessive and irresponsible lending from our financial institutions. The situation would be laughable if it were not so serious.

How could a commentator who hasn't an iota of the resources and the responsibilities of the Central Bank be so spot on so early in the bubble, and the institution that is responsible for all this does nothing?

Mr. John Hurley: But, of course, there are many views to be taken into account, not just one view, and the financial stability reports cover the whole gamut and look right across the sectors, and make an assessment. The assessment is the best assessment that people can make at the time, and it's on the basis of the information, the broad information that's available at the time. Of course, you will have individuals who'll see things differently and may turn out to be very prescient, but the overall assessment still has to be made by a central bank on the basis of the totality of the information.

Deputy Joe Higgins: But may I put it to you, Mr. Hurley, that it's not a question of seeing things differently; it's a question of analysis. Now you have long experience in the financial sector. You know, for example, the implosion of the banking system in Sweden in the late '80s and early '90s as a result of a speculative bubble. Alan Ahearne gave evidence here. He published, in 2005, or the Federal Reserve in America published for him, a study of 44 housing bubbles. Professor Morgan Kelly studied also. All could tell us that there was a tried and trusted historical precedent here of bubble, banks making massive profits and lending, and then a crash. How could the institution supposedly responsible for controlling, supposedly controlling, and stopping all that not see the same thing?

Mr. John Hurley: Because it isn't universally true. It's certainly true in certain situations, but the broad evidence, looking across the whole gamut of research, does not necessarily lead to that conclusion. The conclusion come to ... that came to in the Central Bank reports was the conclusion we came to, that, overall, the stability of the system was sound at ... on those particular occasions. Over the period of time, of course, that changed and the risk changed, and so did our assessment change as we went, for example, on to 2006. But up to then, we had a clear view, which we set out., set out in the reports, and there were many, many commentators and many economists that would have taken the same view.

Deputy Joe Higgins: Mr. Hurley, the Governor of the Central Bank, Professor Honohan, said on page 16 of his report: "A regulatory approach [he was talking about in Ireland] which was and was perceived to be excessively deferential and accommodating, insufficiently challenging and not persistent enough". Do you agree with him?

Mr. John Hurley: The approach taken to regulation was a principles-based approach. That was the approach taken by the Financial Regulator. It wasn't just the Irish Financial Regulator at the time. Very many regulators throughout the world accepted the same ... worked on the same basis, and that did place responsibilities on the managements and boards of banks.

Deputy Joe Higgins: Do you think a problem was caused by the 2003 legislation wherein page 23 of the core documents, section 5A(b) - I'll quote it, you don't' need to see it - it says that the Central Bank must "...promote the development within the State of the financial services industry (but in such a way as not to affect the objective of the Bank in contributing to the stability of the State's financial system)". Is there a big contradiction here in that the Central Bank is supposed to be attractive in foreign banks and encouraging local banks, which means making concessions for bigger profits for them, and, at the same time, supposing ... supposed to regulate them? Was that a contradiction?

Mr. John Hurley: I think it was very unfortunate that that was was continued on in Irish legislation. It's gone now, but it was there.

Deputy Joe Higgins: Was it the case that that legislation ... was it disastrous or not in its effect? To use a metaphor, did that legislation make the town sheriff responsible for the saloons, jazzing them up and making them profitable?

Mr. John Hurley: It was a complication; there is no question.

Deputy Joe Higgins: At the same time, he was responsible for keeping the ranchers and cowboys who came into town in good order. Wasn't there an inevitable contradiction between the two? Was it the case, as some would say, that the sheriff understood that if he curbed the wilder instincts of the ranchers and cowboys, they would go elsewhere for their bootleg, etc.? And some would say that what happened as a result of this was that the wilder instincts of the financial institutions were given free rein with great cost to society. Was that an outcome of that legislation?

Chairman: I have to press you now because we have got questions to get covered as well. Deputy, I'm going to have to allow sufficient time for that to be answered.

Mr. John Hurley: I think it was very unfortunate that that was included in the legislation and I was very pleased to see that it's gone in the new legislation. It certainly was a complication and I regretted very much that it was there.

Chairman: Thank you very much. Just following on on an unrelated matter, if I can maybe talk about monetary union with you, Mr. Hurley. That apart from the lack of control over monetary policy after joining the European monetary union, what, in your opinion, were the major changes in the role of Governor when comparing the Central Bank and the regulatory models before and after the 2003 restructuring?

Mr. John Hurley: The essential change in monetary union is the pooling of decisions on monetary policy. I mean it's a very, very significant change. It means that we didn't have control over our own interest rates. We were looking at interest rates in general across the euro area. Now the ECB and ... and ... didn't have a responsibility for overall regulation and prudential supervision of the sector, but, of course, it has a different responsibility now as a result of this crisis but, certainly, at the time there was a definite lacuna there and that's now been filled.

Chairman: Okay. Thank you. Senator Sean Barrett. Ten minutes, Senator.

Senator Sean D. Barrett: Thank you, Chairman, and welcome, Mr. Hurley. In your statement, you stated that no request for funding or resources from the Financial Regulator was ever refused. In your belief, did the regulator have sufficient staff and resources to carry out its statutory function? And was that a factor in the crisis?

Mr. John Hurley: I believe that the budgets submitted by the Financial Regulator would have been accepted and approved. There would've been a consultative mechanism with the Minister. And I think the building up of staffing in the Financial Regulator over a period of time, starting in 2003, unfortunately, coincided with the building up and developments of the problems in the Irish economy. The timing of the creation of the Financial Regulator was unfortunate when one looks back in hindsight, where you were splitting responsibilities within an institution. And, also, the Financial Regulator was given very significant responsibilities for the consumer function at the time so it was balancing these functions in a whole new environment. I think it was unfortunate that the functions were split at that particular moment in time just as, in fact, the bubble was developing.

Senator Sean D. Barrett: Because the bank's supervisory department, Professor Honohan found, in 2000 when the Central Bank was doing it, had an approved staff of 38.5 and an actual staff of 32.5 people. And given that the Central Bank had and had subsequently 1,200 staff, the fact that so few were devoted to prudential supervision of banks, was that not a mis-allocation of resources?

Mr. John Hurley: It was simply the approach, I think, that was taken in principles-based regulation where the, the Financial Regulator would have, you know, placed most responsibility on the boards and managements of banks. So it was a different approach to regulation. It wasn't unique to Ireland; it was followed in very many places. What we now know, and I think this would be accepted in hindsight by everyone, that it wasn't intrusive enough in the environment in which we found ourselves.

Senator Sean D. Barrett: Because Mr. Honohan ... Governor Honohan, as you'll know, he also has that a three-person team was responsible for Bank of Ireland and Anglo Irish Bank in 2005 so that couldn't possibly have been adequate, given the size of both of the bodies and the problems that they encountered subsequently.

Mr. John Hurley: But I think it's a function of the methodology that, that, that really was employed and I think the allocation of staff would be something entirely for the Financial Regulator themselves. We ... we would have no function in that matter. But the number of staff would be a function of the methodology.

Senator Sean D. Barrett: Were alternative ways of supervising the prudential affairs of banks ... were they ever considered by the Central Bank board? For instance, Regling and Watson mentioned Canada as a country which had tough banking supervision and no bank crisis.

Mr. John Hurley: No, because the function to ... the functions were transferred to the Financial Regulator and the decisions in terms of the methodology and means and approach would be taken by the Financial Regulator and its board. And that was consistent with the overall approach at the time to regulation adopted in the Government's White Paper, for example. So I think the approach was determined by the regulator itself on the basis of principles-based supervision.

Senator Sean D. Barrett: Under the current system, what should be the staffing number? I think the Central Bank now has about 1,500 staff; that's the target. How many of those should be engaged in the prudential supervision of banks?

Mr. John Hurley: Well, I think if the crisis has taught us anything, it is that you can't simply drop a rules-based approach to supervision; you have to have a mixture of the two. And that was the orthodoxy at the time, it was the philosophy at the time, but that's now entirely changed. In the situation in which we now find ourselves in, there has to be a far more hands-on approach to regulation, and I think that's ... that's being adopted everywhere now and the new structures within the European Union and the basis on which the ECB, for example, has now a role in relation to regulating major institutions is part and parcel of that. So it's a significant change and, I think, an appropriate change.

Senator Sean D. Barrett: Honohan, as you know, has case study (i) and case study (ii) in his report. It's on page 73. As early as August 2000 a Central Bank official was aware of problems in the case study (i) firm and it never seems to have been corrected right through to the crisis. And some of that was on the Central Bank's watch and some of it was on the Financial Regulator's watch. The picture I get is that the Central Bank wasn't engaging in supervision and then there was a turf war after the 2003 Act and that contributed seriously to the problem.

Mr. John Hurley: I don't think that's the case. I mean, after the 2003 Act was implemented, the legislation was clear. It was something I didn't favour or support but the legislation was clear and the legislation divested the Central Bank of prudential supervision. In that particular situation, the responsibility ... the responsibility was clear. I didn't see any turf war at that time.

The turf war was over.

Senator Sean D. Barrett: Because there were only 48 people in 2008 actually working on banking supervision and the 32 when you were in charge in 2000. Out of the staff of over 1,000, the combined bodies did not take prudential regulation of financial institutions seriously enough to allocate resources to that area. It was-----

Chairman: -----now, Senator, okay.

Mr. John Hurley: It was simply a function of the approach. I mean, if you go into a rules-based system and a detailed system, the starting levels will have been very much higher. But the view at the time was that principles-based supervision was the appropriate way to go. This has suffered a sea-change since, it's completely different now. We know that rules-based ... to some extent, is required. And, of course, once we get into rules-based supervision or the new regulatory system gets into rules-based supervision, it will probably be only a matter of time before the squeals will come that this is too heavy and we will be eventually forced back to another balance. But the lessons of what ... of this crisis is that we simply can't divest rules and solely rely on principles.

Senator Sean D. Barrett: Regling and Watson say on page 37, "The supervisory culture was insufficiently intrusive, and staff resources were seriously inadequate for the more hands-on approach that was needed".

Mr. John Hurley: Well, I think that was because a principles-based system was developed and accepted at the time. And principle-based system of regulation, which was employed by the regulator, relies on managements and boards of banks much more heavily than, say, another type of system.

Senator Sean D. Barrett: Is there a distinction between the micro supervision and the macro role that the Central Bank had? Isn't it bogus because if a major micro sector like the financial sector goes down, it brings the entire economy down and-----

Mr. John Hurley: I would think that that is one of the great difficulties of separation, particularly in a small country, of regulation from central banking. I mean, when the crisis hit, the Central Bank had to get involved in ECB funding and had to get involved in an area of liquidity management which was the responsibility of the Financial Regulator. We were at the edge of our legal powers when the crisis hit, yet, nevertheless, the only way it could be managed is by me talking to the chairman of the Financial Regulator and saying: "I know what the legislation says but can we manage it on this basis?" So that's the difficulty. When you have these distinctions, they seem fine, you know, in legislation but when problems arise, it's very, very difficult to manage a system on that basis.

Senator Sean D. Barrett: How much arises from not adequately preparing for joining the euro? Because in the national currency days, reading, say, the biography of Dr. Whitaker, one of your predecessors ... that we were able to do this. Did we understand what the free movement of capital would be and had the Central Bank any misgivings about the loss of controls over movements of capital, interest rates and the exchange rate by joining the single currency, and were we properly prepared?

Mr. John Hurley: There were significant limitations to what could be done once we ... once we joined the single currency but you have to look at the overall balance ... the balance of advantage that comes to the country in this ... in the overall context. Undoubtedly it was a different system with different powers but the judgment at the time was this, on balance, was better for the country and I agree with that view.

Senator Sean D. Barrett: Even if you have asset price bubbles like the one we had?

Mr. John Hurley: Well, I don't think that that will happen just because we're in a monetary union. It's happened everywhere, it's happened all over the world. I think we have to ... you have to accept that all over the world things will go awry but it isn't precisely because of the monetary union that that has happened.

Senator Sean D. Barrett: Could the Central Bank control huge flows of capital into a country now knowing the damage that it can do?

Mr. John Hurley: Not within a monetary union, the capital controls ... you can't actually do that at source. But you do have to ... in the light of the crisis, there has to be some system of regulation which is far more intrusive, which deals with the downside of that within individual institutions. Now, I think that's accepted as a result of this particular crisis but it wasn't accepted at the time.

Chairman: Senator, thank you.

Senator Sean D. Barrett: -----the actual limits on the growth of lending by all the lenders in a market.

Mr. John Hurley: I think that is a very, very big issue. I mean, that sort of sectoral controls ... they're still not being applied in the macro prudential systems that we have seen subsequently. The ... what is happening under the Basel rules and under Basel II and III, is there is a focus on concentration but it's ... you're looking at this in the context of individual institutions and that's ... Pillar 2, for example.

Chairman: Thanks very much, Senator.

Senator Sean D. Barrett: Thank you, Chairman.

Chairman: Deputy Murphy. Deputy.

Deputy Eoghan Murphy: Thank you, Chairman, and thank you, Mr. Hurley, you're very welcome. Mr. Hurley, in your opening statement you said that the Central Bank was divested of supervisory powers over financial institutions after the 2003 Act. Is that correct?

Mr. John Hurley: Yes.

Deputy Eoghan Murphy: But did you maintain responsibility for system-wide stress testing of those institutions?

Mr. John Hurley: Yes. That would be a function that's associated with financial stability and it would be run overall by a financial stability unit in the Central Bank. That's not uncommon.

Deputy Eoghan Murphy: But the power to conduct those tests, is that not a supervisory power of those institutions?

Mr. John Hurley: It's a financial stability power. It's really-----

Deputy Eoghan Murphy: Is it a supervisory power as well?

Mr. John Hurley: Well, there is a supervisory element but what we did in the Central Bank side was stress testing for financial stability purposes.

Deputy Eoghan Murphy: But you had the power to mandate a stress test of all institutions and to write to the banks in question and get them to carry out a stress test.

Mr. John Hurley: Yes, a stress test. You had two types of stress test, as you know, you'd a top-down and the bottom-up stress tests. Those were overall managed by the Central Bank and there would've been interaction at the time in terms of the calibration of those tests and the testing itself, yes.

Deputy Eoghan Murphy: You refer in your opening statement as well to the 2006 stress test and that it was an IMF stress test. Was that an IMF stress test or was it a Central Bank stress test?

Mr. John Hurley: There were a number of tests then but there was a particular one which was calibrated by the IMF and which would be carried out by the Central Bank.

Deputy Eoghan Murphy: Calibrated by the IMF.

Mr. John Hurley: Yes.

Deputy Eoghan Murphy: So they set the scenario.

Mr. John Hurley: The overall scenario, and the ... but the practical application of it would be, to the best of my knowledge, carried out by the Central Bank on their behalf.

Deputy Eoghan Murphy: The application ... and what about then the different variables within the scenarios? Who would decide on those?

Mr. John Hurley: My ... that would probably have happened in discussion but the overall shape of the test would be an IMF shape, I would imagine, yes.

Deputy Eoghan Murphy: Okay. When the Central Bank wrote to the institutions in 2006 about conducting a stress test, this was in February and the test took place then over the next couple of months, it didn't mention the IMF at all. The rationale that was given at the time, from the documentation that has been provided to us about stress testing, was that it was in relation to vulnerabilities highlighted in the 2005 financial stability report. So, was that test in 2006 because the IMF requested it or was it because of worries that the Central Bank had?

Mr. John Hurley: I think there was a particular test, to the best of my recollection, mandated by ... or by the IMF and it would be conducted on its behalf by the Central Bank. So the initiation of it, to the best of my knowledge, was the IMF.

Deputy Eoghan Murphy: So it wasn't to do with concerns highlighted in the financial stability report in 2005.

Mr. John Hurley: To do with particular concerns ... no, I don't ... well, I don't believe so. I think it was done because of the IMF requirement ... the 2006 ... to the best of my knowledge.

Deputy Eoghan Murphy: Okay. Well, in the documentation that's been received by the committee in relation to the stress testing ... the letters that were issued to the banks doesn't mention the IMF at all and, in fact, it talks about concerns ... vulnerabilities highlighted in 2005, including very high credit growth, rising indebtedness, property prices rising and increasing concentration on property-related lending by financial institutions.

Mr. John Hurley: But I'm not sure that it would be necessary to refer to the-----

Chairman: What document, Deputy?

Deputy Eoghan Murphy: The general documentation received by the committee.

Mr. John Hurley: I'm not sure it would be necessary to refer to the IMF. The reality is that there was an IMF involvement and I think that's clear from the other documentation involved here-----

Deputy Eoghan Murphy: Okay.

Mr. John Hurley: -----conducted on behalf of the IMF by the Central Bank.

Deputy Eoghan Murphy: And how long would that stress test scenario take place? How long would you give the banks to conduct those tests?

Mr. John Hurley: I don't know the answer to that.

Deputy Eoghan Murphy: Okay. And in the course of those tests being done, the IMF would come to Ireland to participate.

Mr. John Hurley: Yes, well, they certainly would be involved in the outcome and discussions of the outcome with those involved in the Central Bank.

Deputy Eoghan Murphy: Okay. In the 2006 stress test there were two scenarios, shock scenario one and shock scenario two. Shock scenario one was the extreme scenario and it included a decline in house prices of 40%. Why was that?

Mr. John Hurley: Essentially, a number of the ... a number of the methodologies for looking at overvaluation of houses would have looked at a spectrum of from zero to 70% going back to previous stability reports, so the notion of stress testing, a significant drop in property prices, was a very valid one.

Deputy Eoghan Murphy: That was the extreme scenario, shock scenario one. Shock scenario two was the weak scenario in which the variables change but still for property prices, it includes the same decline, the same rate 40%. Why would that variable be constant across the extreme and the weak stress tests?

Mr. John Hurley: But it depends on the other factors, I can't remember what the other factors were now in that particular test, but, I mean, the adjustment presumably in that case relates to the other factors.

Deputy Eoghan Murphy: I'm just not so sure that why in an extreme scenario and in a weak scenario, you'd have the same one particular item and the only item would be a decline in property prices of 40%.

Mr. John Hurley: I don't know the answer to that but it seems to me that 40% is a very significant decline in property prices.

Deputy Eoghan Murphy: Yes and it's an extreme scenario-----

Mr. John Hurley: And, but if you ... but to be able to assess the stress tests, I think you would need to look at the other variables.

Deputy Eoghan Murphy: Okay. In that same year, in a pre-budget letter to the Government and this is in Vol. 1, page 119, you wrote ... the Central Bank wrote ... in its submission that "It seems that a gap may now be opening up between actual prices and prices warranted by fundamentals." Would there be a relationship between that 40% figure and the shock scenarios and in that letter that you wrote to the Government?

Mr. John Hurley: No. At the time ... am I looking at page 119?

Deputy Eoghan Murphy: Vol. 1 ... it's halfway down the page in the box.

Mr. John Hurley: This is a 2006 letter?

Deputy Eoghan Murphy: Yes.

Chairman: It's on the screen in front of you, Mr. Hurley.

Mr. John Hurley: No, it's not. Okay. In that letter, that referred to two studies in terms of price ... price overvaluation of 15% to 20%. At the time, that was the type of overvaluation that we would have been steering the market and the media about ... that level of overvaluation where we believed as a result of the reigniting of the market in 2006 and the significant increase ... unexpected increase that took place in lending in 2006 ... that there was a level of overvaluation in the market. Now, there was a discussion throughout 2006, to the best of my memory, about whether or not the Central Bank to actually promulgate a level of overvaluation ... should we plump for the level of overvaluation and we decided not to do that. We felt that it would be inappropriate and instead we steered towards an overvaluation of roughly 15% to 20%.

Deputy Eoghan Murphy: Despite the fact that in your weak shock scenario, you still had a decrease in house prices of 40%.

Mr. John Hurley: Yes, but you ... what you were doing was testing the system to make sure that the system was resilient to that.

Deputy Eoghan Murphy: Now, the extent of the IMF's involvement in that test of the system, the IMF came in and interviewed the institutions after they conducted their tests. Is that correct?

Mr. John Hurley: I can't answer that question.

Deputy Eoghan Murphy: How would it work with the IMF?

Mr. John Hurley: The IMF would probably have discussed the matter with the people who did the testing in the Central Bank.

Deputy Eoghan Murphy: Okay.

Mr. John Hurley: I can't actually say whether or not they went out to institutions; I'd be surprised. They may have done it in a more general sense to get a feeling of what was happening in the economy with the institutions but I doubt if they specifically went out on the stress test. I can't answer that question.

Deputy Eoghan Murphy: Okay, well ... I think from documentation we received it would be with individual institutions in relation to the stress testing. But when we look then at the IMF report from 2006 and it's Vol. 2, page 19, and this is the country report from August, it seems clear from that that the IMF is commenting on the stress tests but not commenting on tests that they've been involved in but tests that the Central Bank has conducted: "Central Bank officials noted that recent stress tests indicate that the major lenders have adequate buffers to cover a range of shocks." So this is the IMF noting what the Central Bank has noted, it's not an IMF judgment as to the stress test.

Mr. John Hurley: Yes.

Deputy Eoghan Murphy: And then it goes on in that paragraph, "Staff welcomed these favorable results but observed that [a] long period of strong economic performance limits the ability to quantify the relationship between macroeconomic variables and credit risk." What was the Central Bank's response to the IMF's comment?

Mr. John Hurley: The overall response to the IMF, and I wouldn't pick out a particular sentence in it ... the overall response here was a satisfactory response, we felt that the test was reasonable, that it showed reasonable resilience by the Irish financial system and all of the different elements suggested that.

Deputy Eoghan Murphy: In the financial stability report of 2006 from the Central Bank, in the summary you stated that "it is likely that the results understate the adverse effects of shocks".

Mr. John Hurley: Well, I don't know ... can I see that particular reference?

Deputy Eoghan Murphy: Yes, it's on Vol. 1, page 170.

Mr. John Hurley: 170?

Deputy Eoghan Murphy: Yes.

Chairman: There's a bit of time there Deputy, but you need to wrap up.

Deputy Eoghan Murphy: Thank you, Chair. It's in the right-hand column.

Mr. John Hurley: Oh yes, but that's a general comment on stress testing as a methodology and it's the linkage between first and second-round effects. I mean, that's a valid comment but it does mean that stress testing methodology is imperfect. It's certainly has been developing over the years and wasn't fully developed at this time and still the ability to take in second-round effects ... greatly limited, I think.

Deputy Eoghan Murphy: Yes. A final point that you make in this section on stress testing, having conducted a series of stress tests in 2006, the final point that you choose to make is that there's likely an understatement of the adverse effect of shocks.

Mr. John Hurley: Well, you can come to that conclusion on the basis that there isn't a tried-and-tested method of calibrating second-round effects. It's the non-linearities that give rise to the problems within the stress test ... that is the difficulty with all stress tests.

Deputy Eoghan Murphy: Okay. Were the scenarios employed by the Central Bank credible?

Mr. John Hurley: They were the state-of-the-art scenarios at the time, we were using the methodologies worldwide, they were under development, continue to be developed, but they were the methodologies at that time.

Deputy Eoghan Murphy: But were they of any value then in understanding in mitigating against the risks inherent in the banks' operations?

Mr. John Hurley: Well, they were because you were trying to test the systems against a particular level of shock. Now we know that there's no test that would have enabled us to cope with the shock that emerged. There was no test anywhere that would have enabled us to deal with that. This ... the crisis that emerged across the world, the globe and in the financial sector generally was way beyond stress tests. No stress test was able to measure for that.

Chairman: Final supplementary, Deputy

Deputy Eoghan Murphy: Was does that then maintain for the stress tests that had been carried out post-2008?

Mr. John Hurley: Well, post-2008, I think you've had an enormous injection of resources into stress testing since 2008 and even when you look at the stress tests in 2010, you had a stress test at the beginning of 2010 which was very different from the one later on. Enormous amount of resources have gone into this. They're far, far more rigorous but that type of resource for stress testing wasn't spent anywhere before the crisis.

Chairman: Thank you very much, Deputy. Just relating to the earlier stress testing, not the lateral one, if I could ask you, Mr. Hurley, what apart from the stress tests were the main reasons that the Central Bank took so much comfort from the shock-absorbing capacity of the banks?

Mr. John Hurley: What part of the stress test?

Chairman: No, what apart from the stress tests were the main reason that the Central Bank seemed to have took such comfort in the shock-absorbing capacity of the banks?

Mr. John Hurley: Essentially, because when you look through the other assessments that were made in financial stability reports, including in relation to capital, the banks were well-capitalised by comparison at the time and quite a number of the other indicators in the financial stability reports, the financial soundness indicators, for example, all showed a resilience in the banking system. No banking system at the time was assessed against the type of shock that occurred.

Chairman: So, are you saying this morning, Mr. Hurley, and maybe just to clarify this, that the Central Bank was assured by what it perceived to be as the shock-absorbing capacity of the banks?

Mr. John Hurley: At the time, yes, the assessment in the financial stability reports was that it ... I mean I said in my opening statement ... it underestimated the interaction of the two shocks. The worldwide shock, which I think was unprecedented, and many have said not seen since 1930, you might even go back to the First World War, but that shock interacted with domestic vulnerabilities and that's what essentially caused the difficulty.

Chairman: Thank you very much. Deputy Michael McGrath.

Deputy Michael McGrath: Thank you Chair, you are very welcome, Mr. Hurley. Can I start by asking you in relation to the Honohan report which pointed out that, prior to the financial crisis in 2008, there were no sanctions imposed on credit institutions and none that might be said to have reflected significant prudential concerns. Can you comment on why, in your view as then Governor, as distinct from regulator, no enforcement actions were taken during that period in relation to prudential regulatory breaches, in your view?

Mr. John Hurley: Well I can't comment in ... I can't comment in the sense that that was a regulatory issue that wasn't being pursued by the regulator and the regulatory authority, that was the function. And presumably it was on the basis of their assessment.

Deputy Michael McGrath: Okay. Professor Honohan examines in detail in his report the separation of the Financial Regulator and the Central Bank, and he arrives at the following conclusion, "Though few would now defend the institutional structure invented for the organisation in 2003, it would be hard to show that its complexity materially contributed to the major failures that occurred." Do you agree with this statement?

Mr. John Hurley: I think overall that's probably correct but the difficulty with that is that you separated at the wrong time the two functions, and when you look back at it, the house was divided at a time when the bubble was inflating. Now we will never know what the counterfactual is, we just won't know. But, when you look now at what's happening internationally and look at the forces that are in play to unify central banking with financial regulation, it's being done for a reason, and the reason is to try and bring some coherence to the overall function.

Deputy Michael McGrath: Mr. Peter Nyberg, when he examined the role of the Central Bank pre-crisis, he concluded: "As in the case of the [Financial Regulator] there was a major domestic policy failure at the [Central Bank] in respect of the maintenance of financial stability." Do you agree?

Mr. John Hurley: Well, in hindsight, that is the position. We had financial stability ... instability, and that has occurred because, as I said, of the interaction of two ... and two forces - the enormous international force, which wasn't seen by the Central Bank; indeed, it wasn't seen by many domestic or international commentators, but this reacted with a domestic vulnerability. And the domestic vulnerability of course, as we now know, includes a very significant depletion of risk management practices in individual banks. That was not known at the time.

Deputy Michael McGrath: And what share of the responsibility for that does the Central Bank bear?

Mr. John Hurley: I think the Central Bank has to take its own share of responsibility because when you look back at the ... and I said this in my opening statement, when you look back at the financial stability reports, it's quite clear in hindsight that we got it wrong.

Deputy Michael McGrath: Is that a minority share of responsibility? Is it the primary share of the responsibility for the major domestic policy failure in respect of the maintenance of financial stability?

Mr. John Hurley: Well, I think we had a role to contribute to financial stability and that ... that contribution is now changed, that function is changed and the essence or the overall-----

Deputy Michael McGrath: Were you the essential guardian of financial stability?

Mr. John Hurley: We, we were the leading guardian of financial stability at the time and we have to accept our share of responsibility in relation to that.

Deputy Michael McGrath: But if you were the primary guardian of domestic financial stability, and you accept that there was a major policy failure, then are you accepting primary responsibility?

Mr. John Hurley: I think we have to accept ... the ... a large share of the responsibility. The reality is there were functions that we weren't responsible for. We weren't responsible for interest rates overall, we weren't responsible for fiscal policy, which was a crucial aspect of the instability and we weren't responsible for prudential and ... supervision of banks. We did have an analytical responsibility, a responsibility in relation to financial stability and guidance in relation to financial stability, and we could have done that better.

Deputy Michael McGrath: The 2003 Act, Mr. Hurley, set out very clearly in section 26, it inserted a new section 33D in the principal Act, giving the Governor or the board the power to issue guidelines to the regulatory authority and those guidelines had to be complied with by the Financial Regulator. So is it the case that you, as Governor of the Central Bank, had the power to issue guidelines to the Financial Regulator in respect of capital ratios for example?

Mr. John Hurley: We had power to issue guidelines but they'd have to be very broad guidelines, and they couldn't be specific in relation to the details or regulation.

Deputy Michael McGrath: Where does it say that?

Mr. John Hurley: Because it's principles and criteria, whereas if you look at the actual provision in relation to regulation, it talks about "must regulate according to their own lights" and so on. There's an ambiguity in difference there, but it would have been according to principles and criteria and so it would have been an overall guidance. And that said, we did not issue a formal overall guidance because we took the view that the financial stability reports themselves were the guidance, and particularly as we had, with the Financial Regulator, jointly agreed those reports.

Deputy Michael McGrath: Can I just clarify, Mr. Hurley, are you saying that the Act put constraints or limits on the guidelines that you as Governor could issue to the Financial Regulator?

Mr. John Hurley: My view is that they would have had to be broad guidelines in relation to criteria-----

Deputy Michael McGrath: Is that in the Act?

Mr. John Hurley: In the Act.

Deputy Michael McGrath: Is that stated in the Act?

Mr. John Hurley: Guidelines and principles, yes.

Deputy Michael McGrath: Because the relevant section is very clear and it doesn't put any constraints or restrictions on the guidelines that you had the power to issue to the regulator and I'm putting the question to you, did you have the power for example to issue-----

Chairman: What section, Deputy, if you have it to hand there?

Deputy Michael McGrath: Yes, section 33D. Mr. Hurley is very familiar with it, section

33D of the 2003 Act.

Mr. John Hurley: What volume? I'd like to look at the section.

Chairman: I'll afford you time, Deputy.

Deputy Michael McGrath: I'm not sure it's in the core booklet but it's ... it's the Act.

Chairman: It's in the booklet somewhere? Are you familiar with it, Mr. Hurley, yes?

Mr. John Hurley: Yes, but I'd like to see the particular section.

Deputy Michael McGrath: Yes, it does ... I'll read it in full, I think it's important because it does refer to policies and principles which ... which you stated.

Mr. John Hurley: It was ... it was the broad power ... a broad power of guidance and it did include ... I couldn't be specific, the specific powers were withheld by a different section.

Deputy Michael McGrath: But is that your interpretation? I mean, it says you could issue guidelines as to policies that the regulator is required to implement. That's pretty clear: policies.

Mr. John Hurley: Yes, policies and principles.

Deputy Michael McGrath: But could a policy not deal with sectoral concentration limits?

Mr. John Hurley: It ... it wouldn't get into ... it wouldn't get into detailed provisions that the regulator would apply within institutions. It would be a broad view and it seems to me that the broad view that it would adopt would be very like the broad view that we adopted in the financial stability reports. But when you go through the different lists in the financial stability reports, they're outlined in the reports and they're set out in the reports and a guideline would have to be fairly broad. It couldn't specifically direct a regulator to do particular things that were within their own compass.

Deputy Michael McGrath: Would it be fair to describe that as your interpretation Mr. Hurley?

Mr. John Hurley: It would, but I would have a strong view on that. I mean, I don't know how you can ... interpret that differently.

Deputy Michael McGrath: But there are also the additional powers that are set out in Governor Honohan's letter, which the Chair referred to earlier on, which were not removed by the 2003 Act.

Mr. John Hurley: No, but he has put in a fairly strong sentence at the end of those powers indicating that normally they wouldn't be second-guessed by the Central Bank because so many explicit specific powers were given to the Financial Regulator under the 2003 Act. The first power relates to ratios. It relates to ratios for the conduct of monetary policy to create a credit shortage in the market to enable interest rates to function. It's not a power that I know has been used anywhere in Europe for prudential regulatory purposes. I think you may find an example of it in Africa or Asia.

Deputy Michael McGrath: Mr. Hurley, I think this is the core of it. Is it your assertion that you did not have the power to issue direct policy measures to the Financial Regulator for implementation concerning, for example, capital ratios, sectoral concentration limits, loan-to-deposit ratios, wholesale funding dependancy, 100% residential mortgages? Did you have the power or not, in your view, to direct the Financial Regulator to take action on those issues?

Mr. John Hurley: There was a specific power to issue guidance and as far as I'm concerned, it would have had to follow the words in the Act, the broad phraseology in the Act.

Deputy Michael McGrath: Which are ... relating to the policy-----

Mr. John Hurley: And principles-----

Deputy Michael McGrath: That the authority is required to-----

Mr. John Hurley: Policy and principles-----

Deputy Michael McGrath: And principles, yes they're separate, principles is one thing, policies is another thing.

Mr. John Hurley: So they would have to be fairly broad ... broad guidelines, in my view and in my interpretation. But I'm not sure that it's that important in the sense that if the Central Bank felt-----

Deputy Michael McGrath: Used.

Mr. John Hurley: Yes, but if the Central Bank felt that it needed to use it we would have raised the issue with the Financial Regulator and I'm sure it would have been discussed at the board, and I doubt in that context whether it would have been necessary to issue a formal guideline. In my view, because we were discussing these in the context of the reports, and because the reports were the framework, as far as we were concerned that was the guidance. So if we thought it was necessary to issue guidance beyond that to the Financial Regulator, we would have done so and we would have discussed it at the board and I'm quite sure we would have found a way to do that, despite the particular provisions. So I don't think it's down to a legal issue is what I'm really saying.

Deputy Michael McGrath: Yes, you didn't believe the risks warranted that level-----

Mr. John Hurley: We believed-----

Deputy Michael McGrath: -----of intervention.

Mr. John Hurley: -----that the risks were outlined in the financial stability report. We believed that the guidance was there and we had agreed this with the Financial Regulator so we didn't ... we didn't actually believe it was necessary to go further than that but ... so I wouldn't get particularly hung up on the legalities.

Deputy Michael McGrath: Okay, but do you now accept that you should have went further than highlighting risks and you should have taken action?

Mr. John Hurley: In hindsight, the answer to that would be "Yes", but, at the time, we believed that the action taken was sufficiently strong in the context of the issues at the time. When you look back from this side of the financial crisis, you know, a one in a century event, I think, yes, you can say the answer to that is in the affirmative.

Deputy Michael McGrath: You say in your opening statement, page 4:

> The reports from the Nyberg Commission and Regling and Watson suggested ... there was a basis for taking some action by about the end of 2005. In hindsight I agree with this view and I consider now that the Central Bank should have escalated and reinforced its warnings on risks. However, at the time the Bank considered ... its approach in the 2005 Financial Stability Report was the correct one.

So what you're conceding there appears to be that you should have escalated and reinforced your warnings on risks, but are you stating that you should have went further than that and taken action, used the power that you had in the legislation to issue clear guidelines in respect of policies and principles to the Financial Regulator that you believed would have made a difference?

Mr. John Hurley: Firstly, we didn't see the crisis coming so we believed what we were doing was sufficient. We didn't see the ... neither did most commentators, domestic or international, see the enormity of the crisis that was in hand, so we didn't see the interaction of the two risks, between what was happening globally and the domestic risks. Now we took the view that the risks we had outlined in the financial stability report and the framework that we had applied into the financial stability was a sufficient basis for financial regulation but-----

Deputy Michael McGrath: The issue there is I consider now, so the question is in the context of that-----

Mr. John Hurley: Now, in hindsight-----

Deputy Michael McGrath: -----what should you have done?

Mr. John Hurley: -----with all we know now, the answer to that is yes, we should have escalated our warnings at the time.

Deputy Michael McGrath: What does that mean?

Mr. John Hurley: Well. it would mean that we'd have had a much stronger discussion about the risks because we ... If we could have seen the risks that were going to emerge that, discussion would've taken place with the Financial Regulator at the Central Bank board and a discussion on actions would have been taken at the Central Bank board and I'm not sure that it would've been necessary to issue any formal guidelines.

Chairman: Okay, thank you very much. Senator Marc MacSharry.

Senator Marc MacSharry: Thanks very much, and thanks, Mr. Hurley, for being here. After 2004, the IMF, OECD and ECOFIN all clearly recommended a tighter fiscal stance and the building up of a cushion for the time when income from property-related transactions might fall. Can you discuss why the Central Bank's recommendations to the Minister did not more forcibly raise this issue?

Mr. John Hurley: In the discussions with the Minister, we did continuously advise in terms of tighter fiscal policy. We did feel that the policies were perhaps pro-cyclical at the time and we did urge caution in relation to fiscal policy. I think that's clear from the correspondence and the letters to the Minister, and we thought that that was sufficiently strong at the time. It's true that in relation to the different budgets and public expenditure volumes that were released that the fiscal situation was weaker than we would've liked, but it was a time of extraordinary growth and there was a great deal of demand publicly for services.

Senator Marc MacSharry: At the time, was there any specific advice that you gave in your role to the Government that they didn't follow, that they refused to take, that they ... that you would recall now as being of detriment?

Mr. John Hurley: Well, when the advice was given in 2004 to look very clearly at the property incentives, I wasn't at all sure that that would be taken because there was a very difficult experience that the country had as a result of the 2001 and 2002 slowdown, so I thought that that was a very, very positive development. I thought the ... I thought the raising of that in the budget '04, the getting in of consultants in '05, and the making of a decision to eliminate the property incentives was a very strong action at the time. That's was my belief of time. I believed it was ... We were very pleased with it in the Central Bank..

Senator Marc MacSharry: The Government did what they were told then, did they?

Mr. John Hurley: Well, the Government reacted very quickly in my view to the ... to the requests to adjust ... to adjust those incentives.

Senator Marc MacSharry: Can you recall any example where they didn't follow your advice?

Mr. John Hurley: I think that, overall, on fiscal policy we thought it was too pro-cyclical. We also thought that the demands being created in the property sector in terms of the heat in the property sector was much too ... We were building too many houses and we thought that would adjust, but I got a very fair hearing from the Minister on every occasion, and I can ... I can ... I can remember very significant discussions where we were talking about the future path of interest rates, the effect of the future path of interest rates, would this in addition to the adjustment in relation to property taxes cool the market? And it was certainly my view at the time that the combination of the incentives, of the withdrawing of incentives, the fact that a fairly aggressive tightening cycle in interest rates was likely, although it was delayed-----

Senator Marc MacSharry: I would just ... It's not to stop you, but my time is limited and we're going off on a little bit of a tangent of kind of general things. Were there any specific instances where the Government did not follow your advice? And can you be specific if there was?

Mr. John Hurley: No, I ... In relation to what we said we ... The specific, I suppose, instances would be fiscal policy was much stronger than it should have been.

Senator Marc MacSharry: Okay, so again you're not being specific, if you forgive my ignorance, you're saying broadly fiscal policy-----

Mr. John Hurley: Broadly, yes.

Senator Marc MacSharry: -----was not what you wanted it to be. So what specifically did you want that they weren't doing or that you had suggested should be done and they didn't?

Mr. John Hurley: I think a little demand could be taken out of the economy to lower the ... the ... the heat in the economy at the time.

Senator Marc MacSharry: And how could that have been achieved and what did you suggest specifically that wasn't followed?

Mr. John Hurley: We simply suggested that fiscal policy should be a little bit more prudent. That's what we suggested. But just to be clear, Deputy ... you asked me about any specifics, and, just to be clear, the Minister was never told by me or by anybody else that there was likely to be a collapse in the banking sector, never told because no one expected it, but what the Minister was told was, "Look, there's a lot of heat in the property market, we're building a lot of houses, this ... there are risks associated with this."

Senator Marc MacSharry: No, I understand that, but what I'm trying to get to is did you as ... given your experience as Secretary General of three different Departments and now the head of the Central Bank, ever give any tangibles: "Minister, what we think in the Central Bank is you need to put up stamp duty, you need to cut the tax things, you need to do this, that or the other."? Are there any specifics that you suggested that weren't followed?

Mr. John Hurley: A Central Bank in its reports and its letters doesn't do that. That's a matter for the Ministry-----

Senator Marc MacSharry: Right, I appreciate that-----

Mr. John Hurley: -----but the Central Bank-----

Chairman: I need to allow a bit of time, Senator-----

Mr. John Hurley: The Central Bank gives broad guidance in relation to these matters. It doesn't set fiscal policy.

Senator Marc MacSharry: No, I know it doesn't set fiscal policy but you advise, so do you just advise, for want of a better expression, in a very woolly, general way fiscal policy, "You need to cool the market", or did you have any role to put forward tangibles and say, "Look, put up stamp duty, take down this, put in the other"? Were there no specifics?

Mr. John Hurley: No, because ... Well the Central Bank doesn't do that. That's a matter for the Ministry. The Central Bank gives a broad guideline ... guidance in relation to where the economy should go. That's its role.

Senator Marc MacSharry: Okay.

Mr. John Hurley: If I was in the Ministry of finance, I would have a different function.

Senator Marc MacSharry: Okay, I have to move on because it's taking too much time. Your role as a member of the governing council of the ECB, have you a fiduciary duty in that role to the ECB?

Mr. John Hurley: Fiduciary, I presume you mean that my overall responsibility, overall responsibility is to decision-making in the governing council, so I have a commitment to the overall decisions that are made, yes.

Senator Marc MacSharry: No, is the responsibility to the ECB?

Mr. John Hurley: It is. The overall responsibility as a member of the council, governing council, is to the ECB.

Senator Marc MacSharry: In your role as head of the Central Bank, have you a fiduciary duty to the Central Bank or who are you overall responsible to?

Mr. John Hurley: I have ... I have a responsibility - which is why you have financial stability reports and annual reports - to the Government. So I have a direct responsibility to the

Government in Ireland. But they're the ...they're ... that's the calibration of the different responsibilities.

Senator Marc MacSharry: Okay. Was it difficult to maintain a line of difference between the two roles?

Mr. John Hurley: Well, it's difficult ... it's difficult in this sense that you have to take decisions and be part of a governing council that's taking decisions in the context of Europe as a whole. There might have been a different requirement nationally.

Senator Marc MacSharry: My time is running out so ... in reality, is it fair to say that in your role at the ECB you had to be party and conscious and reflect decisions and thought processes that were good for the entire ECB rather than the individual benefit of Ireland?

Mr. John Hurley: Yes-----

Senator Marc MacSharry: Is that true or not?

Mr. John Hurley: That is true-----

Senator Marc MacSharry: Okay so-----

Mr. John Hurley: But in the context-----

Chairman: Sorry, allow him to finish now, Senator.

Mr. John Hurley: -----in the context of making those decisions, you would always be pointing out the particular conditions in our own country. But you would have to make decisions on the interest of Europe as a whole.

Senator Marc MacSharry: Had you an equal voice or were bigger players' opinions weighted in a preferential way ... such as Germany, France ... large countries-----

Mr. John Hurley: No. I think under the rules of the governing council you have a strong independent voice. But the economic conditions for Europe as a whole are determined by the bigger players because they have bigger economies that contribute more to Europe.

Senator Marc MacSharry: So, in effect, because of the size of their economy, there is, in practice, a bigger weighting for their opinions?

Mr. John Hurley: Well-----

Senator Marc MacSharry: Yes or no?

Chairman: Let him speak now.

Mr. John Hurley: Well, the opinions are all the same. But the point is the economic impact on Europe of a number of larger countries is much greater than the economic impact of Ireland.

Senator Marc MacSharry: You mentioned in your statement that, "Attempts to influence the flow of external funds into Ireland would have amounted to capital controls which would have been inconsistent with monetary union." That's on page 7 of your statement. So, when interest rates were at 2% and growth rates were at 5%, 6%, 7%, 8% here, did you ever say, for example, in the ECB, ''Look, we need interest rates to be much lower for us''?

Mr. John Hurley: What we would have said is “Our monetary conditions are very different” and we would have a situation where if this was a national policy, we would have a particular view. But I had ... had legally to take a view for the euro area as a whole.

Senator Marc MacSharry: Yes. This ... this is the key to my point. When you were conscious of giving fiscal advice, that there was too much of a pro-cyclical view being taken on a national basis in fiscal policy, what were you doing in an international context to help cool the market from an Irish perspective?

Mr. John Hurley: I was doing what I was required to do under the law, which was take a European perspective.

Senator Marc MacSharry: Which was the European perspective. So, again, back to my original question. Were you hampered in your work as Central Bank chief here by your responsibilities to the ECB in the context of market intervention?

Mr. John Hurley: I don’t think I can put it that way. That’s what the law was-----

Senator Marc MacSharry: No, I’m putting it that way-----

Mr. John Hurley: Yes, but-----

Chairman: Sorry, sorry, let the witness respond.

Mr. John Hurley: -----there are different responsibilities and those responsibilities have to be carried in the way they’re set out in legislation. My responsibility to the governing council and to the ECB is on the basis of that legislation. Clearly, there’s a domestic responsibility here which has to be exercised in a particular way. And the way that was fulfilled, was through the ... through all of the reports at the Central Bank, through the financial stability reports, through the annual reports and through contact with Ministers, as appropriate.

Senator Marc MacSharry: The ... under Article 14.3, the ECB can intervene to give guidelines and directions to the bank. This is Article 14.3 of the treaty of the ECB. Why was this never invoked, or sought to be invoked, by you to help cool the market in this country?

Mr. John Hurley: This ... this ... this is a function for the ... it ... it was never ... it was never sought by me because what you ... what you would ... what you’re suggesting there is you can have a monetary policy for Ireland. That is not the position. There is an overall monetary policy for the euro area and that, simply, is the way it has to be determined. And that’s the legislative requirement on me as a member of the governing council.

Chairman: Senator.

Senator Marc MacSharry: Yes, last question then. As ... as somebody who was Secretary General of three Departments, you would’ve been used to providing advice for various Governments over the year and then the Minister then would have to take a decision. Isn’t that what happens?

Mr. John Hurley: Yes.

Senator Marc MacSharry: Okay. So, is the practice ... or the practice at that time of the Governor of the Central Bank always being a former director general, is it in any way flawed do you think, or not, on the basis that the ... the Secretary General is very much an advisory role, whereas heading a Central Bank needs ... to act, to be decisive, to take decisions ... under the '71 Act, albeit your interpretation was not to issue the kind of guidelines ... as some of the rest may interpret from the Honohan letter ... but did that hamper your ability to do that? In essence, were you qualified enough to do the job with the benefit of hindsight?

Mr. John Hurley: Well, as you look around, the governing council table you'll see that quite a number ... or maybe at a certain stage, a majority of people would have come though the same path ... would have had the same experience ... and would have been a ... come from ministries of finance. You're given a different role and the role then gives you an independent role - to give advice and to ... to ... to carry out that advice. And that's done in the form of the publications that were issued and the press conferences I held. I think, Deputy, if you look at the press coverage over the years, you will find that I was praised for being at loggerheads with the Government on occasion because I had to stand up and say things that weren't appreciated. And that's in the press coverage. So, the reality is you have to take an independent line and you have to do and say things that are the responsibility of a Central Bank. But the ... the career path in the governing council ... of the majority of the people at the particular moment in time would have been very like my own.

Chairman: Okay, thank you. I just need to deal with one matter before I move on. And that's just to come back to Senator MacSharry's earlier question is ... can you comment upon your relationship with the Ministers for Finance ... Minister McCreevy and Minister Cowen during your tenure as Governor in terms of regularity of meetings that you would have had with them on an annualised basis? Just in the documents that we would have here before us ... it ... it would show that you would've had scheduled meetings on a regular basis with the Minister for Finance at that time. If you could maybe comment with regards to the regularity.

Mr. John Hurley: I think mostly the meetings ... I can't put an exact time on them because maybe the ... the formal meetings might be once every two months or more ... seven or eight meetings a year. But, of course, we would be meeting in addition to that, outside the formal meetings, at the different fora and at different events. What ... as ... as a matter of course, meetings were arranged particularly around ... at the time of publications or at the time of issuing letters to the Minister. You would always take the occasion to have a discussion in those ... at those times. So, it was fairly frequent and there was never an occasion where a request for a meeting was denied.

Chairman: Under the ... because of section 33AK, I'm not going to bringing diary schedules up. But it would indicate that the meetings took place between 2001 and 2007 maybe seven to eight times annually, would that be correct?

Mr. John Hurley: That would be right, yes.

Chairman: Okay, and-----

Mr. John Hurley: Formal meetings, but, of course, you would meet much more frequently than that.

Chairman: And in or around 2003, it would seem to indicate that meetings should be held with economists and senior loan officers, lending managers at the banks with the view to communicating the Central Bank's opinion of financial stability issues to them. Would you further like to ... would you further like to elaborate upon that?

Mr. John Hurley: That ... that was I think the gestation of the round-table discussions with banks that were held regularly in the context of financial stability reports.

Chairman: Okay, thank you very much. Next questioner is Deputy Kieran O'Donnell. Deputy, you've ten minutes.

Deputy Kieran O'Donnell: Thanks, Chairman. Mr. Hurley, did you judge the IMF country reports and the OECD reports as an important information instrument to weighting banking regulation, banking supervision and financial stability issues ... and how big of an influence were they on you?

Mr. John Hurley: They ... well, we regarded them as very important documents. We paid a lot of attention to them and there was a lot of preparation for those meetings and usually at the end of the meetings I would have a discussion with the head of the delegation. So, we'd regard them as very important.

Deputy Kieran O'Donnell: Okay. And how much were they an influence on you in your financial stability reports?

Mr. John Hurley: They were ... they were an influence with other international reports because at least they would ... they would confirm a line that would have been taking in the financial stability reports that we felt that there was ... that the financial stability assessment that we were making was a reasonable assessment.

Deputy Kieran O'Donnell: Can I refer you back to the questioning earlier this morning on the letter of the ... that you have, of 7 March from the Financial Regulator ... in connection with ... to an institution, okay ... in connection with liquidity risk? And it speaks about ... that the particular institution "has no access to ECB monetary operations, has not been accessing the wholesale markets for funding in recent months and is relying on retail and corporate deposit initiatives''. Now, subsequent to that, Mr. Hurley, you were in before the finance committee on 15 July. It's a public document. Is it okay for me to refer to it, Mr. Hurley? Are you okay with that?

Mr. John Hurley: I don't really understand the basis of the question.

Deputy Kieran O'Donnell: The basis really is that I asked you a question at the time about the liquidity situation at the banks. I said that the liquidity situation in the banks had actually fallen in terms of their access to ECB funding. You said:

> Our understanding of the liquidity situation in terms of the Irish financial institutions is that there has not been a reduction in the overall level of lending being given by the ECB to the Irish financial institutions, whether it is in the broad financial institutions encompassing the IFSC or the domestic institutions. In both cases the level of funding, if anything, is marginally up.

Finally, then, Mr. Hurley-----

Mr. John Hurley: I think that would be - I don't actually remember. I remember being before the committee but I don't remember the detail of it. But the reality is I was looking there, and talking about, aggregate data, and it seems to me that that is the truthful response and the truthful position.

Deputy Kieran O'Donnell: Following on from that, on 9 July there is an e-mail, on page 212 of Vol. 1, in which you make reference ... it's an e-mail from the Central Bank to, I think, the Department of Finance where you wish to speak about the special resolution regime and you said, "Irish banks also have full access to the funding facilities of the ECB, which accepts a much broader range of collateral than many other CBs [central banks]". Yet, we have a letter a short time earlier on 1 March stating that one financial institution had no access to ECB funding at all. So-----

Mr. John Hurley: This particular document which I saw in the papers, I saw it for the first time when I saw it in the papers. I know very little about this, other than I would have been trying to prepare for the meeting and some staff in the organisation clearly were preparing or drafting up notes, briefing notes, for me at the time. Other than that I have no knowledge of this.

Deputy Kieran O'Donnell: But in your actual presentation to us today, on page 8, you say:

> The assessment of liquidity risk was a function of the Financial Regulator. When the liquidity crisis struck the Central Bank became involved because of its own responsibilities in relation to European Central Bank liquidity.

When did you become involved?

Mr. John Hurley: We became involved, I think it was throughout 2008, because as the liquidity crisis was happening then at the time there was a need for increased drawdown of ECB funding, and we would have had an interest in ensuring that the individual banks prepared well their collateral for that purpose. The preparing of collateral for ECB funding is not a simple task. There are very very strict rules and we-----

Deputy Kieran O'Donnell: The question I really have in the limited time, Mr. Hurley, is that in your role as Governor of the Irish Central Bank and, more particularly, you were a member of the governing council of the ECB, you would have had direct involvement in discussions on overall ECB policy on liquidity. The question is, would you have expected that something of this significance, where one financial institution in Ireland on 1 March had no access to either ECB or interbank funding, would you have expected that that should have been brought to your attention?

Mr. John Hurley: I would, I suppose. But the reality is I don't have enough information from what's here in the letter to understand and to answer the question. It seems to me I would need a lot more to actually assess the significance of this. We were looking at a liquidity for the system as a whole, a very significant liquidity. There was a particular issue here, but I am not familiar with it.

Deputy Kieran O'Donnell: So it was not brought to your attention.

Mr. John Hurley: To the best of my knowledge, no.

Deputy Kieran O'Donnell: You made a reference in your opening statement. You said, "with hindsight, we were wrong." If you were back there again with the financial stability reports and as Governor of the Irish Central Bank, what would you have done differently, if anything?

Mr. John Hurley: I think the critical time period is the crossover between 2005 and 2006. I mean, in 2005, going up to 2005, we took the action I mentioned in relation to taxation. We saw the growth in interest rates and I would have known that there was an interest rate cycle coming, and we did our best by going out publicly to speak about this. We spoke about it on quite a number of occasions and said interest rates are going to double. It wasn't just ... I had to be very careful as a member of the governing council, but the economic staff went out and did this. So we had this understanding of the incentives for property being taken away, interest rates increasing, exchange rates against the dollar and against sterling increasing and also, at the same time, a very very substantial increase in oil prices. Oil prices went up to $70 at its peak in 2005 and I think it was a 70% increase in 12 months, and a 120% increase going back. So they were the issues that were driving the mentality at the time.

Deputy Kieran O'Donnell: What about the increase in the concentration of property lending? You've omitted that.

Mr. John Hurley: Yes, but the increase in ... and it was well referred to in our financial stability reports in the aggregate. I mean, the growth in property lending is all over our financial stability reports, going from 2004 up. So the aggregate lending and the aggregate approach to property was well set out in those reports. That, of course, was part and parcel of the problem. But looking into 2006, then, what would we have done differently, which was your question? The reality is when you look at the response of lending to those measures which were taking place. We knew, for example, at the end of 2005 that property prices were reducing somewhat, not just here but internationally. We had a forward indicator in 2005 which was about house registration, so we had an idea of how house building was going to go. But the reality is, when we went into 2006, all those indicators were suggesting a certain direction. It went the opposite way.

Deputy Kieran O'Donnell: But is it not fair to say, Mr. Hurley, that both the OECD and the IMF were saying the sustainable level of housing numbers was 45,000? Looking with hindsight now, were enough indicators there for you, as Governor of the Central Bank and the author of the financial stability report, to say that we need remedial measures and that we are potentially going into a crisis?

Mr. John Hurley: The reference by me to the adjustment that we'd take on property prices would have been contained in one of my letters to the Minister. The reality is-----

Deputy Kieran O'Donnell: With due respect, Mr. Hurley, in 2006, 93,000 housing units were built.

Mr. John Hurley: Yes.

Deputy Kieran O'Donnell: Why didn't you-----

Mr. John Hurley: Because we didn't think that we'd have that building in 2006. This is the point I am making in my comment to you earlier, Deputy. We thought, as a result of the taxation, the increase in interest rates and the two very significant pressures of exchange rates and oil prices, that there would be a dampening demand in 2006. We also had a forward indicator in relation to house building, registrations-----

Chairman: A final question, Deputy.

Deputy Kieran O'Donnell: Are you saying then, Mr. Hurley, you wouldn't have done anything different?

Mr. John Hurley: No. In hindsight, clearly we should have been stronger at that particular moment in time, but we didn't see that the lending path would really reverse. As far as we were concerned, it was coming down. It looked, from all the indicators going into 2006, that that was so, but it reversed in 2006. Then what we did, Deputy, was our financial stability report of 2006 is extraordinarily strong. Also, in that particular report for the first time we talked about the fundamentals no longer supporting the property price. Now, for a central bank that was a very strong statement in 2006, at that particular moment in time. But the reason it was done is because of the reversal that had taken place, which was completely not expected.

Deputy Kieran O'Donnell: Can I finish on this point?

Chairman: This is very supplementary. Make it short.

Deputy Kieran O'Donnell: You also said in 2006 that while the central expectations remain, the current shock-absorption capacity of the bank leaves it well placed to withstand pressures from possible adverse economic and sectoral developments.

Mr. John Hurley: We did, because that was our assessment. But-----

Deputy Kieran O'Donnell: In hindsight, was that wrong?

Chairman: Sorry, the question is made. I'm moving on.

Deputy Kieran O'Donnell: In hindsight, was that wrong?

Mr. John Hurley: In hindsight, our report should have been stronger. I have said that in my opening statement.

Chairman: Thank you. I call Deputy Phelan.

Deputy John Paul Phelan: Good afternoon, Mr. Hurley. Briefly, at the start, with the benefit of hindsight, do you feel that the discussions that took place at ECOFIN level and, indeed, financial committee level in Europe on macroeconomic issues and on financial stability in the period leading up to the crash were sufficient? What decisions came from those discussions?

Mr. John Hurley: My memory of the discussions was that it was in the context of what expectations were at the time. We were expecting strong growth here. We were expecting internationally strong growth. The discussions of ECOFIN would have been the same. It was ... there was a very positive background. But what happened was entirely different. The crisis that erupted from the United States was wholly unexpected by Europe and wholly unexpected at ECOFIN. And the consequences of that was that ... really the earlier actions being taken in a more benign environment don't sit well with the result that ... with the actions that had to be taken subsequently.

The scale of the adjustment that took place following the decisions of the United States was ... has been absolutely extraordinary. No one expected Lehman's to fall, no one expected that it would be bankrupt. Europe was in shock as a consequence of that. And the United States, I think, subsequently, was in shock. The scale of adjustment and damage that was done by that decision is immense. And I think, as we go through our assessment of this over the years, that the real severity of that shock is going to really come home. We ... I know now in some of the reports there's a suggestion that, you know, heavily qualified ... that that shock wasn't that significant. I think it's hugely significant. And I recall that when you had economists before this meeting recently - I think it was Mr. McArdle - and I would agree with his view ... essentially, the adjustment as a result of Lehman's and the shock to confidence in the banking system, in my view, has been hugely underestimated.

Deputy John Paul Phelan: Okay, thank you. I want to turn you now, if I can, to core document, Vol. 3 on page 55. It is briefing on financial stability issues from 7 May 2008. In the middle ... page 55 ... the middle of page 55 under a heading, "Contingency Planning". It's on the screen in front of you, I think, there, as well. Do you see the heading, "Contingency Planning"? I want to put the quote to you. It says that: "The Financial Regulator and the Central Bank have been working very closely with the banks to monitor their liquidity position on an ongoing basis and seek to identify risks to their sustainability at the earliest possible stage." With respect to the Central Bank, which is referenced in the quote, do you believe that you were identifying those risks at the earliest possible stage?

Mr. John Hurley: What date is that?

Deputy John Paul Phelan: It's 7 May 2008.

Mr. John Hurley: Yes. All through 2008, once the liquidity crisis happened in the United States - we touched on this earlier ... and here the Central Bank would have been at the edge of its legal powers and responsibilities in the context of the division of responsibilities that had taken place. We ... because of our role in relation to ECB funding and as lender of last resort, we took much a longer role in relation to this. And we attended meetings with the Financial Regulator on liquidity issues, not all of them but very many of them, throughout 2008, and I would have attended those meetings.

Deputy John Paul Phelan: Do you believe that you had identified ... the last part of the quote, "at the earliest possible stage" ... that these liquidity issues being identified. Is that the case?

Mr. John Hurley: They were being identified because the returns coming from the financial institutions became much more frequent. And we arranged the meetings - and I attended them - with the chief executives of the Irish banks throughout that period in a number of waves of meetings to try and get an understanding.

Deputy John Paul Phelan: I want to come to that a little bit later, because my time is limited - I'm not trying to cut you short. But how do you reconcile that then with the statement ... or the information this morning from a question from Deputy Doherty in relation to the letter about the Irish financial institution and its access to liquidity issues that had emerged.

Mr. John Hurley: I can't answer that question because I would've just seen that just. I can't answer the question but I can tell you-----

Deputy John Paul Phelan: But you just said there now that you were at the earliest possible stage-----

Chairman: You're running over the time, Deputy.

Mr. John Hurley: I accept your point. We did have meetings with ... I would have attended many meetings with these institutions during that particular period. We would have been looking at the liquidity position and how that was to evolve and what the situation of the future was. I can't answer the specific question in relation to the point in the letter.

Deputy John Paul Phelan: Why wasn't it, in your opinion, brought to your attention? Should it have been brought to your attention - the 7 March letter, now?

Mr. John Hurley: I can't recall it being brought to my attention. I can't say definitely it wasn't being ... brought to my attention. But I would have expected it to. But I can't say that I wasn't told. I just don't recall that. But we would have had a very intense discussion at that time on liquidity ... the liquidity arrangements, the position of collateral and how this would be arranged for the future. Because the objective was to try and maximise the collateral availability for Irish banks to ensure draw-down from the ECB.

Deputy John Paul Phelan: Okay. I just want to turn briefly then to ... on the same document, page 57 ... the last paragraph on page 57. It should be up in front of you, I hope, in a moment. I'll wait until it comes up. Page 57 of document 3 or Vol. 3. Will there be injury time, Chairman?

Chairman: There will ... a mental injury for myself, I think. Go on.

Deputy John Paul Phelan: I want to wait until the quote comes up. Yes, that last paragraph, "The Central Bank and Financial Regulator are working closely with the domestic financial institutions to monitor their liquidity position on a weekly basis, [now, this is 7 May that this document was prepared] identifying where significant funding pressures may emerge in the future." I want to ... your view as to whether that statement is correct.

Mr. John Hurley: It is true. That is absolutely correct.

Deputy John Paul Phelan: And would it have been the case-----

Mr. John Hurley: At different levels within the organisation we would have been meeting and assessing data coming from financial institutions on a constant basis to see what the liquidity pressures were.

Deputy John Paul Phelan: And would it have been the case, then, that you would have been aware "on a weekly basis", to use that quote, when liabilities were coming due for the Irish banks at that particular point?

Mr. John Hurley: I can say generally that that's probably correct. But I don't know in relation to specific institutions. But, overall, if there were big movements coming, we probably would be aware that, yes.

Deputy John Paul Phelan: Okay. And then, finally, in my last couple of minutes ... the following page, page 58 ...it's what you were referencing yourself earlier about the meetings that were taking place with chief executive officers. The first paragraph on page 58. The quote is that "The Central Bank is liaising with the major domestic banks at CEO level to explore ... options that may be available for mutual support between ... Irish banks in a crisis situation and to respond to any problem in small institutions in a collaborative fashion." I want to ask you about the extent of those ... I think it is called ... well, those "liaisons", if I could use that term. And what options were you trying to explore at the time?

Mr. John Hurley: That is true, to the best of my knowledge and to the best of my memory. This would have been on the basis of an exploration with larger banks as to the assistance they might give if a smaller bank came into trouble.

Deputy John Paul Phelan: Okay. Can you elaborate any further on the nature of those discussions? How long did they go on for? When did it start?

Mr. John Hurley: They would have been part of the overall discussion. There wouldn't have been a specific discussion about it but it would have arisen in the context of the liquidity meetings with, say, the financial institutions. And on occasion I would have ... I would have put that point. If, for example, a small institution gets into difficulty, what is the reaction of the two larger banks going to be? Can we expect some support?

Deputy John Paul Phelan: Were specific scenarios discussed, without naming any names?

Mr. John Hurley: I don't think so. I think it would be ... it would have been largely all around - from my memory at that time earlier in 2008 - what support could be expected from the larger institutions, given that they had a vested interest in the system as a whole.

Deputy John Paul Phelan: And were the larger institutions forthcoming in regard to that?

Mr. John Hurley: They were ... my memory is ... I don't know how you can say positive, but non-committal. But essentially there was a balance involved. There was no absolute commitment ... but an understanding of the problem.

Chairman: Thank you. Do you want a brief supplementary or are you finished? Thank you very much, Deputy. Senator Susan O'Keeffe.

Senator Susan O'Keeffe: Mr. Hurley, in Professor John FitzGerald's evidence on pages 329 and 330 he said:

> Looking back on it, had I even looked at the data on the balance sheet of the banking system, I would have known there was a major problem. I would not have needed a lot of research to conclude it was not just fiscal policy ... I suppose a lot of people relied on the fact that the Central Bank had the biggest number of economists doing research.

And then he went on, "One would not have needed much expertise to know that there was a problem, were one to look at the data."

Mr. John Hurley: I have to say I was surprised at his comment. The ... none of the international institutions who were looking at the banks in Ireland saw it that way. The auditors didn't see it that way. The rating agencies didn't see it that way. What we did in our ... in our overall financial stability reports ... we simply pointed out the risks. The risks were there, but to actually move from that into something concrete is a journey that I'm not sure that the evidence is there to support.

Senator Susan O'Keeffe: So you disagree with that?

Mr. John Hurley: I do. I know John FitzGerald well. He was a colleague for many years and I respect him, but I was surprised at his comment.

Senator Susan O'Keeffe: Were you aware in early 2006 that the rating agency, Fitch, had placed Irish banks on a lower rated category for macro-prudential risk?

Mr. John Hurley: I was. My memory is ... I've seen it in the paper ... in the papers, of course. And ... but it was also ... that particular rating seems to me to be inconsistent with other ratings that they ... they ... they ... they made at the time. My feeling was that Fitch had strongly rated Ireland and ... and I just don't have a memory of that being consistent with all of the other ratings.

Senator Susan O'Keeffe: Were you aware that throughout 2006-2007, the Financial Regulator was in constant contact with banks, talking about their sectoral concentration, allowing leeway for them to be in breach of those sectoral concentration levels?

Mr. John Hurley: No, I... I ... just on sectoral concentration, just generally, the sectoral guidelines, to the best of my knowledge, were in abeyance in the 90s-----

Senator Susan O'Keeffe: Well, I'm talking here about 2006 and '07, so just-----

Mr. John Hurley: I know that. I have seen some of this in evidence, but that's ... I wasn't aware of that, to the best of my ... to the best of my memory. I had understood that sectoral guidelines had been in abeyance, primarily because of the growing up of the Basel framework and the different regulatory arrangements that were being applied, and that was ... that was ... that was my understanding, but I don't recall this actually coming up as an issue.

Senator Susan O'Keeffe: We were led to understand that there had been, if you like, informal meetings or informal contact between senior executives in the Financial Regulator's office and senior members of banks, you know, in an informal basis, perhaps having conversations outside of formal ... is that something you were aware of or do you know anything about that?

Mr. John Hurley: No. All I know is that there were ... there were meetings ... direct meetings organised with the banks going back ... once their functions were transferred to the Financial Regulator, meetings with the financial institutions were organised primarily by the Financial Regulator. The only exception to that seemed to be round-table discussions where we participated. But other-----

Senator Susan O'Keeffe: I'm talking here about informal-----

Mr. John Hurley: Yes, but other informal meetings beyond that, I'm not aware of.

Senator Susan O'Keeffe: In response to Senator Barrett's query about the fact that there were three people in the Financial Regulator's office that were responsible for AIB and Bank of Ireland, you said that was a function of the sort of principles-based approach. Now, we've heard Bank of Ireland and AIB in here saying that they would have had roughly 200 people each involved in their audit teams, yet here we were with the core of the two biggest banks with three people ... three people responsible for both of the banks' supervision. I appreciate it's the Financial Regulator's office; I just wondered whether you were concerned or is it ... could you not have known that that was the case?

Mr. John Hurley: Well, I didn't-----

Senator Susan O'Keeffe: You didn't know?

Mr. John Hurley: -----know the basis on which regulation was being done or the staffing that was being applied to-----

Senator Susan O'Keeffe: Should you have known, Mr. Hurley?

Mr. John Hurley: Well, this really goes back to the separation of functions. I mean, implicit in that is there was a supervisory role in relation to regulation, and there wasn't.

Senator Susan O'Keeffe: Were you aware that as it came into 2008, and clearly things were beginning to really decline and there was major concern within the Central Bank, that when there was a query for further staffing to be given, because things were getting worse, that that ... that request for further staffing was declined?

Mr. John Hurley: I don't recall any request for further staffing being declined by the Central Bank. In 2008, is that right, Senator?

Senator Susan O'Keeffe: Yes.

Mr. John Hurley: Yes. No, the issue that arose in 2008, if I remember rightly, was that the Minister announced, as a result of the ... as a result of the economic and financial problems, I think he brought in a budget which required all institutions to cut back to some extent. My memory of that is that in the discussions, any discussions were prefaced that organisations must fulfil their statutory responsibilities, but we still, I think, were required to try and respond in some way to the Minister's decision, as a public institution. And we did that in a sensible way, both on the ... the Central Bank side had far more scope, I think, to do that, in that we could, you know, cut back on some support services. But on the regulatory side, I can't really answer what the response was there.

Senator Susan O'Keeffe: If I could go to Vol. 1; it's the OECD report entitled, Ireland's Housing Boom: What Has Driven it and Have Prices Overshot?. Is that a document that you have seen, Mr. Hurley? And would the OECD be an organisation that you would trust?

Mr. John Hurley: Yes. What page are you seeing that?

Senator Susan O'Keeffe: Page 60. They just ask one very simple question: how common are soft landings? And they say that they looked at a number of soft landings - I'm sure it'll come up on the screen for you, Mr. Hurley, on page 60 - they say they looked at 49 different ones and they say, "If a soft landing is defined as something that is both mild and gradual, there has not been a single case out of the 49 boom-bust cycles." Not a single case of a soft landing.

Mr. John Hurley: Yes, well, that's true, but then you're making the definition "soft and gradual", but there are two other categories that are there. There's a soft and there's a gradual, and it seems to me that very many of the boom-busts ended up in gradual ... or, the over-valuations ended up in the gradual adjustment, and when you look at many of the views at the time, and, indeed, the contrarian views at the time that have been cited here, there was a view that that over-valuation would dissipate over a period of time, over a period of years. That was exactly the same view that we had of the over-valuation that might have been there in 2006, that we really expected with the action that was being taken that this would dissipate and be absorbed, with difficulty, over a period of time. But, of course, time was taken away.

Senator Susan O'Keeffe: On page 121 of Vol. 1, Mr. Hurley's Vol. 1, page 121, you talk about making sure that, "...the tone and [the] comment in the Financial Stability Report will be of particular importance and sensitivity." And then there:

...was agreed that particular care should be taken to ensure that comments on risks are not liable to over-interpretation by the international and domestic media. In this context, it was suggested that a Box entitled 'House Price Booms and Busts: the International Experience'..." could be over-interpreted.

In fact, it was subsequently changed. Is that something that you ... that the Central Bank did, routinely changed documents to be less-----

Mr. John Hurley: No. I think ... I think, Senator, you just need to look at the time here. This was 2007.

Senator Susan O'Keeffe: Yes.

Mr. John Hurley: In 2007, all of the aggregates were reducing. We had already started an easing of property prices and an easing of credit growth. So, you know, what's a central bank to do in that situation, particularly, where it has an interest in a gradual landing or a soft landing, and it would like over-valuation to dissipate in and orderly way? What it doesn't do - and I think somebody else has said it before this committee - is it doesn't frighten the horses. What it does is it tries to be balanced and prudent in its assessment and tries not to bring about the risks that it's trying to avoid.

Senator Susan O'Keeffe: Okay. Could you describe the status of the relationship between the Department of Finance and the Central Bank during your tenure and, in particular, given that you had been the Secretary General of that Department?

Mr. John Hurley: The relationship, I believe, was a very, very constructive relationship. My successor would have been on the Central Bank board. There ... There was very, very frequent contact with the Department. I would have been very much in contact with the Secretary General during that time, and would ... would, either before or after my meetings with the Minister, have contact with the Secretary General. It was very constructive and those contacts would have also taken place at different levels. But, of course, the key ingredient in that dialogue in later years was the domestic standing group, which, of course, encompassed both the Department, the regulator, and the Central Bank, and that initially would have met at levels one or two below my level. But, of course, as the crisis developed, the domestic standing group became the principals.

Senator Susan O'Keeffe: I've one last question, if I may. At the beginning of ... sorry, late 2007, were you aware that the Financial Regulator had ... had ... had taken on an investigation of the top 20 of the exposures, you know, of the loans that the banks had? And that in-----

Chairman: You're opening a whole new line of questioning here now, Senator.

Senator Susan O'Keeffe: Yes, I know. Well, I'm finish ... it's my last question.

Chairman: Yes.

Senator Susan O'Keeffe: I'm just wondering whether Mr. Hurley is aware of that.

Mr. John Hurley: Is this in the documents anywhere?

Senator Susan O'Keeffe: It's in documents we've been given. I'm sorry, it's very ... it's very difficult for us to know which-----

Chairman: Yes, it's not in the core documents that Mr. Hurley has. Now, so I'm not going to open a whole new line of questioning, in particular-----

Senator Susan O'Keeffe: Well, in fairness, I did discuss late 2007, Chair, and-----

Chairman: Okay. Okay.

Senator Susan O'Keeffe: -----I was trying to ... trying to understand-----

Chairman: Just a supplementary question, Senator, please.

Senator Susan O'Keeffe: Thank you. I'm just trying to find out whether you would have been aware that there had been some investigation into the banks' specific exposures through particular loans and the detail that was given of those loans.

Mr. John Hurley: Was this in particular banks?

Senator Susan O'Keeffe: No, no; all the banks.

Mr. John Hurley: I can't say that I am aware of it or that I can recall it. I would need to... I just don't know the answer to that question-----

Senator Susan O'Keeffe: All right but-----

Mr. John Hurley: ----- but I would imagine that investigation would primarily be an investigation within the regulator itself but I-----

Senator Susan O'Keeffe: I was just wondering whether it had been shared-----

Chairman: I am moving on.

Senator Susan O'Keeffe: That's all I was trying to clarify, Chair.

Chairman: I am moving on. I need to move to it because we need to break for lunch as well and I need to bring the leads in as well to wrap up. Just to wrap up with some matters directly myself with you, Mr. Hurley, and I just want to reference the Nyberg report. It's evidence book Vol. 1, page 215, under the paragraph 441. In that paragraph, it says ... the heading is "The Central Bank Pre-Crisis (2003 to mid-2007)":

> As in the case of the Financial Regulator, there was a major domestic policy failure at the Central Bank in respect of the maintenance of financial stability. Not only did the CB (with a small number of contrarians at board level) seriously underestimate the nature and extent of the risks in the Irish financial system but it was content to express only nuanced and somewhat indirect concerns on possible risks rather than study contingent worst-case scenarios. Had it done so, it might have issued stronger warnings (at least confidentially to the Government) or even taken appropriate action.

Would you care to elaborate upon this statement?

Mr. John Hurley: I think that... I've said in my opening statement that at a particular moment in time the warnings by the Central Bank should have been stronger in hindsight but we didn't know that at the time. Now, in relation to the idea that I would have had a different view and that I would've given this to the Government, I have a problem with that. I don't have a problem where, for example, there's a specific issue that the Government might not have been aware of where they should be aware of something specific but I think the implication here is that you have a financial stability report or an annual report and the Central Bank publishes a view and that is the Central Bank view. So the notion that there would be another view I have a difficulty with, as a public servant. As far as I'm concerned, that was the view. That was the view given to the Government and if I had a different view, it would've been in the published report.

Chairman: Right, thank you. I just want to move on and then I will bring immediately Senator D'Arcy after this. Did you feel that the level of European macroeconomic and prudential supervision was adequate in the years between 2003 and 2007 and, in that regard and in your recollection, were there discussions on a European level at meetings you participated on in regard to strong credit growth in Ireland, house price inflation and substantial borrowings by the Irish banks in the European and overseas markets?

Mr. John Hurley: No, in relation to Ireland, the reports were general. As part of the reports, there would've been a feeding in of the situation in different countries but there was nothing specific that I can recall in relation to Ireland. In terms of the oversight generally, we now know that the establishment of the systemic risk board is a huge development in the context of the architecture for dealing with these crises in future. It didn't exist at the time. The role of the ECB at the time was more curtailed than that. That's a big change and that's ... that will make a significant difference.

Chairman: Thank you very much. Senator, five minutes to wrap up.

Senator Michael D'Arcy: Thank you, Chairman. Mr. Hurley, could you outline your formal and informal interactions during your period as Governor with the European Central Bank, including your interactions with Jean-Claude Trichet?

Mr. John Hurley: My interactions with the Central Bank were primarily through the meetings of the ... of the European Central Bank. There would be meetings, formal meetings in Frankfurt. There would be informal meetings and you would have teleconferences. And during all of that period, there would've been frequent contact with the president and the executive board in the context of those meetings. Teleconferences became more frequent in the middle of the crisis, particularly at the ... towards the end September, that particular period, 2008, because all governors were in their capitals and Europe was in serious difficulty. And they needed to be at home as well as discussing together and the main mechanism for doing that was teleconferencing at the time. So that would have been the structure of contact.

Senator Michael D'Arcy: Core documents. Vol. 2, page 165. There's a handwritten note, Mr. Hurley-----

Chairman: Hang on a second now. We're moving into the guarantee. I'm going to hold that 'til this afternoon but I can take your engagement with the ECB and Mr. Trichet up to-----

Senator Michael D'Arcy: ----- up to the guarantee-----

Chairman: ----- the discussions that were taking place. We're dealing specifically with the guarantee this afternoon so if you're moving to the guarantee now, Senator, I'm just going to move onto Deputy Doherty, okay?

Senator Michael D'Arcy: Chairman, the question I asked was, "During your tenure as Governor...".

Chairman: Indeed.

Senator Michael D'Arcy: This was during his tenure as Governor. Can I ask, up to the guarantee and prior to the guarantee, Mr. Hurley, in ... did you see the interaction between Mr. Trichet and the committee?

Mr. John Hurley: In Frankfurt?

Senator Michael D'Arcy: No, between this committee and Mr. Trichet when he attended in the Royal Hospital in Kilmainham.

Mr. John Hurley: Yes, I did.

Senator Michael D'Arcy: I put the question to Mr. Trichet if he was aware that Anglo Irish Bank was virtually certain to default the next day and his answer was:

> Again, it was not the responsibility of the ECB to survey the banks. We were relying of course upon the local authorities for surveillance [that was yourself, for surveillance] and on possible governments in case the drama would unfold. So no memory, no I would say responsibility in this domain.

Were you in contact with Mr. Trichet prior to the guarantee?

Mr. John Hurley: I'm not going to talk specifically about Mr. Trichet but the role of the ... our Central Bank in discussions ... discussions would have taken place ... There would have been reporting of the position in individual countries at different meetings. And the particular position in Ireland, including the liquidity position and also the difficult position of one institution, would have been known.

Senator Michael D'Arcy: So that's a "Yes", you were in contact with the ECB.

Chairman: You have to let the witness answer the question himself.

Senator Michael D'Arcy: Is that a "Yes"?

Mr. John Hurley: No.

Chairman: No, no, you can ask him to clarify or to further expand but you can't tell the question, or the witness what he answered.

Mr. John Hurley: What I said is that in the context of the meetings and the conferences, the position... the liquidity position of the Irish banks and the liquidity position of one bank in particular, was known.

Senator Michael D'Arcy: "Was known" -----

Chairman: Prior to 2008 was the question.

Senator Michael D'Arcy: ----- by the ECB?

Mr. John Hurley: This would have been known in the context of the crisis around that time that the meetings would have been taking place around the particular crisis-----

Senator Michael D'Arcy: Can I ask you, Mr. Hurley, why you don't wish to discuss about the contact with Jean-Claude Trichet?

Mr. John Hurley: I think I have to turn to you, Chairman-----

Chairman: There are legal differences because the section ... the section that we were talking about this morning actually has implications as well with the European Central Bank and that, so I am not going to allow a situation where Mr. Hurley actually is operating in a criminal fashion in front of us because he's been asked a question in a particular way-----

Mr. John Hurley: I'm subject to your guidance here. I really want -----

Chairman: ----- but what I would like you to do for the committee, before we move on

- and I will come back to Senator D'Arcy with a bit of time - in regard to the liquidity issues and discussions with the European Central Bank, how early was that being flagged? Was it in mid-2008, early 2008, late 2007?

Mr. John Hurley: The liquidity positions in relation to the Irish banks would have been pretty obvious as a result of the developments that were taking place on the ECB funding and that was moving in a particular way in the course of 2008. It would have accelerated significantly as you moved through September.

Chairman: Okay, right. Thank you. Senator.

Senator Michael D'Arcy: Chairman ... Finally, you said about one bank that the ECB would have been informed. In evidence from Mr. Brian Goggin, he was ... or, sorry, Mr. Richie Boucher, in early September 2008 the liquidity position of INBS was discussed. Were the ECB up to speed, informed about the liquidity of INBS in September 2008?

Chairman: Don't get into the specific institution here now. In general. Senator, you're very close-----

Mr. John Hurley: I would just like to cover that by saying the following, without going into a specific institution. You will recall that I was missing from the Central Bank due to illness for two months-----

Chairman: Okay. I just want a general response to that rather than any instance of a specific institution.

Mr. John Hurley: -----and that whatever happened during those particular months, I clearly wouldn't be familiar with.

Senator Michael D'Arcy: Just finally, to conclude on this. You returned to the Central Bank.

Mr. John Hurley: Yes.

Senator Michael D'Arcy: And were you brought up to speed on exactly what had happened prior to your illness?

Chairman: Okay, we are beyond September 2008 now. I'm moving on Senator. Deputy Doherty.

Deputy Pearse Doherty: Go raibh maith agat, a Chathaoirligh. I want to return to a question that I asked you, one of my final questions in the earlier session, and it was in relation to the Central Bank's reaction to the market ... the share price drop in ... of financial institutions here in this State, and I think you mentioned that this was a market adjustment at the time. Can I say to you, in particular, because it was become known, and I'll pick out one day in March because I asked you over the period of March, but St. Patrick's Day 2008 was known as the St. Patrick's Day massacre in the financial circles. It seen one financial institution, Anglo, it's well-publicised, its share price dropped by 23% at one point, finishing that day at 15% down, wiping a billion euro off the value of the bank, and losing, for every minute of trading, losing €1.6 million. Do you still believe that that was just a market adjustment, or do you think that there was something more?

Mr. John Hurley: It was a very significant adjustment at the time, and undoubtedly, you know, the way the Central Bank would look at that, is "what's the prime, what's the most significant effect this is going to have?" And we would be looking at liquidity, looking at the implications for that for people ... rolling over liquidity in particular financial institutions, and so the consequences for central banking at the time would have been primarily through that avenue and that focus, and it would have been the consequences, the implications of a drop in share price for other things, and we were very much looking at it from that point of view and looking at the liquidity-raising power of particular institutions, and the ECB backdrop or collateral backdrop at the time. That's the way, primarily, it would have been looked at.

Deputy Pearse Doherty: Did the, did the attacks by the market on that institution on that day lead you to ... lead any red flags to be raised within the Central Bank or, for yourself personally as Governor in relation to the institution?

Mr. John Hurley: There were other issues there that I really don't think I should go into, but the reality is, of course, it would've meant that there was a greater focus in terms of the liquidity of the, of an institution going forward.

Deputy Pearse Doherty: And the Minister for Finance on that day phoned you from Vietnam, after having a request from this financial institution to speak to him. What was the, what was the initial conversation that you had with the Minister for Finance?

Mr. John Hurley: My, my memory is that he had a call, I think, for a discussion on the phone, with the chairman of the bank, and I think he phoned me to ask me did I think that would be appropriate ... and did, you know, what did he think, what did I think might be raised, and, you know, what was my general reaction.

Deputy Pearse Doherty: And what did you say to him or what was your view to him?

Mr. John Hurley: I said that I thought there was a particular issue in the market at the time, and it could well be about that; and that ... I didn't, I didn't see any reason why he wouldn't talk to the chairman.

Deputy Pearse Doherty: And after he had the phone conversation with Mr. FitzPatrick, he phoned you again, that day, from Vietnam.

Mr. John Hurley: Yes.

Deputy Pearse Doherty: And what was the conclusion or was there an action agreed in relation to that?

Mr. John Hurley: The conclusion was that he, he expected that there would be a request for a meeting and the impression I got that it was, it had to do with the major issue that was in the marketplace. My feeling at the time was that was largely a regulatory issue, but because he phoned me and asked me when the call came through from the institution, I met the institution, together with the Financial Regulator, for an initial meeting, and when the issue emerged, as I thought it would, that it would be primarily a regulatory issue, it was taken on by the Financial Regulator.

Deputy Pearse Doherty: The last question I have for you is in relation to your opening statement, that was made in July 2008, it was to mark the publication of the 2007 annual report, and there's just a bit in it, it says:

> While recognising that competitiveness in its broadest sense encompasses a wide range

of factors, a realistic approach to wage determination by everyone is nevertheless an essential element in improving competitiveness. I would like to re-emphasise the point that I made earlier that we cannot compensate ourselves for commodity price rises over which we have no control. If we [do] attempt to do so, then we risk repeating the mistakes of the past, from which the economy took so long to recover.

With that in mind, can I ask you how you stand over those comments, and the fact that your own remuneration in 2003 was €290,869, and for the year that that report was released, 2007, it had increased to €368,703, with the addition of a car included-----

Chairman: I might have to push you now, because we have to break.

Deputy Pearse Doherty: So, given your statements in terms of not compensating ourselves for commodity increases, how do you stand over a €78,000 increase from 2003 to 2007, and can you explain how that increase was-----

Chairman: That's a very long question, now, Deputy. It will take up the lunch break.

Mr. John Hurley: The salary of the Governor is fixed in relationships within the Civil Service for a very long period of time. Those relationships didn't change during my period, there was no additions, pensions, superannuation, or anything else except normal Civil Service terms in my case, and subsequent to the crisis, there would have been voluntary reductions in pay taken which were subsumed in the statutory reductions later on, which would be very significant. I accept the point, that public service salaries, at the time, were too high, and President Trichet, when he was here, spoke about the competitiveness issues that he raised, and the issues that you just quoted. And I think they're valid points, and I think, in hindsight, we didn't in our pay determination processes here pay enough attention to that.

Chairman: Okay, thank you. I'm now proposing that we would break until 2.45 p.m. I just want to keep the committee in private session just for a couple of housekeeping matters to deal with this afternoon, but, I'd like to now excuse the witness ... for the suspension, and to remind the witness that once he begins giving evidence he should not confer with any person other than his legal team in relation to their evidence or matters that have been discussed before this committee. With that in mind, I suspend the meeting until 2.45 p.m., and remind the witness that he is still under oath until we resume. So, Mr. Hurley, you are free to go to lunch or whatever you need to do until 2.45 p.m., at which time we'll see you then. Okay.

Sitting suspended at 1.36 p.m., resumed in private session at 1.39 p.m. and suspended again at 1.46 p.m. until 2.53 p.m.

Chairman: Right, you're ready to go Mr. Hurley as well, are you?

Mr. John Hurley: Yes.

Chairman: Excellent. Thank you very much. That's it. I now bring the committee back into public session. Is that agreed? Agreed. We'll commence this afternoon with session 2 of our hearing with Mr. John Hurley, former Governor of the Central Bank of Ireland, and our public hearing with him. Our first lead question this afternoon is Deputy John Paul Phelan. Deputy, you've 25 minutes.

Deputy John Paul Phelan: Thank you, Chairman. Good afternoon, again, Mr. Hurley. I want to firstly start by referencing evidence that was given to the inquiry by Mr. Brian Goggin, former chief executive officer of Bank of Ireland. In the evidence that he gave when he was here, he said that, in his opinion, and it was concerning Bank of Ireland's request to the Central Bank to have the ECB collateral rules expanded, and I want to quote him directly: "the Central Bank of Ireland was, for whatever reason unwilling to push the issue with the ECB". And that was in the days prior to 29 September 2008. Do you have any comment on Mr. Goggin's observation?

Mr. John Hurley: On collateral rules generally, the Central Bank would, over the years, have taken very strong initiatives in relation to the widening of collateral eligibility. And the best example of that is the asset-backed securities debate, which involved a significant enlargement of collateral for us. But also around that time ... around the time prior to the guarantee, in the period when I was ill, within the period when I came back, there was interventions by Ireland to try and expand the collateral list. Now, our interventions ... we would have known that it takes a considerable time to adjust collateral. It has to be done as a unified list for all parties and not just for an individual country. So ... but, nevertheless, the point was made. We weren't successful at that particular time because it would have required an extension of collateral for all countries, not just Ireland, so I think the suggestion-----

Deputy John Paul Phelan: Specifically though, in relation to his observation, to quote again: "the Central Bank of Ireland was, for whatever reason unwilling to push the issue with the ECB". Is that your-----

Mr. John Hurley: Well, it was raised. It is just simply a misunderstanding of the process. The process is ... you know, one single country is not going to gain an adjustment to a unified collateral list easily. It would need broader support than that.

Deputy John Paul Phelan: But the rules were changed two weeks, approximately, after the guarantee.

Mr. John Hurley: Yes, there were some adjustments made some weeks later in advance of the Paris Declaration. But some of those had been in preparation and some of them were just technical adjustments to the existing eligibility of collateral. In my view this was not a game changer and wouldn't have been a game changer in my view for Ireland.

Deputy John Paul Phelan: Were you willing or unwilling, to use his phrase, to push the matter with the ECB?

Mr. John Hurley: No, it was done ... it was done but it has to be accepted that it needs to be done in a broad context. An adjustment will not be made just for one country.

Deputy John Paul Phelan: Can I ask, then, were there other banks at the time, without naming them, in the Irish context that were looking for those rules to be changed?

Mr. John Hurley: I can't remember it specifically but my memory would be that, in general, banks would like collateral to be widened as much as possible and as much of their securities to be eligible. That would be a normal response ... a normal response. But I can't actually remember it specifically in relation to another institution.

Deputy John Paul Phelan: Can I ask you now - it was briefly touched on before lunch - to outline for the inquiry the contacts during the period leading up to the guarantee with officials from the European Central Bank, including Mr. Trichet, on the options that were being discussed at the time? I'm not asking for the detail necessarily, but any contacts that were made.

Mr. John Hurley: What would have occurred at meetings and teleconferences and contacts would be ... countries would be pooling knowledge of the problems in different countries. We would have done the same, as part and parcel of the normal process, so that there would be a familiarity with the issues facing Ireland. That would have happened in the normal way.

Deputy John Paul Phelan: In the week, or the few days, leading up to the 29th, can you specify what happened?

Mr. John Hurley: Yes. There would have been over that weekend and after the weekend, to the best of my recollection, teleconferences, maybe probably on most of those days.

Deputy John Paul Phelan: Involving all European central banks?

Mr. John Hurley: Yes, all our Eurosystem central banks ... or central banks of the ECB, central banks of the Eurosystem and involving the ... it wouldn't normally involve the executive board and the President of the ECB who chaired the meetings, yes.

Deputy John Paul Phelan: Can you comment, then, on Mr. Trichet's remarks to the inquiry where I put this question to him and he answered me, and I want to quote him specifically, it is on page 27 of the transcript from the meeting that we had with Mr. Trichet, where he said, "no pre-negotiation, no pre-discussion on the guarantee of any kind, no call for any dialogue on that".

Mr. John Hurley: The question of a guarantee, or a broad guarantee, was not put in any of the ECB meetings. What was put was the difficulties facing Ireland and the kind of options would have been mentioned that might have to be taken.

Deputy John Paul Phelan: Did the guarantee option emerge?

Mr. John Hurley: There would have been ... it would have been one of the options but it would have been mentioned as an option that might have to be considered. But there was no specific pre-dialogue on specific options but there would ... in the context of discussions, there would have been an understanding of the broad options that would have to be considered.

Deputy John Paul Phelan: Okay. I want to just retrace my steps a little bit. When we had Mr. Boucher in previously from Bank of Ireland, I put to him a quote from Bank of Ireland minutes. It's on the record of the inquiry and I just want your reaction to that particular quote. He said on this point, the CEO, Mr. Goggin, and the CFO, "sensed a marked reluctance on the part of the CBI [Central Bank of Ireland] to approach the ECB and also formed the impression that the CBI [Central Bank of Ireland] was less well informed on market developments [...] for all Irish banks than would have been expected."

Mr. John Hurley: Well that isn't correct. In fact, in the course of the crisis, because we had a smaller banking system, and because we had developed very close links with the banks, particularly in the type of meetings I referred to earlier ... my assessment is we had far more information than some of the larger countries where the logistics were much more difficult.

Deputy John Paul Phelan: Okay. Can I ask then in relation to the €1.5 billion bond that fell due from Anglo to a German bank, which we don't know which bank it is, which has been discussed by several witnesses, again primarily the Bank of Ireland witnesses who have come before the inquiry? Were you aware of that liability coming due prior to the discussions that you had with Bank of Ireland?

Mr. John Hurley: I can't remember the specifics of that, but my feeling is that we probably would have information on the general roll-overs that would have happened, or debt that was falling due, but I don't remember the specifics.

Deputy John Paul Phelan: Mr. Hurley, this possible default of Anglo is a critical factor in the events that happened in the next few days-----

Mr. John Hurley: Did you say "default"?

Deputy John Paul Phelan: "Possible" I said, a "possible default"-----

Mr. John Hurley: Yes.

Deputy John Paul Phelan: -----was a critical factor in the events that unfolded in the next few days. I really would ask you to try to be clear in your recollection as to whether you were aware, or the Central Bank was aware, that that-----

Mr. John Hurley: Are we talking about Anglo Irish Bank?

Deputy John Paul Phelan: Yes.

Mr. John Hurley: In relation to Anglo Irish Bank … we had a very good picture of the liquidity position in Anglo Irish Bank. We knew exactly what the state of play was. We had been discussing the potential for emergency liquidity with all banks for some time, going back to Northern Rock. In this particular situation we knew exactly what the liquidity position was and we knew that there … that particularly as of the Monday, when the liquidity situation significantly deteriorated, we knew of the potential there was for a problem the following morning. But all the arrangements were made … all the arrangements were made in terms of asset swops, the legal arrangements were done. There was going to be no default. We had those arrangements in place. The only piece that was actually missing from … the particular jigsaw, was that the letter of comfort from the Minister was to come, and it did come later that day. So the whole circle was … the whole circle was there. Now, having said this, just … this is a very important point. As Governor of the Central Bank, I can't talk to other banks about the specific internal affairs of another bank. And if somebody comes to me and asks me specific questions about the liquidity position … any sort of position in relation to a particular bank, I can't speak to that person about it.

Deputy John Paul Phelan: Okay.

Mr. John Hurley: That doesn't mean I don't know. It doesn't mean the Central Bank doesn't know. It doesn't mean the Central Bank doesn't have plans. It's just simply, I can't tell the head of another bank about the internal affairs of a bank.

Deputy John Paul Phelan: I understand what you're saying, it's just that the impression was created in that evidence that you were unaware, or at least not adequately aware.

Mr. John Hurley: I don't know how that could be because you have plenty of documentation to show you exactly what the situation was. We had very clear information on the liquidity situation.

Deputy John Paul Phelan: Can I ask you were the … was the Bundesbank aware of the possibility of a default by an Irish bank to a German bank, that week?

Mr. John Hurley: I have no knowledge of that.

Deputy John Paul Phelan: You had no contact with-----

Mr. John Hurley: No knowledge … not in relation to that specific issue.

Deputy John Paul Phelan: Okay. I want to refer now to the core documents – Vol. 2, page 165, which was briefly referenced before lunch.

Chairman: I'm afraid-----

Deputy John Paul Phelan: Oh, can I? Okay, sorry.

Chairman: You can speak to it but not-----

Deputy John Paul Phelan: Okay, well I was told that it could go up, but okay, if it can't go up. It is, Mr. Hurley, bullet points for a Cabinet meeting of 28 September 2008. There is a handwritten note at the end of that particular document as well, but in the end of the printed part it says, "Governor of Central Bank in touch with ECB." And the handwritten note at the end says, "As of 9 a.m. today ... Governor has not heard from Trichet", with the "not" highlighted and underlined. Can I ask you, was that a reference to you specifically in a one-on-one manner trying to contact Mr. Trichet with regard to the difficulties that were emerging on that particular date?

Mr. John Hurley: I would have been in … that particular day I think there would have been a teleconference … there would have been a teleconference probably the following day. I think I have the dates of them.

Deputy John Paul Phelan: But no-----

Mr. John Hurley: It seems to me that there would have been a contact, in meetings in which the president would have been present. Now, I am in the Chairman's hands in relation to this … in relation to answering this specific question.

Deputy John Paul Phelan: You needn't go into specifics.

Chairman: I think there is freedom here for you to take a generalised position on this, Mr. Hurley, if you so wish.

Mr. John Hurley: Well, I take it the general position is that there were contacts with the ECB.

Deputy John Paul Phelan: Was it one-on-one contact or was it … was it this teleconference that's-----

Chairman: I'll let Mr. Hurley respond.

Deputy John Paul Phelan: Yes, okay.

Chairman: Okay, Mr. Hurley. Respond please.

Mr. John Hurley: During all of this period there would have been both.

Deputy John Paul Phelan: Can I specifically then … the comment is that the "Governor has not heard back from Trichet." That is the specific quote that I'm referencing. Was it that your calls were not returned or-----

Mr. John Hurley: No, they were always returned in time.

Deputy John Paul Phelan: Okay, so you can't shed any light really on what that comment means then, that you had not heard back from Trichet.

Mr. John Hurley: I would've had responses to my questions … in the course of those days.

Deputy John Paul Phelan: Okay, that is fair enough. Now, can I turn you to discuss the events surrounding the options presented by Merrill Lynch at a meeting in the Department of Finance on 29 September 2008. And if you could outline for the inquiry the options that were discussed that evening, with particular reference to how the final solution of a blanket guarantee was eventually reached?

Mr. John Hurley: The 29 September?

Deputy John Paul Phelan: And the Merrill Lynch options that were outlined.

Mr. John Hurley: Yes, but is there a meeting at which I asked to discuss that?

Deputy John Paul Phelan: Yes, the Department of Finance, 29 September 2008. It is quite a well-known meeting.

Mr. John Hurley: Could you refer me to … Yes, no but … you're talking about the guarantee meeting.

Deputy John Paul Phelan: Yes.

Mr. John Hurley: I'm sorry. I thought you meant an earlier meeting.

Deputy John Paul Phelan: I'm not allowed to reference things.

Mr. John Hurley: Yes. No. The reason I mention that is, my conversations prior to the guarantee in relation to the Merrill Lynch options was at a much earlier date. I think it was the 26th.

Deputy John Paul Phelan: Okay.

Mr. John Hurley: So, I wasn't at any other meeting on 29th with Merrill Lynch, that I can recall. The meeting I was at was the guarantee meeting. Is that-----

Deputy John Paul Phelan: Can you outline for us the discussion that you did have then on the 26th with regard to the options that were outlined by Merrill Lynch?

Mr. John Hurley: All of the … there is a paper, I think, and it refers to the options. There was a presentation there. I was present at that meeting … and the different options, going from guarantee to nationalisation to … all of these were discussed.

Deputy John Paul Phelan: Who else was present? Just as an aside.

Mr. John Hurley: I think the names of those present are available. I can't be absolutely certain but the Department of Finance was there. I think the Minister for Finance was there. Merrill Lynch was there. It's possible some NTMA representatives were there. It was a very large meeting and it was a presentation by Merrill Lynch that, as I can recall … on different options.

Deputy John Paul Phelan: Okay. I want to turn now to specifically the night of the guarantee itself … and we had evidence from Mr. Goggin again, the former CEO of Bank of Ireland, who was the CEO at the time. You're on page 22 and 23 of the transcript of that particular meeting, where he said that after discussing with his colleagues from capital markets in the treasury side of Bank of Ireland, he then offered his opinion to Government on the night of the guarantee that dated subordinated debt be covered by the bank guarantee. Subsequent to that, Mr. Burrows, in evidence here, gave a different interpretation of events, stating that he recalls no discussion on subordinated liabilities having taken place, and Mr. Gleeson and Mr. Sheehy indicated that neither of them had sought on behalf of AIB to include subordinated liabilities. Firstly, I want to ask you for your recollection of those discussions, if you could, briefly, maybe?

Mr. John Hurley: Just on the evening?

Deputy John Paul Phelan: Yes.

Mr. John Hurley: There were a number of meetings with ... I think I went over to Government Buildings probably around 6.30 p.m. ... around that time, and there would have been ... I'm not sure when the meeting proper started, chaired by the Taoiseach and with the Minister for Finance, but some time later, and there would have been at that stage about ... maybe about 7 o'clock, what I would describe as the first plenary session chaired by the Taoiseach. And that particular meeting started with a detailed discussion on the liquidity position, on the threats facing the system, how the individual banks were. I would have given a broad view on the situation as we knew it. We had very good information and the Financial Regulator ... and the chairman of the Financial Regulator would have gone on in detail about individual banks. All of this information would have been supplied and sent to the Department of Finance in the course of the day. There would've been a lot of contact during that day because the liquidity position changed as and from the beginning of that morning on the 29th. At the weekend, we had a view that we would probably get through the following week. That changed on Monday and we knew that we were in a critical situation ... we knew for a start that one bank would be illiquid unless we did something that particular day but the contagion effect and the implications for the other banks would have been enormously serious. So at the meeting, we outlined all of this ... the Department of Finance would already have had the data ... I think the Minister and the Taoiseach probably were up to speed but we gave the up-to-date information, as we saw it, because things had been evolving on an hourly basis on the course of the day.

Deputy John Paul Phelan: Can I ... my time is limited and I'm not trying to rush you-----

Mr. John Hurley: Yes, I'm sorry.

Deputy John Paul Phelan: -----but I want to specifically ask you in relation to the differing views given by Mr. Goggin and------

Mr. John Hurley: Sorry, okay, just on that specific issue.

Deputy John Paul Phelan: -----on subordinated debt

Mr. John Hurley: Okay. My memory of the meeting was that the meeting was introduced by Mr. Gleeson who went through a sort of short presentation on the situation. Others came in and spoke and at a particular stage ... I think it was Mr. Sheehy or Mr. Gleeson spoke about the broad guarantee for four banks and gave a rough indication of what they would see as being included in that. Now, my interpretation of what was said was that it was very broad and included all of the categories that would have been discussed in the Department of Finance over the previous days and that, to my mind, would have included subordinated debt.

Deputy John Paul Phelan: Okay, okay.

Mr. John Hurley: That's my view.

Deputy John Paul Phelan: So, can ... your ... I suppose ... yes, that's a slightly different version than we might have heard already. You've kind of thrown me off my train of thought by having a different ... a slightly different version but can I .... can I ... can I ask you then, in relation to your own opinion as Governor of the Central Bank, being party to those discussions, what was your view on the inclusion of subordinated debt?

Mr. John Hurley: Normally you wouldn't include subordinated debt in a guarantee ... dated subordinated debt ... but really the issue had to do with how we would be coherent with markets the following morning. On the following morning we ... there was extraordinary volatility around Europe and, remember, I was involved in teleconferences and I understood exactly what was happening in each country and the level of volatility and the fear that there was right across Europe at the time. And that day and previous days I would have been involved in these teleconferences from my room in the Central Bank and it was very, very clear that the dangers right across the Europe and the dangers stemming from what had been happening in the United States had created enormous difficulties for banks across the Continent. So, that essentially was the backdrop.

Deputy John Paul Phelan: Can I ask and I want to put another quote to you, Governor Honohan, your successor, speaking here in the inquiry on 15 January 2015, he stated the following:

> What I know from conversations, as far as I understand it, is that he [Brian Lenihan] agreed with the idea of an overall guarantee but he also thought that [two named institutions, which I won't name because I'm afraid ... I don't want to walk you into something] should be nationalised there and then. Just to be complete on it, he also argued strongly not to go down to cover subordinated debt.

Is that your recollection?

Mr. John Hurley: My recollection is slightly different. My recollection is that the plenary meeting that I described ... the first plenary meeting, there was a very broad discussion on the options and I think the view was that we should tease out the different options. And Mr. Lenihan, Minister Lenihan, would have been very anxious that that would have been done and that the different options ... all of the different options would be looked at. So, in that context, yes, he did ask that this issue would be examined but so did others and, in fact, it was the sense of the meeting that it needed to be examined. But, in relation to subordinated debt, this, essentially I think, discussion on subordinated debt occurred at a second meeting ... a second plenary meeting, as I would describe it, after the first meeting with the banks. And at that second meeting, we would have been considering ... having come to a decision about what was the best option ... considering the other elements, for example, subordinated debt, and that was surfaced and discussed and the issue that ... and Mr. Lenihan would have been involved in that discussion and would have been anxious that it was discussed. But the issue that was involved was ... do we take the risk of not including subordinated debt when it is not such a big issue in terms of costs in the context of the overall guarantee? Certainly significant when you look at it in isolation and look at the cost involved but the issue wasn't that. The issue is we have to present a coherence to the markets, the markets are volatile, the American TARP had gone down, there was a sense in which, you know, you didn't quite know how the markets would open the following morning. So, if you weren't coherent and if you didn't really present well and the markets didn't understand your message, all of the work could go for naught.

Deputy John Paul Phelan: Okay. Can I ask you again, though, specifically in relation to what Governor Honohan said here that nationalisation of the two institutions ... that he says Mr. Lenihan supported on the night and the non-inclusion of subordinated debt, specifically-----

Mr. John Hurley: They were certainly raised and he certainly spoke to them but he ... at the end of the day, a conclusion was reached and a decision was reached to which all parties agreed.

Deputy John Paul Phelan: Okay. Can I then turn actually at the end, maybe, to a brief question about the drafting of legislation which took place in the spring of 2008 and the analysis surrounding that drafting with regard to the possibility to nationalise a financial institution and specifically what advice you, as Governor, or the Central Bank in general would have given to the Government on the drafting of that particular legislation?

Mr. John Hurley: We certainly at a particular stage ... and this was before I left for hospital ... at a particular stage we would have been anxious to see that there was legislation ready in case there was an institution that required to be nationalised. And I think this would have cropped up probably in the context of the domestic standing group but it was carried on then by the Department of Finance and preparations were made in the Department of Finance. So that issue did crop up at that particular time and, you know, there would have been an anxiousness, I think, in the Central Bank that preparations would be made just in case.

Deputy John Paul Phelan: Thank you very much.

Chairman: Thank you very much. Can I just ask you in that matter, Mr. Hurley, was there legislation in the room that night to nationalise a bank?

Mr. John Hurley: Was it in the room?

Chairman: Yes. Was there actually legislation in Government Buildings on the night of the guarantee that would have facilitated nationalising of a bank?

Mr. John Hurley: My understanding is legislation was ready.

Chairman: Was it in the room?

Mr. John Hurley: I couldn't tell you whether it was in the room but, I mean, it might be in another room. I mean, it was ready.

Chairman: Ready by who?

Mr. John Hurley: I think it was by Department of Finance and the Attorney General ... the Attorney General's office, I would imagine. But my understanding is that legislation was available.

Chairman: Okay.

Mr. John Hurley: That draft legislation was available.

Chairman: And was the draft legislation discussed in the course of the evening's debates?

Mr. John Hurley: I don't think ... I can't recall that. I mean, the issue was around whether or not you'd guarantee, whether you'd nationalise, what would be included in the guarantee. I mean, if the issue of nationalisation was decided upon, I would imagine the legislation would have been called for.

Chairman: Okay, but just ... I just want to get this clarified. There was prepared legislation to nationalise a bank or banks. There was nationalisation legislation-----

Mr. John Hurley: Legislation was in the process of preparation and, I would have thought, very close to being ready to be introduced in the Dáil.

Chairman: And you can't confirm or not whether it was a draft or a version of that in Government Buildings on the night?

Mr. John Hurley: I would imagine it was available, either in Government Buildings or in the Department of Finance or the Attorney General's office.

Chairman: Okay and can you confirm whether it was discussed or not in your presence at any time during the evening?

Mr. John Hurley: I don't recall the specific legislation being discussed, I recall the issue being discussed ... of nationalisation.

Chairman: Okay but not that legislation?

Mr. John Hurley: I don't remember the legislation being discussed.

Chairman: Okay. And you were present all evening with the Taoiseach, the Minister for Finance, the Attorney General and the finance officials through the whole course ... we know the bankers came in and went out at different stages, we know the NTMA were outside the-----

Mr. John Hurley: I can't say that I was absolutely in the room every minute-----

Chairman: Yes but-----

Mr. John Hurley: -----but I was there for the bulk of the evening.

Chairman: Okay, all clear now. The legislation that was ultimately used to nationalise Anglo bank in early 2009, is that the ... would that have any similarity to the legislation that we were talking about that would have been drafted up or prepared in or around the time of the guarantee?

Mr. John Hurley: I would imagine so but I can't be certain on that.

Chairman: Okay, thank you. Senator MacSharry.

Senator Marc MacSharry: Thanks very much and welcome again Mr. Hurley. Can I just go back to where Deputy Phelan had mentioned earlier on, on page 165 and the bullet points for Cabinet and the contemporaneous note there at the end ... just in relation to that, was there a specific question or query that Mr. Doyle or Minister Lenihan had asked you to ask or seek out with ECB representatives, which they may have been waiting for the answer for?

Mr. John Hurley: The issue I think that arose ... first of all there were three key messages

... messages coming through the discussions right across Europe. The first message was, really Europe can't have another Lehman's. The second message was, countries really should stand behind their banks. This was the common view and the question you're asking me really is a variant on the second, countries stand behind their banks. When you were looking across Europe at that time and listening to the conversations the thing that struck me most forcibly was that the nation-state mentality had suddenly resurrected itself and that the community *communautaire* view had weakened, and so countries standing behind their banks meant action by countries. So the issue really was whether we were reading properly that there was no pan-European initiative around - was there anything around that our Government could be part of? And the discussions and conversations and notes would be about me checking that. I knew myself that there was no European initiative, on the basis of what I was seeing and hearing, but I did want to check that.

Senator Marc MacSharry: So is it reasonable, and correct me if I'm wrong here, that ... to say that the Minister or the Secretary of the Department, Mr. Doyle, had tasked you or asked you to, through the ECB, see if there was the potential to allow banks fail or was it specific to something like that?

Mr. John Hurley: It was really got to do with whether there would be a European, a pan-European initiative. My feeling is I don't remember being tasked, I do remember it coming up in discussion and I remember saying "There's ... there's really no initiative emerging in Europe and I think I can't ... I can't see any one, and I'm going to check out to see whether that's correct."

Senator Marc MacSharry: Okay. So it's possible is it, or not, that ... this note relates to the lack of a response that there was a European initiative to deal with the impending crisis?

Mr. John Hurley: There was a response but not by that time.

Senator Marc MacSharry: But not by that time. What was the response?

Mr. John Hurley: The response broadly was that I was correct, that there wasn't any broad European initiative that ... on the horizon at the time.

Senator Marc MacSharry: Yourself, in your own testimony, you said that the Government "was expected to stand behind its banks and a Lehman's-type situation was to be avoided", according to page 14 of your written statement and I mention it again there. Indeed, many other witnesses have said that there was a prevailing thought that no bank should be permitted to fail - as you put it, another Lehman's ought to be avoided. And while everybody is prepared to say this was a prevailing thought, I'm just having difficulty identifying who came up with this thought. Was it discussed at ECB level? Did the ECB tell their ... the Governing Council members "Look guys don't let a bank fail"? Did that ever occur?

Mr. John Hurley: It was ... it was the prevailing view in all of the discussions. You have to understand the fear that was around Europe at the time.

Senator Marc MacSharry: Oh no, I do, but I'm just trying to-----

Mr. John Hurley: There was nobody questioning this view because people felt that this was ... this was right. But there was also individual institutions in Europe that also had their own problems and that solutions would have ... have had to be found for those institutions, and the manifestation, the manifestation of the view you cannot have another Lehman's and countries must stand behind their banks would have come in the decisions on those institutions as well.

Senator Marc MacSharry: Apart from the accepted doctrine that seems to have been this ... that was going to be best practice to, to stand behind one's banks, can you isolate for us any body such as the ECB or IMF or ... G7 or any body directing, for want of a better expression, that no bank should fail, that this ought to be the doctrine which, granted, everybody now accepts?

Mr. John Hurley: Directing is a very, very strong word. I rather would put it-----

Senator Marc MacSharry: Mentioning.

Mr. John Hurley: -----that out ... out of the ... out of what was happening, this became a common view that you could touch. A common view that you ... that you really couldn't afford another Lehman's and that countries had to stand behind their banks. And, I can't put it any more strongly than that, I mean, I was involved in all of these discussions. These were from my office in Dame Street, I was involved in teleconferences. There was really no doubt about this, right across Europe, as far as I was concerned.

Senator Marc MacSharry: Look, I'm sorry to be repetitive but I'm just trying to, to find out. This seems to be the accepted doctrine. This was the only business in town, this was the only thing to do. Now did everybody wake up one morning and was this a reality? Or did somebody, and what group of people or what organisation, sat down and said, "You know what, point number one is: we can't have another Lehman's"?

Mr. John Hurley: Mainly it was a response to what happened in the United States, the actual-----

Senator Marc MacSharry: Agreed, but by who?

Mr. John Hurley: By everybody. It was a fear that emerged as a consequence of the failure of Lehman's. No-one thought this would happen.

Chairman: Can I assist you here Senator and maybe just ask Mr. Hurley where was the origin of this belief system, where did it originate from? Back to yourself Senator MacSharry.

Mr. John Hurley: The origin of?

Chairman: Of that no bank shall fail.

Mr. John Hurley: It emerged from discussions all over Europe and it would have been present in most of the meetings I was involved in.

Senator Marc MacSharry: Okay, so just on that - I mean, discussions all over Europe means my sitting room and yours. Was it specifically within the Governing Council of the ECB?

Mr. John Hurley: The ECB meetings would have had the same view.

Senator Marc MacSharry: Sorry?

Mr. John Hurley: They would have had the same view.

Senator Marc MacSharry: As who?

Mr. John Hurley: As the general view, which was that Lehman's ... Lehman's-----

Senator Marc MacSharry: What was the general view? Are we talking the people in the street? Are we talking the IMF, the G7, governments, who?

Mr. John Hurley: Well, Ministers had their own contacts through the Eurogroup. There were political contacts going on as well, meetings of ... discussions or contacts between Eurogroup ministers. This was not just a view solely confined to central banking, this was a general view.

Chairman: I will ask you to move on.

Senator Marc MacSharry: Okay. Just in terms of a guarantee again, Mr. Goggin, his testimony was mentioned earlier on. He, he mentioned in his testimony, and I'm just going to quote a piece where he was speaking about ... the night of the guarantee and the meetings and I'm just going to quote a passage and I'll question you on it afterwards.

> In fact, as I recall it, the prospect of a guarantee, which was raised earlier that morning in relation to acquiring Irish Life & Permanent, had been mentioned to me during the summer of 2008 in a conversation with the Governor of the Central Bank. He mentioned to me that there was lobbying for a system-wide guarantee for all banks.

Would you agree with that statement?

Mr. John Hurley: Well I agree with a number of things. First of all I agreed that I asked him the question. I agreed that I, I asked him whether his bank would be interested in a guarantee, in a broad guarantee. And he gave me the response which he said at the time, which was the bank wasn't. Now, where I have a slight difference is that I thought this discussion came later. I attended a meeting in Government Buildings on 18 September, the day after I came back from sick leave. The guarantee was raised at that meeting. I'm sure you have it in your papers. And at that meeting, I was asked for my opinion on the guarantee and I said I thought it would be counter-productive when it wasn't being proposed by the Central Bank then. The following day, the discussions on the extension of the guarantee scheme to €100,000 were engaged in and there were discussions with the banks. I thought it was in the context of those discussions, and I looked up the minutes of various meetings and my view in relation to the Bank of Ireland and AIB is recorded in one of the Central Bank notes, minutes, where I recorded that they had a view at a certain stage that they didn't think a broad guarantee was for them. Now, that's the timing I put on it, but I mentioned in my earlier evidence here before the committee that before the summer I would have had quite a number of meetings with banks on the liquidity situation of banks and the collateral situation, on readying up collateral and so on. And before I went into hospital, I would have made a point of understanding the liquidity position facing banks, just ... not just to brief the Minister, which I did before I went into hospital, but also to be prepared for the ECB meeting, the last ECB meeting, in July. So in the context of those discussions, I can't remember it coming up specifically but it's quite possible that somebody mentioned guarantees. It might have been mentioned as a consequence of the Northern Rock guarantee. It might well have come up. The broad guarantee did come up in the context of DSG meetings earlier in the year. So I can't say it didn't come up but I have really no specific recollection of it coming up.

Senator Marc MacSharry: Have you any specific recollection of anybody lobbying for a system-wide guarantee?

Mr. John Hurley: No ... lobbying, I think, is ... I know what lobbying is, having been a secretary of a number of Departments. I know specifically what it is and I would have acute antennae out in relation to it. I never felt I was lobbied in relation to a guarantee but I would ... any Governor or any secretary of a Department would have had numerous contacts during this particular period, and any time I was contacted, and there was something significant, I would have told the Minister.

Senator Marc MacSharry: Okay. Were alternative options to the eventual bank guarantee discussed at meetings during this period and who presented these alternatives?

Mr. John Hurley: Well, they were discussed, of course, at the Merrill Lynch presentation I referred to earlier. That was a fairly lengthy discussion about different options, and that's the one I remember mostly in ... in ... in ... in the period preceding the decisions. There would have been discussions at meetings with the Minister and meetings with the Department of Finance, that meeting on 18 September and subsequent meetings where these issues would have been teased out. There were meetings, I think, over the weekend. All of that would have been involved in trying to assess the position, assess the liquidity position and tease out various options, and then as we went over on the night of the guarantee on the 29th, a lot of that ground had been ploughed up, but it would have been discussed at the first plenary meeting and the options would've been ... would've been set out.

Senator Marc MacSharry: I will go back to Governor Honohan for a moment, who was mentioned by Deputy Phelan. On page 5 of Vol. 1, he wrote about the Government's best available response given their limited information. He spoke of the:

> ...two failed banks should, in my opinion [I'm quoting], have been intervened by the public authorities, replacing top management, likely through nationalization (this corresponds to Minister Lenihan's stated preference). ELA should have been provided to allow time for consultation with European officials (including on the potential for risk-sharing). A more limited systemic guarantee should have been provided (no old - i.e. existing - bonds, no sub debt).

Do you believe that European officials would have agreed the possibility of risk-sharing if the Government decided, despite the accepted doctrine that everybody apparently knew, to liquidate the two banks that Governor Honohan referred to there?

Mr. John Hurley: The ... the ... would Europe have agreed if certain specific actions only were taken - is that the question?

Senator Marc MacSharry: No. Would they have agreed ... in effect, and I'm paraphrasing, I think the implications of what Mr. Honohan was saying was that we should have sought to liquidate the two banks and that that would create leverage and time to the extent that Europe may have come in to give support.

Mr. John Hurley: No, I don't agree with Professor Honohan. I mean, I don't agree liquidation was an option. I mean, if you take the common view across Europe, as I said, no Lehman's, but, you know, Mr. Honohan, Professor Honohan, has his view. I don't have that view and I would not have advised any Government to take that risk. Nyberg's report basically says it would have been extremely risky to take that approach.

Senator Marc MacSharry: Was it considered on the night?

Mr. John Hurley: It wasn't considered on the night. What was considered on the night were the options that we mentioned, including nationalisation. These options were discussed and considered and ... and weighed up in the context of the climate and the framework, or the environment we were in, particularly the environment where the TARP had gone down, where markets were going to open in some hours and we really had no idea about how this was going to go, so you were not going to take such an enormous risk with an economy. That's my view. Everyone else is entitled to their own opinion.

Senator Marc MacSharry: I understand. Specifically, did Minister Brian Lenihan put forward this as a suggestion?

Mr. John Hurley: I don't recall that. I do recall that he was teasing out, you know, and wanted teased out the nationalisation question.

Senator Marc MacSharry: Was, to your recollection, there any suggestion such as either nationalisation or allowing the banks to fail, as I said, overruled by the Taoiseach, if put forward by anybody?

Mr. John Hurley: There was no overruling by the Taoiseach in my presence. At the meetings I was at, what you had was an ordered discussion, chaired by the Taoiseach, where options were being discussed and where there were interventions around the table by various people coming in and out on the options. And, yes, during that discussion the Minister for Finance would have said, "Well, let's look again, let's look at the nationalisation option, are we sure about this?", and that was the type of discussion it was. In my view, it was a very constructive plenary meeting, well-organised and with views coming and going on the options. If I was to come to a view on it, I would say there was a marginal view in favour at that stage of the broad guarantee, but no decision was taken at the first plenary meeting.

Senator Marc MacSharry: Were you in the room for a decision as ... with ... with regard to the inclusion of subordinated debt?

Mr. John Hurley: Yes, I don't recall it as a very long discussion, but there was a discussion in my presence.

Senator Marc MacSharry: And did you feel that that was decided in your presence?

Mr. John Hurley: Yes, I felt that the view was that, yes, we understand subordinated debt, we understand the tiering of subordinated debt and that it wouldn't ordinarily be included, but here was a situation of extraordinary volatility. There was a view of crossover in terms of investors so do we take that risk or do we not?

Senator Marc MacSharry: So you felt, am I correct in saying, you felt it was important to include it, or not?

Mr. John Hurley: My feeling on the night was on the ... first of all, I didn't go up with a particular view in relation to this. My feeling on the night given the environment and the atmosphere, given the risks, given the amount of subordinated debt and the dangers of crossover, as it had been explained to us, I opted for its inclusion.

Senator Marc MacSharry: Can you confirm or clarify was Minister Brian Lenihan in the room for that portion of the decision?

Mr. John Hurley: I believe so, yes. Now I-----

Senator Marc MacSharry: Did he leave?

Mr. John Hurley: He did on occasion. There was a ... there was a separate political discussion in the course of the evening as you would expect.

Senator Marc MacSharry: To your knowledge, did Minister Lenihan leave the discourse ... leave the building?

Mr. John Hurley: I don't recall him leaving the building. If he did leave the building, I've no knowledge of it.

Senator Marc MacSharry: Okay. Nationalisation ... done that ... Can you discuss with us the advice that you would have provided as Governor of the Central Bank, that you gave to either Government officials, the Minister for Finance or the Taoiseach during the course of the evening on the options discussed? What was your advice, for example-----

Mr. John Hurley: When this ... as I mentioned, when this arose earlier on 18 September and I was asked for my view by the Minister, I was very reluctant to recommend a broad guarantee because of the scale of it and because of the possible impact on the sovereign and I more or less said that I wasn't recommending it at that stage.

Senator Marc MacSharry: Was that just-----

Mr. John Hurley: 18 September .

Senator Marc MacSharry: That was 18 September.

Mr. John Hurley: Now-----

Senator Marc MacSharry: But we're now on the 29th------

Mr. John Hurley: -----now in ... in the intervening period, the ... the scale of losses of the main Irish banks was truly horrific after Lehman's. I mean, ECB funding increased dramatically ... I ... the figures would probably would be ... I think it might have gone up to €40 billion. I think the outflows were very, very serious. We knew that one particular institution was close to being illiquid And we knew that the other banks were haemorrhaging liquidity ... and really, on the basis of that, it was .. it was a dire situation and we had discussions in the Central Bank and we came to the view, and it was mentioned at board meetings in the Central Bank that I would have chaired subsequently, that we might have to seriously consider something that we hadn't been prepared to consider up until then, which was the broad guarantee.

Senator Marc MacSharry: Did ... did-----

Mr. John Hurley: Now, when I ... sorry.

Senator Marc MacSharry: Go on.

Mr. John Hurley: So, going to the night then, as we went up to Government Buildings, I had come to the conclusion that there was going to be very little option. There were nationalisation questions around as well and so I hadn't actually made a total, final view until that debate in relation to nationalisation was concluded. But I did come to the view that it looked ... I had ... I did change my mind that there was very little option but to go the broad guarantee route and I did have that preliminary discussion prior to the meeting on the guarantee in the ante-room at the ... in the Department of the Taoiseach.

Senator Marc MacSharry: So, having changed your view from the 18th to the 29th and during the course of the discussions and considered the scale and all of the events and issues you-----

Mr. John Hurley: I came to the view that we ... we should go with the broad guarantee, yes.

Senator Marc MacSharry: And did you recommend the guarantee, in that instance, to the Taoiseach and the Minister in their ... in .. in their role as officers of the State?

Mr. John Hurley: I think the way I ... it didn't quite happen like that but it would ... have effectively that's the way it happened. What happened was people were asked for their view around the table in the discussion. And so was I. And I gave my view.

Senator Marc MacSharry: Can you recall any dissenters?

Mr. John Hurley: During ... the debate ebbed and flowed in terms of what options should be adopted-----

Senator Marc MacSharry: No, specifically to do with the decision now.

Mr. John Hurley: I'm ... I'm coming to the decision-----

Chairman: Allow him a bit of space now.

Mr. John Hurley: I'm coming to the decision. I'm coming to the decision. During the evening, the debate ebbed and flowed. People had different views. But then there was the conclusion. And my last memory of the ... of the night before we actually went to meet the banks for the second time ... was that the Taoiseach recorded what the decision was and he asked every group in that room what their view was. And I think, probably ... most individuals ... there was no dissenter.

Senator Marc MacSharry: There was no dissenter-----

Mr. John Hurley: No.

Senator Marc MacSharry: -----to your mind?

Mr. John Hurley: No.

Senator Marc MacSharry: Did you provide advice to the Government on the night as to what might happen if they didn't-----

Mr. John Hurley: I ... the advice I provided-----

Senator Marc MacSharry: -----provide a system-wide guarantee?

Mr. John Hurley: -----was that we were looking at financial instability and looking at a breakdown of the banking system, with the entire economic, financial and social upheaval that that would have involved.

Senator Marc MacSharry: Could you give us an indication in years, let's say, what kind of a setback that could've constituted?

Mr. John Hurley: If you had a collapsed banking system in the environment in which we were, with the markets the way they were, with all of the defaults and everything that would have been involved in that, this country would have taken decades to recover.

Senator Marc MacSharry: 20, 30, ten?

Mr. John Hurley: I'd say decades. I don't know but it would have been a very, very serious setback-----

Senator Marc MacSharry: You wouldn't-----

Mr. John Hurley: -----and would have seriously damaged a lot of the economic gains that had been made.

Senator Marc MacSharry: And could you put a timeframe on it for us?

Chairman: One minute now, Senator.

Senator Marc MacSharry: About a minute and a half, Chairman.

Mr. John Hurley: I can't really, but ... but, you know, countries that have had ... defaulted, when you look at them around the world, are still struggling.

Senator Marc MacSharry: Interesting. Just another point and I know that we did slightly cover this already but I ... I just want to ask you ... can you comment on why the decision to nationalise Anglo was not taken on the night ... and what advice specifically would have provided to the Government in this regard?

Mr. John Hurley: On the night?

Senator Marc MacSharry: Yes.

Mr. John Hurley: Yes. When this was being discussed, and the options were being discussed, I was asked for my opinion. And I ... I ... my opinion was that it wasn't at all certain that the nationalisation of Anglo would not have as a big as a contagion effect as the default ... that ... that ... that if ... the contagion effect and the ... the ... the view of markets might take of Ireland incorporated and its ... all its banking, that it might have, through contagion, had a significant impact on the other banks. And when Anglo was nationalised later on in ... in 2009, the liquidity flows were enormous as a consequence of that. So ... so these were judgment calls in real time. There is no certainty about this. These were very big judgment calls where everyone was trying to ... to come to the right conclusion so as that something coherent could be presented in markets in a few hours. And if that coherence wasn't properly worked through, we would have come down.

Senator Marc MacSharry: What was your ... and I'm just finished now ... what was your view just with regard to ... if nationalising Anglo earlier ... would it have sped up the resolution to the crisis in your view?

Mr. John Hurley: Nationalising Anglo earlier-----

Senator Marc MacSharry: That night ... that night.

Mr. John Hurley: I formed a judgment that night that nationalising Anglo would have really complicated the situation and not eased it. But there were other factors at play. Anglo was illiquid, it wasn't insolvent. You were giving the guarantee to other banks and you then weren't giving Anglo a chance to live and so you were wiping out all of the shareholders overnight and there would unquestionably have been significant legal actions against the State. Now these might not have been enormous in the ... in the ... in the fullness of time. But, on the night in question, you had to make a judgment that you were going to nationalise an illiquid bank when you were giving a guarantee to every other bank.

Chairman: Thank you very much. I just want to deal with one or two other matters. Just to clarify, you said nationalisation was discussed on the night there. You say, Mr. Hurley that there was legislation for the nationalising of a bank. Is your testimony to the committee today that whilst nationalising of banks was being discussed in Government Buildings on the night of the guarantee, at no time did anyone make reference to legislation being prepared or ... discussed the item ... that there may be legislation that we can now look at?

Mr. John Hurley: I can't recall that. I can't say it didn't happen. I wasn't in the room continuously. But I don't have a memory of it.

Chairman: Okay. And I think you've already covered with Senator MacSharry how the ultimate final design of the guarantee was actually arrived at. That was at what time during the night ... was it the very end then you decided to go home or was it a decision made-----

Mr. John Hurley: No, there was ... there was a plenary meeting in which the state of the markets was discussed. In that plenary meeting, there was an initial discussion on the options. There was no final decision at that meeting. After that meeting, there was a meeting with the banks. After the meeting with the banks, there was a further major plenary meeting at which the final decisions were made. And in the course ... and that includes all of the details ... and in the course of the meeting, not the press release or anything like that ... just the decision ... what is the decision? At the end of that meeting the Taoiseach sought the views of everybody and what the decision was and then after that, there was a further discussion with the banks.

Chairman: Okay. So did the banks go home that night knowing what you had decided or did they wake up the following morning to find out what you had decided?

Mr. John Hurley: I thought the Taoiseach was extremely clear in what he said.

Chairman: Thank you very much. Just one other question so before we move on to the other questioners. Can you comment upon what happened between 8 January 2009, when the Irish Government formally ... when the Irish Government formally notified ECB that they would be recapitalising Anglo, to 15 January 2009, when they made the announcement that they would be nationalising Anglo instead?

Mr. John Hurley: My memory of this ... the night of the decision on the nationalisation of Anglo, I was in Frankfurt and I was on the phone to the Minister, but I wasn't present at the discussions. My understand is that everything was in readiness to recapitalise Anglo Irish Bank. I don't know exactly what happened at the meeting but I do know that there was ... as far as I know, some advice from, I think, Merrill Lynch in relation to nationalising a bank. And, secondly, there was the corporate governance issues that emerged and which, I think, the Minister was very upset about.

Chairman: Okay, and what led to the change of the decision and what discussions were had in this regard?

Mr. John Hurley: Sorry, Chairman?

Chairman: What led to the change of decision and what discussions were had in this regard?

Mr. John Hurley: I think my memory, because I was on the end of a phone in Frankfurt and I wasn't there at that particular ... my memory is that there were misgivings about putting capital into Anglo Irish Bank at that time, particularly in relation to some of the issues that had emerged. The Minister was concerned about that, and I feel that, as a consequence, that was one of the ingredients in the deferral of the decision and the changing of the outlook.

Chairman: Okay, just to clarify, in earlier questioning by me you said that the legislation to nationalise Anglo in January 2009 broadly reflected the legislation that had been prepared prior to the guarantee with regard to nationalising a bank.

Mr. John Hurley: I said I thought it would. I have no definite evidence on this.

Chairman: Okay. So would it have made sense to nationalise Irish bank earlier than January 2009?

Mr. John Hurley: It really depended on the ... once a decision had been made, and the decision was made to guarantee six banks and not to nationalise, the issue really of nationalisation would crop up depending on the response to the guarantee. If, for example, Anglo Irish Bank didn't benefit substantially from the guarantee and continued to be illiquid, I think the Irish Government would have a cast-iron case for nationalisation.

Chairman: Okay.

Mr. John Hurley: But that didn't happen until much later.

Chairman: Okay. Senator Barrett.

Senator Sean D. Barrett: Thank you, Chairman, and welcome back, Mr. Hurley. How would you benchmark the Central Bank of Ireland relative to central banks in other jurisdictions?

Mr. John Hurley: Well, in the context of this crisis, I can't say any central bank anywhere has come out top of the class. I think 13 or 14 countries have had a systemic crisis. The systemic crisis arose because there was a general collapse in markets; there was a failure of the Basel accords; there was an incomplete EMU; the Stability and Growth Pact wasn't as strong as it should have been; and we had oversight from the IMF, from rating agencies and from accountants. No one saw this coming about, so the Central Bank in Ireland would have been quite unique if it saw this crisis coming. Where I think we have to answer and account, we have to account about the weaknesses in our own system. And some of those weaknesses, particularly in relation to risk taking in individual banks, which would not have been known by the Central Bank, they caused problems and would have caused problems anyway.

Senator Sean D. Barrett: Could I ... Thank you. Could I bring up Vol. 2 of the core documents, Chairman, at page 82? This is the notes on an ECOFIN meeting and in the last paragraph you record that:

> The Council recalls that it has repeatedly urged the Irish authorities, more recently in its 2000 broad guidelines of the economic policies, to ensure economic stability by means of fiscal policy. The Council regrets that this advice was not reflected in the budget for 2001...

Was that a failure by the Central Bank to influence the Department of Finance in that direction-----

Mr. John Hurley: I don't know about a failure of the ... the .... the Central Bank. I was the secretary of the Department of Finance at this time, so maybe I should answer for that. But the situation is this recommendation that was given to Ireland was given because of the broad economic guidelines issue and ... and over-expenditure by Ireland, as they saw it, of some not very significant amount of money at the time. The only thing I would say about all of that is, yes, maybe we should have reacted differently at the time but we were quite upset because so many countries were driving coaches and four through the Stability and Growth Pact at the time, including the larger countries. I think there was a level of annoyance that maybe Ireland, because of a, not a very significant breach of the policy guidelines, was really being reprimanded.

Senator Sean D. Barrett: Having had a-----

Mr. John Hurley: Now, it could've been a mistake in hindsight, but that's what it felt like at the time.

Senator Sean D. Barrett: Having had a domestic system of bank regulation which worked, was there too much of a hiatus between the launch of the single currency and, you know, as recently as last winter, in that there's a lack of connection between the European Central Bank and national central banks, you know, which might have prevented that kind of collapse of the Irish banking system if you'd had closer contacts with Frankfurt?

Mr. John Hurley: The contacts with Frankfurt were extraordinarily close. I mean, the ... the ... the building up of the Eurosystem, which was essentially ... took a very large chunk of my time, was terribly labour intensive. I mean the issue that arises, Senator, that you're actually, you know, I think, touching on, is the very fact that the ECB wasn't given any responsibility for regulation and supervision early on, and is only now being given some of these functions in relation to the main banks. This was ... there was no unanimity at the time to enable this to happen. And had it happened, I think then you would've had a different dialogue.

Senator Sean D. Barrett: Because people might ... looking in might think there was nobody in charge of that currency from 2009 until very recently.

Mr. John Hurley: I don't know that that's fair, really. I mean, I think the European Central Bank, when Europe was in disarray and when, as I said, the nation-state mentality emerged very quickly after Lehman's and the community approach weakened, it was the ECB that was holding Europe together; it was ECB that was pumping in the liquidity; it was the dialogues with the Federal Reserve right across the globe to try and stabilise a disastrous situation. I thought the ECB performed exceptionally well during that period.

Senator Sean D. Barrett: Was there dialogue in 2008 as the Irish crisis built up to tell Frankfurt, "We're really in trouble here; we need some assistance, because we don't have the resources ourselves to rescue these banks"?

Mr. John Hurley: In 2008, Senator, as the crisis, as the liquidity crisis was taking hold, we were in a slightly different situation in relation to our assessments on financial stability, which I discussed earlier. All of the signs in 2007 was that this adjustment would take place ... the adjustment in values would take place. Yes, there would have been a very significant fiscal problem, but that fiscal problem, you know, in my dialogue with the Minister, they were quite aware there was a fiscal problem but there was a confidence that they'd be able to manage this fiscal problem. So the actual collapse didn't come until much, much later. At that time, there was still a great expectation that this could be managed in terms of the gradual or the soft landing, with significant action being taken on a fiscal adjustment. Ministers and the Government knew we couldn't continue to build at the level we were building in terms of houses, and they knew that there was an overvaluation element, but there was a confidence that it could be managed because economic growth was still extremely strong, the prospects for growth were strong and we didn't have the emergence of Lehman's and the disaster that emanated from the United States.

Senator Sean D. Barrett: Could I move on to page 88 of the same document, if I may, Chairman? There is a statement at the end of the second paragraph in the ECOFIN briefing notes: "In short, we supervise banking and other financial activities to the highest European and international standards." That was what we said in 2005 but that couldn't possibly be true at this juncture to say that.

Mr. John Hurley: But this is ... you're reading from a note in 2005, and, in this note, this was the view. A new regulatory system was put in place, the legislation was hardly dry, the new ... the Financial Regulator was being established. The financial regulatory system ... they were working extremely hard to build up this system, extremely hard. It was on the basis of principles-based regulation. Principles-based regulation wasn't an Irish invention. It was a worldwide movement. It was on the basis that markets know best, and the Irish regulatory system was adopting a philosophy that was a general philosophy.

Senator Sean D. Barrett: But wasn't it principles-based regulation without sanction, so, therefore, it became self-regulation? There were no sanctions ever applied.

Mr. John Hurley: Well, I'm not going to comment on the implementation of this. This will be a matter for the financial regulatory people when they come here, but the fact of the matter is, we had round-table discussions with financial institutions at which the Financial Regulator was present. The Financial Regulator emphasised in those meetings, all of those meetings, that there had to be prudent lending and careful standards and proper risk-taking by banks. And this is recorded in round-table minutes. So, they were following this up at the time, and followed it up subsequently in 2005. And in your papers, you will see a very significant decision of the regulatory authority, in the very same document, where they took a view in the middle of 2005 in relation to proper lending by banks.

Senator Sean D. Barrett: Thank you. I'll use up my last minute. In the same document, on page 97, the briefing note says, "I am aware that rising house prices in Ireland have been highlighted as a potential source of instability, due to the possible over-exposure of banks in this [matter].", and that was April 2006. There could've been no doubt - I put the point to you - that it wasn't possible ... it actually had substantially happened at that stage, the overexposure of Irish banks to property.

Mr. John Hurley: The overexposure to property and housing certainly was there but we are talking about a suggested speaking point at an informal ECOFIN.

Senator Sean D. Barrett: But if somebody took up those suggestions, they would've been saying something which we knew at the time and certainly know now. The word "possible" should have been deleted, isn't that correct? It had happened and it was there.

Mr. John Hurley: This is 2006.

Senator Sean D. Barrett: Yes.

Mr. John Hurley: In 2006, I mean, if you go back to my original statement, I said that I thought there was a basis for action at the end of 2005 and I accept that. In hindsight, that's correct. Now, all of the actions that were being taken at the time, including by the Government on property, interest rates ... we knew the ... the regulator had already indicated at a meeting in the middle of '05 that they were going to look at the options. They were stating that they would get in touch with the banks again in relation to the quality of lending. All of that was going on. And I said earlier that it looked very much from forward indicators that in '06 things would come down. Now, that didn't happen but what did happen in '06 was we had an extraordinarily strong financial stability report where the Central Bank came out for the first time and said the fundamentals are no longer supporting the market. That's what we said. Now we didn't put a particular figure on it and there was a big debate internally as to whether we should or not. And the very strong view was that we shouldn't because we weren't sure of the extent of overvaluation.

Senator Sean D. Barrett: Were there contrarians at the board or-----

Chairman: I'm not ... that's an entirely new line of questioning.

Senator Sean D. Barrett: Thank you, Chairman.

Chairman: Deputy Doherty.

Deputy Pearse Doherty: Go raibh maith agat. Mr. Hurley, can I ask you, in relation to the crisis simulation exercise that was performed by the Central Bank and the Financial Regulator, do you think a simulation exercise lasting less than three hours is sufficiently detailed to simulate a realistic scenario?

Mr. John Hurley: Well there were a number of simulation exercises, not just in Ireland but in Europe, that we all participated in. Simulation exercises take an extraordinary long time to prepare and the scenarios take a long time and it's hugely ... it's hugely time-consuming. But what you were trying to do in those simulation exercise is test a particular scenario. And we know that the scenario that unfolded wasn't tested in any of the simulation exercises. The scenario that unfolded couldn't be tested in any of the simulation exercises because nobody would have been able to design it.

Deputy Pearse Doherty: The simulation exercise that's in our evidence books is a loan ... a lender defaulting on an institution. You didn't simulate a bank defaulting. Can I ask you if you regret that you didn't do that? Can I ask you maybe to also elaborate ... what, from your simulation exercise and your ... the Red Book, I think it's called, did you actually use when the crisis unfolded?

Mr. John Hurley: The ... my understanding is there was a large institution that wasn't involved in that stress test. I didn't know that there was a distinction as you mentioned, I thought it was a large financial institution. Now ... but in relation to the Red Book and the ... the Red Book was an adjustment that came about in 2007 as a result of the experiences that came through the stress-testing exercise. The original manual was a black book, a fairly basic book, but nevertheless important because anyone involved in these exercises had to have a starting point and it was a starting point. The Red Book was more sophisticated and it basically, as far as I was concerned, started to delve into some of the deeper questions like systematic risk assessments, emergency liquidity assistance, the details of all of that.

Deputy Pearse Doherty: The question I have is ... so the events that unfolded on the night of 29 September 2008 ... was that from the playbook of your crisis management book?

Mr. John Hurley: No, because what really happens is that in the systemic crisis that we had ... the scale of the crisis that we had ... the books and the manuals were extremely useful as a backdrop and bringing people up to speed, to a certain level of speed. But the nature of the crisis was so different ... the all-pervasive nature of the crisis was so different and the risks that were emanating from the crisis for the system entirely, that clearly they were ... there were not manuals for that crisis.

Deputy Pearse Doherty: Would ... Mr. Hurley, would Anglo Irish Bank have defaulted if a guarantee wasn't extended?

Mr. John Hurley: It wouldn't have defaulted because we had made arrangements for emergency liquidity assistance.

Deputy Pearse Doherty: Okay.

Mr. John Hurley: And those arrangements had been well in hand and we would not have allowed such a situation happen.

Deputy Pearse Doherty: So there was no threat on the night of 29 September, into the hours of those early mornings, that a bank would not open its doors the following morning.

Mr. John Hurley: No, we would have ensured that that didn't happen.

Deputy Pearse Doherty: Okay. When you say in your statement that the arrangements to provide assistance to Anglo had already been made in the Central Bank, when were those arrangements made?

Mr. John Hurley: The final part of the arrangement would have made during the evening when the letter of comfort came from the Minister.

Deputy Pearse Doherty: That was the evening of what?

Mr. John Hurley: Of the 29th.

Deputy Pearse Doherty: But prior ... what other arrangements ... you were waiting-----

Mr. John Hurley: There would have been contact between the markets people. The assets were identified ... the assets in the Central Bank that would have been swapped would have been identified. The legal arrangements would have been ... all of that would have been done.

Deputy Pearse Doherty: Yes, when? "When?" is the key question. You got the letter of comfort on the 29th. Was the other arrangements done before that? Was it during that weekend or when was it?

Mr. John Hurley: The arrangements for emergency liquidity with banks would have been going on for a long time. But the specific issue that arose in relation to Anglo ... the final arrangements would've probably been made over those few days.

Deputy Pearse Doherty: Over those few days. And was the provision of emergency liquidity an issue for the board or was it an issue for the Governor? Did you have authority?

Mr. John Hurley: The board delegated, in the course of the crisis, the responsibility to issue emergency liquidity to me.

Deputy Pearse Doherty: So you had the ... you had the say.

Mr. John Hurley: Yes.

Deputy Pearse Doherty: Okay. So, with that in mind, did you inform the heads of the Anglo Irish Bank that you were going to provide the emergency liquidity assistance to them?

Mr. John Hurley: There would've been contact during the day and I think they were aware that emergency liquidity would've been extended.

Deputy Pearse Doherty: So when the heads of Anglo Irish Bank went to bed that night, they knew that their bank was going to open in the morning because the Central Bank were going to ... had told them that ELA was going to be offered. Is that correct?

Mr. John Hurley: They would've known that they would have the potential to get emergency liquidity assistance, yes.

Deputy Pearse Doherty: Okay. So, regardless of what happened in Government Buildings, Anglo Irish Bank was going to continue to function the following morning.

Mr. John Hurley: Yes, but that wasn't the issue. The issue was the contagion from-----

Deputy Pearse Doherty: Just ... I understand what the issue is but I am asking the question. Is that a "Yes" or a "No"?

Mr. John Hurley: Anglo Irish Bank was going to open the following morning.

Deputy Pearse Doherty: Okay.

Chairman: You were saying that that was not the issue. So what was the issue?

Deputy Pearse Doherty: That's fine. I just wanted to get clarity on that.

Mr. John Hurley: The issue was the contagion effect on Anglo Irish Bank on the entire system. Now, since Northern Rock we had been considering the whole question of emergency liquidity assistance. There was a lot of work put into this with every single bank in relation to a liquidity ... emergency liquidity assistance for every bank ... all of the legal arrangements, all of this was done. But we knew in Northern Rock that the extension of emergency liquidity assistance that its becoming public was what led to a run on Northern Rock. It led to guarantees from the British Government later on. So we were in a situation where it was going to be impossible to keep emergency liquidity assistance to Anglo Irish Bank quiet. It was out there in the marketplace that they were in difficulty. The contagion effect from Anglo was very real. And these are risks and you make a judgment on the risk. The risk was that it would have seriously damaged, by contagion, the other banks. They were ... there was already a major draining of liquidity in relation to the other banks. The potential for a collapse of the system was very strong.

Deputy Pearse Doherty: Yes.

Mr. John Hurley: So the issue is: are you prepared to take that risk? No Irish Government would have taken that risk ... couldn't.

Deputy Pearse Doherty: That's fine and I appreciate that. I am more interested in the ... kind of ... the scenario that has been painted to the public and, indeed, evidence we have had before the committee that this had to be done that night because a bank was going to collapse the following morning. And you've given testimony to the contrary in that ... that the arrangements were put in place that it wouldn't collapse.

Mr. John Hurley: It wouldn't but the issue wasn't that. The issue was what would happen when the markets opened the following morning.

Chairman: We've covered that but I think what Deputy Doherty is trying to establish is what the intention for Anglo was.

Deputy Pearse Doherty: Yes. The question I have then is ... let me just actually backtrack a wee bit. You've mentioned to the Chairperson and others that was legislation prepared to nationalise a bank. I think you mentioned that that was before ... sometime in the summer. Was the ... was there legislation prepared to nationalise a building society?

Mr. John Hurley: To my understanding, yes. I think a similar type of ... or a form of that ... or it could have been adjusted to deal with that. My understanding is that there was preparations.

Deputy Pearse Doherty: And was that prior to the legislation to nationalise a bank?

Mr. John Hurley: It might have been. I can't say with certainty but I think probably ... you see, I was missing for two months, Deputy.

Deputy Pearse Doherty: I understand that. I understand that. In relation to, in relation to the issue of the guarantee, you mentioned that the coherence of the statement on that night, if the coherence was not there, we would have went down. Now, some would say that the country did go down, that it went into the hands of the troika two months later, and one of the central modifications-----

Chairman: Two years later.

Deputy Pearse Doherty: Two years later, sorry.

Chairman: Not two months.

Deputy Pearse Doherty: Two years later, was the guarantee that was issued and the decision that was taken that night. Knowing everything that has transpired since that night in Government Buildings, do you still stand over your advice to guarantee Anglo Irish Bank?

Mr. John Hurley: There was no option on the night, as I saw it. That was the best option to be taken. I agreed with the decision and I feel that if the decision wasn't taken there would have been enormous consequences for Ireland. Now, move on then through the year - very significant decisions had been taken, but then a number of events happened in 2009 outside the control of Ireland. You had the whole struggle ... the Greek issue. You had the mishandling of that issue over a long period of time. You had the announcement-----

Chairman: Final supplementary question, Deputy.

Deputy Pearse Doherty: No, it's the same question, with respect, Chairperson, because we will not have time - or I will not have time - to go through the whole matter about the financial-----

Chairman: I'll facilitate more time.

Deputy Pearse Doherty: -----European financial crisis-----

Chairman: But complete quickly.

Deputy Pearse Doherty: -----between that date and today. The question-----

Mr. John Hurley: Sorry, I thought that's where you wanted-----

Deputy Pearse Doherty: No, no, no, the question is quite simple. With the benefit of hindsight, John Hurley, sitting here in the banking inquiry in 2015, knowing what has happened, do you believe the right decision was taken to guarantee Anglo Irish Bank on that night?

Mr. John Hurley: I do. I believe it was right.

Chairman: I'll give you a bit of time now if you want to add to that, Mr. Hurley.

Mr. John Hurley: No, once the decision ... once we had made a decision that we were not going to nationalise a bank and we made a decision to guarantee six banks, I believe that was the correct decision given the circumstances of the time.

Chairman: Okay. And can I just finalise that before we take a break, Mr. Hurley, and ask you, given the design of the ultimate guarantee, did it have any relationship, role, or part in Ireland entering a bailout programme two years and two months later?

Mr. John Hurley: Well, what I was saying, Chairman, is I think that the bailout some months later-----

Chairman: Two years, two months later.

Mr. John Hurley: -----had to do with some of the issues that I mentioned earlier. It is that the Greek crisis emerged, and we had an announcement by a Chancellor and a President of France that affected bondholders and the market, and once that happened, the external forces in Ireland became huge.

Chairman: Okay, thank you. I'm now proposing that we take a break until 4.30 p.m. In doing so, I'd like to remind the witness that once he begins giving evidence, he should not confer with any person other than his legal team in relation to their evidence on matters that are being discussed before the committee. With that in mind, I now suspend the meeting until 4.30 p.m. and remind the witness that he's still under oath until we resume. Thank you.

Sitting suspended at 4.13 p.m. and resumed at 4.35 p.m.

Chairman: Okay, I am just going to go back into public session so. I just want to clarify one matter with you, Mr. Hurley, before we go into questions with Senator D'Arcy. When the press release was issued by the Central Bank the day after the guarantee, or the morning of the 30th, this is "Government Decision to Safeguard Irish Banking System." It then goes on to say that the guarantee makes mention that it was on "advice from the Governor of the Central Bank and the Financial Regulator about the impact of the recent international turmoil on the Irish banking system." It's in the very first paragraph of the release. Can I just ask you one question? Was that your advice coming to the meeting, that it would be a blanket guarantee and is that statement correct that it was on your advice when it was ultimately designed and delivered?

Mr. John Hurley: The statement is correct because that is the advice that occurred in the course of the evening. I came to the meeting with a view that yes, it would probably be necessary to have a broad guarantee. I hadn't finalised my view until the discussion on nationalisation.

Chairman: And was there a broad difference or not between your ... what you would have considered to be your advice going to the meeting, and what ultimately transpired and was the outcome?

Mr. John Hurley: No, there wasn't a big difference. I'm just giving you the nuances involved. I'm very clear that the broad guarantee was absolutely essential to save the financial stability of the country.

Chairman: Okay, thank you. Senator Michael D'Arcy. Senator, you have ten minutes.

Senator Michael D'Arcy: Thank you, Chair. Mr. Hurley, you're welcome. Can I ask you, Mr. Hurley, in the conversation that occurred on the night of the guarantee, you discussed previously about the subsequent international events that occurred. Was there any conversation about a potential funding cliff when the guarantee would end?

Mr. John Hurley: The reference to that came in the context of the length of the guarantee. There was a discussion about periods, about ... and the cliff issue ... I think it was probably a substantive point in the determination of the two years. There was a feeling really that that would be an adequate period to get over some of the ... a year would've been too short ... six months, a year, too short, and it was felt that the ... it would give more space.

There was also a feeling at the time that international action and concerted action was being taken. Central banks were taking action. As I said in the course of my previous evidence, the nation-state mentality unfortunately was ... it was alive and well, it had got strong for a period and I think that ... that eventually I believed would change, because I had been involved in my young ... my younger life was all about preparations to join the Common Market and to ... the implications of that and the legislative implications of that. I ... that was my ... what I worked on as a younger civil servant. So it struck me that the Community view would resurrect itself after the crisis of the international markets subsided somewhat and so I was ... I felt very strongly that there was a very good chance that that period would work out and would be a good period because I felt Europe would ... would get its act together and the likelihood is that ... that ... you know, the cliff would be less in two years.

Senator Michael D'Arcy: But the subsequent national events that occurred, the establishment of NAMA, the exit of commercial deposits ... being replaced with further liquidity from the ECB, and the tax base having narrowed over the period of years, plus the international events. The perfect storm of all of those events.

Mr. John Hurley: All of those came together in that year, the subsequent year, and the two very big issues would've been the approach taken to Greece and the stop-go approach to Greece and the difficulties with the Greek problems, and I think markets got very frightened about that. Then, the whole idea, as I mentioned earlier, about the Deauville declaration. That particular declaration I thought very ill-advised at the time and caused a great deal of difficulty. So despite the fact that so much work and action had been taken, a lot of it was undone by events that had nothing to do with this country.

Senator Michael D'Arcy: The commercial real estate losses in the loan book that subsequently transpired, were you surprised at the reductions, the write-downs, the discounts, within all of the banks?

Mr. John Hurley: Yes, I was. When I was retiring and leaving, I mentioned to the Minister and to the Taoiseach that, because of my illness, I would not stay on long, although I was renewed for the seven-year term. I wanted to stay until the end of the discussions in the ECB about the NAMA process, and I told the Minister at the time that I would probably try and wind up after that because I had been very ill. But, the question you asked is about the valuations at the time and the answer to the question is I was very surprised. When, eventually the valuations emerged, I never expected-----

Senator Michael D'Arcy: It all occurred on your watch as Governor of the Central Bank.

Mr. John Hurley: Yes, but you are talking about a falling market where there was actually no price. When, in fact, the valuation took place, there was no market and there was a great deal of ... but, decisions had to be made and decisions were made in the context of, presumably, European advice at the time, but there was no market.

Senator Michael D'Arcy: The expectation with NAMA was that the figures would be between 25% and 30%.

Mr. John Hurley: Yes, there was an expectation that figures would be much lower, but the reality is this. First of all, I think the ... I have no criticism to make of the people involved in NAMA. They are very good people and they were doing the best that they could, and they had to make decisions in the context of the market and decisions in the context of the advices coming from Europe. But the question you asked me is was I surprised and the answer is, very surprised at the level of the price reductions involved, and of course what it did mean was very significantly increased levels of capital that would have to be put in. And, of course, that was really taking money from one pocket and putting it into another pocket, but essentially what it did was it gave the markets a view of the recapitalisation costs added to the national debt which had significant problems for Ireland subsequently. But I say that because it is the question you asked me, but I have no criticism to make of the people involved.

Senator Michael D'Arcy: You said that the ... earlier, that the Anglo Irish Bank would open the next day, that the structure was put in place, that the assets were moved within the Central Bank for emergency liquidity. Why were Bank of Ireland and AIB requested to provide €5 billion in liquidity each on that night also?

Mr. John Hurley: Because it goes back to the earlier discussion about the efficacy of emergency liquidity assistance, about the stigma attached to emergency liquidity assistance at the time. Now, there would not have been such a stigma in a normal crisis. It is just that if you have a systemic crisis emanating from the United States in the way it did with the destruction of confidence in banks, emergency liquidity is the signal that markets take fright at and in our situation the judgment - yes, this happened in Northern Rock - so the judgment that had to be made is what's the impact of this. If more and more emergency liquidity were required for Anglo Irish Bank over that week - and sentiment had been running very heavily against Anglo Irish Bank, which produced the liquidity problem on that particular day - if that had been necessary, what is the sentiment effect of that on the market? What does it do for the guarantee?

The judgment - and I was central to this judgment - the judgment was that a further liquidity assistance had to be given to Anglo Irish Bank, in the context of the guarantee, which they now had, what did that say about the guarantee and the other banks and would that damage the guarantee for the pillar banks? And the judgment on the night - and I was central to this judgment - was I believed it would and I believed, therefore, a back-stop was necessary. The back-stop was to get to the weekend so as that other decisions could be made. There was no decision to nationalise Anglo Irish Bank that night, nor was there any decision to nationalise Anglo Irish Bank at the weekend. But it was my view-----

Senator Michael D'Arcy: Can I just ... Chairman, if I could, please ... on two occasions there are two separate sources that state, "Minister for Finance", then "Minister for Finance, Minister Lenihan". When Governor Honohan came to us in January he ... I put to him about the portion he wrote, the chapter in the book upon Brian Lenihan, that he had been overruled. He subsequently said he wasn't the senior politician in the room, and Dermot Gleeson subsequently also stated that Minister for Finance, Lenihan, told him that the decision that was made wasn't the decision that he ... he wanted. You were in the room for most all of that night.

Mr. John Hurley: I can't comment on what other conversations took place.

Senator Michael D'Arcy: No, sorry-----

Mr. John Hurley: I can't comment on them.

Senator Michael D'Arcy: Can I ask you, did you see any of that happening on that night?

Mr. John Hurley: What I saw on the night was what I said earlier. There was a discussion about the different options. That included the question of nationalisation, whether it was an option or not. I did not see, in my presence, any overruling.

Chairman: Could you just-----

Mr. John Hurley: There was a separate political discussion, and I'm not party to that. What there was ... in my presence, there was a constructive discussion about options, and movement towards a decision.

Senator Michael D'Arcy: There was no overruling.

Mr. John Hurley: Not in my presence.

Chairman: One minute, Senator.

Senator Michael D'Arcy: Okay. Can I ask ... Mr. Brian Goggin, on the Monday of 29 September, at a meeting in the Central Bank, was requested to consider the taking over of Irish Life & Permanent. In evidence, he made that statement. He also followed ... pursued that ... by stating that that would happen, but that other ... another two institutions would not be on the pitch that night. Were you aware of that conversation?

Mr. John Hurley: No, I wasn't at that meeting. No.

Senator Michael D'Arcy: Did you see that evidence?

Mr. John Hurley: I heard the evidence. I wasn't at ... He didn't meet me. I checked diaries. I think the meeting was probably with the Financial Regulator but I don't know and ... but it wasn't with me. And I checked, I tried to check, I checked my diary in the Central Bank and I'm told that there was no such meeting, but there was a meeting with Mr. Burrows.

Senator Michael D'Arcy: And at that meeting with Mr. Burrows, what was the request that was put to Mr. Burrows?

Mr. John Hurley: I didn't put any request to Mr. Burrows. Mr. Burrows came in to see me. I expected that he was going to come in to see me about issues related to the Bank of Ireland, but, in fact, the discussion turned out to be all about Anglo Irish Bank, and the issues about Anglo Irish Bank and the difficulties and ... I was in a very difficult position. I was not going to talk to the chairman and governor of one of the larger banks about the internal affairs of another bank, even though we had been all day working on the liquidity position of Anglo Irish Bank.

Senator Michael D'Arcy: And even though they had visited Bank of Ireland in that day?

Mr. John Hurley: Yes. Well, my recollection, Senator, is ... I don't believe he told me about that meeting. I believe what he told me about were the problems of Anglo Irish Bank.

Senator Michael D'Arcy: And you were unaware that they had ... senior-----

Mr. John Hurley: To the best of my recollection, I was not informed-----

Chairman: Senator-----

Senator Michael D'Arcy: Sorry.

Mr. John Hurley: -----about that meeting ... but to the best of my recollection, but I was informed about the substantive issue and the liquidity positions that emerged.

Senator Michael D'Arcy: You were unaware he had met with senior members of-----

Mr. John Hurley: To the best of my recollection.

Chairman: Thank you very much, Senator. Deputy Eoghan Murphy.

Deputy Eoghan Murphy: Thank you, Chairman, and thank you, Mr. Hurley. I just want to pick up actually where Senator D'Arcy left off. You'd been working on liquidity assistance for Anglo during the course of that day.

Mr. John Hurley: Yes.

Deputy Eoghan Murphy: So do you know why then Anglo would have gone to the Bank of Ireland and AIB looking for liquidity assistance?

Mr. John Hurley: They were obviously very, very worried about the trends. I mean, the trends in liquidity had been .... had been very difficult for Anglo Irish Bank over that period. Also, they were running out of eligible collateral, ECB collateral, and the emergency liquidity assistance we had given was on ineligible collateral with the ECB, so, clearly, they were under very significant pressure.

Deputy Eoghan Murphy: Does that mean that, in Anglo's view, the ELA you were working on was going to be insufficient?

Mr. John Hurley: I can't tell you what their view was. We would only give emergency liquidity assistance for what was needed. We would not be in the business of giving prospective emergency liquidity assistance for what might be needed, but if emergency liquidity assistance did turn out to be needed, and with the Minister's consent, we would've been prepared to do that. But the issue that occurred on the night was .... yes, we are prepared to give emergency liquidity assistance to make sure that Anglo will open the following morning. But the bigger question is, what is the impact of that on the system in an environment where confidence in banks was shattered?

Deputy Eoghan Murphy: Can I ask then, would a meeting have been taking place late into the hours of 29 September with the Central Bank, with the Financial Regulator, with the NTMA, with the Government, if Mr. Burrows hadn't requested to meet the Government that evening?

Mr. John Hurley: Would a meeting have been taken with the Central Bank?

Deputy Eoghan Murphy: Yes, in evidence with Mr. Burrows, he said he took the initiative----

Mr. John Hurley: No ... what I knew at that time was that a meeting in a Government Buildings had been arranged. I knew what time I had to be in Government Buildings. I knew that Government would be meeting to consider the data which had been available that day, so I knew that imminent decisions would be made and in that context, I also knew that the emergency liquidity assistance for Anglo Irish Bank would be dealt with.

Deputy Eoghan Murphy: Okay and you were working on that ELA, prior to asking Anglo Irish Bank ... sorry AIB and BOI that evening to try and provide €10 billion, that ELA work was already under way.

Mr. John Hurley: We had the emergency liquidity ready for the following morning and not just that, you know, we would have been in a position to provide other emergency liquidity assistance for Anglo Irish Bank subsequently but the issue was: what does that do to the guarantee and to the pillar banks? And given the stigma attached to emergency liquidity assistance and given the fact that I had the head of a bank in my room telling me about the problems in Anglo Irish Bank, so their problems were certainly known to some people. If they were known all over the city, where did that leave us? As far as I was concerned, the risks were enormous.

Deputy Eoghan Murphy: And can I ask you then, in evidence from Mr. Dermot Gleeson, it's page 34 of the transcript. He said the following:

> I knew that we had liquidity out beyond a month. I didn't know how much; I wasn't into the detail. I knew we had enough liquidity to be able to pull out reserves of liquidity, all this ... this was helping a competitor, to keep Anglo going until the weekend, if Governor Hurley's version had prevailed.

Mr. John Hurley: Well, the ... first of all, my recollection of events is that it was clear that we were talking at that time about a guarantee for six banks. Nationalisation was not on the table. The decision had been made but the intervention by me had to do with the very point I've just mentioned, that if further emergency ... it was known that emergency liquidity would be given to Anglo Irish Bank. If it was known that in the context of a guarantee, far more emergency liquidity would have to be given to Anglo Irish Bank, what would that have done to the guarantee and the decision the Government had just made? And my view was, that was extremely risky. If that position had happened ... if that position had gone out into the public domain, the guarantee could have been damaged and we had to have a coherent position going out to markets seven o'clock the following morning. If that wasn't coherent and didn't stand, the chances of it being challenged would be high and that risk simply could not have been taken.

Deputy Eoghan Murphy: And under your version then, what would have happened at the weekend?

Mr. John Hurley: At the weekend, Government would have to consider its options and one of the options they would have to consider would be nationalisation but they seemed to have taken a view against that ... so it could well be that more emergency liquidity assistance would have been given from the Central Bank. That might have been the decision but I would have preferred that that matter was discussed at a weekend and not in the middle of the week. In our stress tests earlier in the year, one of the messages and one of the lessons was "Look, it's very difficult to nationalise a bank in the middle of the week". So, you buy time ... you have other options at the weekend to consider, it might be nationalisation, it might be something else but at least you wouldn't have a run on the guarantee and the Government's decision wouldn't come down.

Deputy Eoghan Murphy: Okay, thank you. If I just put another quote to you from Mr. Dermot Gleeson, it's page 66 of the transcript:

> I mean when Governor Hurley says "Can you get €5 billion to keep Anglo going to the weekend?" it wouldn't make any sense if you were going to guarantee six banks the next morning for us to be providing liquidity to the weekend. It was inconsistent with that.

Mr. John Hurley: I thought the decision that the Taoiseach announced was clear. Now, I do accept that there was moving in and out of the room, so I can't actually say who was in the room at the particular time but, in my view, the decision ... the Taoiseach's decision ... the Taoiseach's announcement of the decision was very clear, so I don't understand-----

Deputy Eoghan Murphy: Mr. Gleeson's point that asking AIB for funding and guaranteeing the six banks is inconsistent, the two actions.

Mr. John Hurley: But I thought it was very clear. I thought my position was that we wanted to protect the guarantee, that, if in fact, you have to extend more emergency liquidity assistance to Anglo Irish Bank, when already the situation of Anglo Irish Bank was out in the marketplace, that could damage the guarantee for the two pillar banks. And in that situation the Government would have made a decision to guarantee the entire financial system and you would be endangering the guarantee. I saw no sense in that and I said so.

Deputy Eoghan Murphy: Thank you. I want to just then move to your opening statement on page 8. You were talking about arrangements having been put in place to ensure that information on liquidity position in each of the banks was readily available and circulated to the domestic standing group. So did you have that information, that up-to-date information on the evening of 29 September?

Mr. John Hurley: Yes, we had up-to-date information on the liquidity position of the banks. We had total flows for the previous period since Lehman's, both in relation to ECB funding and outflows. And that day we had a picture of exactly what happened that day because, I said in my earlier evidence that it looked very much at the weekend, and we had meetings all over the weekend, it looked very much at the weekend as if there might be enough liquidity for the banks for the week. That changed on Monday.

Chairman: Deputy, a few more minutes.

Deputy Eoghan Murphy: Thank you. Who was collating that information?

Mr. John Hurley: That was being collated in the Central Bank and the regulatory system. There was, there was an arrangement in place ... daily arrangement in place to collect that information and it was passed to the Department of Finance.

Deputy Eoghan Murphy: In hindsight, are you satisfied that the information provided was both accurate and sufficient to making the decision that was made?

Mr. John Hurley: Absolutely. I mean we ... this question came up earlier in discussions, and because of the size of our banking system we had a ... we had a very good handle on what the liquidity position was in each of the banks. That system was built up over the previous ... over the previous year, and intensified. And in my view, we had a far better handle on the liquidity position in our banks than some of the other countries had about their banks.

Deputy Eoghan Murphy: Okay. And when we come to post-Lehman's in September 2008, is the domestic standing group still the primary vehicle for dealing with the crisis, if that was in operation on the night of the guarantee?

Mr. John Hurley: No, post-Lehman's ... when I came back to the bank - I came in briefly on the 17th but the main day was the 18th - when I came in to the bank, really this had ... this had been elevated to more senior levels and the ... it was the heads of the institutions, together with Ministers that were very deeply involved in this. But that would have involved all the support staff that had been involved in the domestic standing group as well.

Deputy Eoghan Murphy: You participated on the domestic standing group?

Mr. John Hurley: No, the domestic standing group was usually at deputy level. I would have attended one meeting of the standing group, it might have been the inaugural meeting, but other than that, the domestic standing group would be held at the level one or two levels below.

Deputy Eoghan Murphy: If we go back to March of 2008 and work that the DSG was doing, would you have been familiar with the scoping paper that was being prepared at the time in relation to possible guarantee scenarios?

Mr. John Hurley: I cert ... I believe I was. I believe that I would have been briefed on the outcome. I referred to it earlier, when I said earlier in the year the question of a broad guarantee was discussed in the context of the domestic standing group and I think there was an adjustment made which was "Look, a broad guarantee might have to be considered in this systemic situation".

Deputy Eoghan Murphy: What action was taken on foot of that?

Mr. John Hurley: Action taken on foot of that?

Deputy Eoghan Murphy: Yes, the fears that the-----

Mr. John Hurley: These were ... these were options that were being considered. The immediate action that was taken on this was in the context of the stress test. There were stress testing exercises earlier in the year. If I remember, I would have got a report on the stress testing exercises and one of the conclusions was that there was too quick a movement to a guarantee in the context of the stress test. So when I came along and came back to the bank on 17 and 18 September, that would have been the reason for my view on the 18th, that I'm not recommending a broad guarantee now, that I'm, I'm urging caution in relation to this.

Chairman: I'm going to take it if you don't take it, are you going to take the question?

Deputy Eoghan Murphy: It is my question Chair.

Chairman: Okay, but you're out of time now.

Deputy Eoghan Murphy: Yes but one final element to it. In March 2008 that discussion is happening at the DSG. Did you approach the banks individually to ask them to support each other with funding, referring it to as the green jersey agenda?

Mr. John Hurley: There would have been a discussion when we met some of the major banks about the potential for their assisting smaller banks that came in to difficulty. That would have happened and you ... you would expect in a banking system that if a small bank was in difficulty, that the first port of call would be the main banks because private sector solutions would be the main vehicle at that stage. So that would have been put in discussions, I think it would have been put by me in discussions to the pillar banks.

Chairman: Deputy, you are out of time. I just need to raise this issue on the domestic standing group before we move on. You mentioned there, Governor ... as role as Governor, you did not have a central, pivotal role in the domestic standing group, but given the parties comprising domestic standing group, can you outline the possibility that there was a deficiency in the domestic standing group operating model, which may have resulted in the group's failure to identify early signs of a crisis? There is documentation, in our core documents on notation, that in the Central Bank's assessment of financial markets in or around November 2007 presented to a meeting of the DSG it states that, "If present market conditions persist as expected into 2008 there will be an increased risk of liquidity arising from Irish banks", and it also goes on to say that, "The Central Bank the Financial Regulator continues to liaise with the banks closely at CEO levels and are monitoring the position very closely".

Mr. John Hurley: I don't think there was a deficiency, and the type of report that you mentioned is exactly what you'd expect, that you were ... you were building up a monitoring system which, I think, was quite advanced in relation to the monitoring systems of other countries and the DSG was pivotal to that so I really don't think there was any deficiency. I thought that the operations of the domestic standing group and the way it went about its business and the issues that cropped up, I thought they were appropriate.

Chairman: Okay. I just want to return to one other matter as well. It is just could you comment further on your earlier reference to political discussions after the discussions which the bank ... with the banks which were discussed and agreed around the guarantee, and, importantly, who participated in those discussions?

Mr. John Hurley: The political-----

Chairman: This is ... you mentioned earlier about the political discussions after discussions with the banks. This is when the ... when you said Mr. Cowen made it very, very clear to the banks as to what the position was-----

Mr. John Hurley: Oh sorry, yes. The political meeting-----

Chairman: -----and then you said that there was a political meeting and discussions. Who was at that?

Mr. John Hurley: My memory of it and again ... my memory was that the Taoiseach, the

Minister for Finance and possibly the Attorney General, I'm not certain and I'm not sure about the Department of the Taoiseach, withdrew to the Taoiseach's room.

Chairman: Okay, thank you. Senator Susan O'Keeffe.

Senator Susan O'Keeffe: Thanks, Chair. Mr. Hurley, did the Central Bank ever assess worst-case contingency scenarios of a systemic bank failure?

Mr. John Hurley: The ... what we did was we stress tested, and we stress tested in the context of the stress tests that were available internationally. We never stress tested for the type of issue or crisis that emerged and neither did any other country.

Senator Susan O'Keeffe: And even after Northern Rock had failed and, you know, we were much more acutely aware of what might happen, did that cause you to revisit?

Mr. John Hurley: No, no. We did ... we were stress testing for individual banks and some of the stress tests, particularly the bottom-up stress test was a very severe stress test which involved a significant shock to the property market, were stress tested. But it was an individual bank stress test and I accept, Senator, that there was no stress testing for the type of crisis that happened, not here, not anywhere, but, clearly, the risks that gave rise to this international crisis, they had their roots in some of the major issues that we've spoken about: a collapse in the broad market, a failure of the Basel accords, low interest rates for too long, far too much increase in the money supply. These are the things that gave rise to the problem that eventually came to cause the implosion of the financial system.

Senator Susan O'Keeffe: If we look, Mr. Hurley, if you like from sort of the end of November '07, we know that the Financial Regulator, for example, had been meeting with the various institutions to discuss their liquidity contingency plans. We've heard that. We know that assessments were being made of key loans at five banks. We know that INBS had particular financial instrument debt, if you like, of €7 billion and we know then, coming into early September of 2008, that now two key banks were asked in by the regulator to discuss INBS, in particular. So, if you like, there were lots of things all accumulating over a period of time. How then did we end up, if you like, in a panic all in Government Buildings on that night? How come there wasn't an earlier, more controlled, more calm intervention on behalf of, and by, the Central Bank?

Mr. John Hurley: Well, I mentioned earlier in the discussion that before I left for hospital in July, that an assessment was made with the banks of the liquidity position of the stresses and strains at the time so as that I could speak to the Minister before I left but also so as that I could go and speak to the ... at ECB meetings, and to take the temperature of what was happening in Europe at that time. And the view in Europe, before the summer of 2008, with everything that was being done internationally by all the central banks and by the ... about liquidity, interest rates, everything coming together ... the view was that it was very likely that within six months we'd see a significant easing in the liquidity situation.

Senator Susan O'Keeffe: Even though-----

Mr. John Hurley: So you ... you could imagine my surprise then, when I'm watching the television just out of hospital and I see the bankruptcy of Lehman's.

Senator Susan O'Keeffe: But all of these banks that were troubled at home, these were all actually exceptional circumstances and, in an Irish context, for that many banks-financial institutions to be in trouble simultaneously in a small country, how come it didn't cause the Central Bank to act more quickly to calm things rather than wait for it to accumulate into that single night when it all went-----

Mr. John Hurley: Well, of course, no one expected-----

Senator Susan O'Keeffe: -----into the air?

Mr. John Hurley: -----no one expected it was going to accumulate but banks all over Europe were in the same position.

Senator Susan O'Keeffe: How could it not accumulate, Mr. Hurley, if ... if the ... in the size of the country, if you have so many institutions saying, "We're in trouble, we're in trouble'', in all kinds of different ways.

Mr. John Hurley: But they were saying it everywhere. It wasn't just in Ireland.

Senator Susan O'Keeffe: No, but we're not interested in everywhere, we're just interested in Ireland.

Mr. John Hurley: But, but this is the nature of the crisis we were in. It was a crisis, a world crisis at the time emanating right ... coming right across the globe and we were part of that.

Senator Susan O'Keeffe: But, Mr. Hurley, you were the Governor and you had your team and there was the Department of Finance ... lots of specialists ... you know, people with years of experience in banking ... years of experience in all kinds of ways and yet, for the first time ever, in your collective lifetime, all of these institutions were in trouble in parallel, simultaneously and no one said, ''Mmm, why don't we intervene now?" There was all sorts of talk going on behind the scenes. We've seen all the papers and yet, you were, if you like, all accelerated into several rooms in Government Buildings on the night of the 29th. How did it come to that?

Mr. John Hurley: Because of the dramatic deterioration that occurred suddenly. If you look at the-----

Senator Susan O'Keeffe: But they were already deteriorating-----

Mr. John Hurley: If ... if you look at the ... the-----

Senator Susan O'Keeffe: Sorry.

Chairman: Just allow a bit of time for him to respond now, Senator.

Mr. John Hurley: If ... if you look at the overall level of, say, ECB support given to the banking system earlier in 2008, it was fairly static. It changed dramatically during the months of August and early September. And after Lehman's, I think it moved from ten to 15 to 40 in a very, very fast space of time. But it had been quite reasonably static up until then. That's my view. The ... the outflows after Lehman's were dramatic.

Senator Susan O'Keeffe: Okay.

Mr. John Hurley: So we ... we are talking about a quantum shift in the problems associated with the financial sector in that space of time.

Senator Susan O'Keeffe: Do you know, Mr. Hurley, why all the banks were not represented in Government Buildings that night?

Mr. John Hurley: I don't, but I presume it was because two banks sought a meeting.

Senator Susan O'Keeffe: You said to one of my colleagues that you knew you had to be in Government Buildings that night but ... but ... were ... did you know you had to be there because they had asked for the meeting?

Mr. John Hurley: No. Arrangements-----

Senator Susan O'Keeffe: Was the meeting organised by someone else?

Mr. John Hurley: Arrangements had been made for us to meet in Government Buildings at a particular time.

Senator Susan O'Keeffe: But these guys just pitched into-----

Mr. John Hurley: And at that ... at that stage there was no knowledge that the banks were going to be there.

Senator Susan O'Keeffe: Right. Do you know why the NTMA were excluded from the conversation that night?

Mr. John Hurley: There were moments in time when everyone was excluded-----

Chairman: Mr. Hurley, I think the question was why they didn't participate.

Senator Susan O'Keeffe: I beg your pardon, they were not ... they didn't ... they were not asked to participate at all, even though they were in the building. Do you know why that might be?

Mr. John Hurley: But this is a matter for the Minister and the Department. They ... the NTMA is part of that nexus. I wouldn't be able to make a ... give a comment on that. But I do know that at a particular moment in time, we were all in the ante-room. And I was called back into a meeting, for example, with the banks. Whereas I had been in the ante-room as well. So that's the nature of ... of what happens on these occasions and the Minister and the Department would have been speaking to the NTMA in the course of the evening, I would imagine.

Senator Susan O'Keeffe: No, they didn't, according to the evidence that was given here. That didn't happen.

Mr. John Hurley: Well, but it is a matter for the Minister and the Department.

Senator Susan O'Keeffe: Okay, that's fine-----

Mr. John Hurley: I really can't comment.

Senator Susan O'Keeffe: I know, but you ... you had separately ... the Central Bank had separately been having meetings with the NTMA in September because they were part of the team in ... in this sort of emergency-----

Mr. John Hurley: They ... they ... they attended-----

Senator Susan O'Keeffe: So all of a sudden they were out the door.

Mr. John Hurley: ------they ... they attended meetings that I was at, yes.

Senator Susan O'Keeffe: Yes. But were they not called by the Central Bank?

Mr. John Hurley: In the context of the domestic standing group, they might have attended those meetings, is that what you mean?

Senator Susan O'Keeffe: Yes, I mean, I-----

Mr. John Hurley: But they were primarily... these probably would ... I think the ... the chair of the domestic standing group at that stage was probably the Department of Finance. And, again, I am at a loss because I was missing for some months so I ... I really don't want to give you wrong information.

Senator Susan O'Keeffe: If you had known that night ... the evidence that was given by the NMTA that there was €9 billion in rolled-up interest ... if you had known that at that time, would that have made a difference?

Mr. John Hurley: I don't understand the point, Deputy.

Senator Susan O'Keeffe: Okay, I'll leave it.

Mr. John Hurley: ----- or Senator, I'm sorry.

Senator Susan O'Keeffe: It's fine. Do you think that all banks were systemically important?

Mr. John Hurley: Yes. They became systemically important in the course of this crisis. It's quite unique. They wouldn't have been, ordinarily, but this particular crisis and the nature of its unfolding made them systemic, in my view.

Senator Susan O'Keeffe: Even though they weren't before?

Mr. John Hurley: Even though they weren't before. It's just that the nature of this crisis, which was different from anything that really had occurred, made the interlinkages between banks and the contagion between banks, brought it alive, and in my view there was danger everywhere.

Senator Susan O'Keeffe: There was a discussion around about the idea of describing all the banks as being solvent when the press release or the Taoiseach's statement was going to be issued the next day. There was a debate about whether they should all be described as solvent or not. Do you recall that debate and were you part of it?

Mr. John Hurley: No, I wasn't in the building at the time. I had left after the meeting with the banks and I wasn't involved in the press release, and I think the time was about 1.30 a.m. or 2 a.m.

Senator Susan O'Keeffe: When you were at those meetings in Government Buildings were you there, was the Financial Regulator in the room at the same time as you, or their representatives I mean, or were you separate do you recall?

Mr. John Hurley: At the plenary meetings, when the entire groups were present, the Financial Regulator's representatives would have been there, yes; in the plenary meetings, so far as I recall.

Senator Susan O'Keeffe: Do you recall if there was a suggestion made that there should be nationalisation for one and a guarantee for the rest?

Mr. John Hurley: Please explain that again, Senator?

Senator Susan O'Keeffe: I'm sorry. Was there ever a suggestion on the table that one bank would be nationalised and the remaining five would be guaranteed?

Mr. John Hurley: I can't recall that as a proposal. I can recall the question of nationalisation being discussed.

Senator Susan O'Keeffe: Okay. Can I ask one last question?

Chairman: Yes, indeed.

Senator Susan O'Keeffe: In a letter that was written subsequently, and it appears in Vol. 3 of your - it was written I think in May 2009 and it just refers to, it was a sort of a reassurance being given that Anglo was of systemic importance. Do you-----

Chairman: What page, Senator?

Senator Susan O'Keeffe: I'm sorry, I can't find the page. Do you recall writing that letter? It's right at the end of the book, I think.

Mr. John Hurley: Is this the letter about the capital allocation of €4 billion?

Senator Susan O'Keeffe: Yes.

Mr. John Hurley: Yes.

Senator Susan O'Keeffe: Do you recall writing that letter?

Mr. John Hurley: Yes, yes. That letter was written, I think, as part of the discussions with the European Commission, as far as I remember, in relation to the state aid issue around recapitalisation of Anglo. That's my recollection.

Senator Susan O'Keeffe: Yes, and you describe the bank as being of systemic importance. Sorry I can't find the references.

Mr. John Hurley: Yes, that's correct, and it was.

Senator Susan O'Keeffe: Yes. Because I think, was that the first time that the Central Bank had said that in writing, that Anglo Irish was a bank of systemic importance?

Mr. John Hurley: I don't know that I can confirm that. But as far as I'm concerned, the bank was systemically important as we moved through this very difficult period.

Senator Susan O'Keeffe: Thank you.

Chairman: I just want to stay with the issue of capital adequacy there, Mr. Hurley, and ask you to comment upon the general capital adequacy impact results of the loan book reviews and whether they gave rise to further action.

Mr. John Hurley: I don't understand the question, Chairman. What are we speaking about?

Chairman: There were loan book reviews carried out of all the banks. That resulted in a general capital adequacy examination that then led to further action. So what I'm asking you is can you comment upon the general capital adequacy impact results of the loan book reviews - there were loan book reviews carried out - and whether they gave rise to further action?

Mr. John Hurley: I don't - who carried out the reviews?

Chairman: The Central Bank.

Mr. John Hurley: By the Financial Regulator presumably.

Chairman: Sorry, I'll come back to you in a moment on it.

Mr. John Hurley: Yes. I'm not sure of what I'm being asked here.

Chairman: I'll get the relevant note here. Deputy McGrath.

Deputy Michael McGrath: Thank you very much, Chairman. Mr. Hurley, Senator O'Keeffe asked you there about worst case contingency scenarios of a systemic bank failure and you responded in detail. Can I just follow up by asking, in your assessment would the evidential base for the Government decision on the guarantee have been strengthened if such a contingency assessment had been done?

Mr. John Hurley: I think the answer to that is "Yes". I mean the fact of the matter is that we had very significant information coming through the Financial Regulator in relation to the individual banks. Subsequently, examinations were done - I think it was by Pricewaterhouse ... they came to a view and that gave a view on a certain level of capital that was required. Now, I think that ... that wasn't a view of insolvency but it was a view of extra capital that would have been required. I mean, if that had been done earlier, at least that view would have been there.

Deputy Michael McGrath: Okay. Did you say earlier on, Mr. Hurley, that there was an ECB Governing Council teleconference call on 29 September 2008?

Mr. John Hurley: As far as I know, yes, but I'd like to confirm that.

Deputy Michael McGrath: Yes, please do, yes.

Mr. John Hurley: Teleconference on 29 September.

Deputy Michael McGrath: Okay. And was Ireland specifically discussed at that meeting?

Mr. John Hurley: I took ... I was ... I participated in the teleconference. It would be ... my view is that the ... probably the liquidity position of Ireland would have been referred to, as other ... it would have been a pooling of information. But I haven't got the minutes of it so I don't know specifically.

Deputy Michael McGrath: I understand.

Mr. John Hurley: But it would have been about the issues ... the European issues ... generally European issues at the time. But it would have been ... but certainly at one of these meetings the liquidity position ... the Irish liquidity position would have been dealt with.

Deputy Michael McGrath: Okay. You indicated earlier on that there was considerable contact between yourself and the ECB in the days leading up to the end of September 2008. So, for example, during that teleconference call was it accepted that a significant intervention was going to be needed in the case of the Irish banks on an imminent basis?

Mr. John Hurley: I can't remember whether it was that conference or the previous one but around that time there would have been knowledge that the Irish situation was difficult and decisions would have to be made.

Deputy Michael McGrath: And the ECB was aware that a bank guarantee was one of the options under consideration.

Mr. John Hurley: Yes, but it wouldn't have been defined. It would have been just bank guarantees.

Deputy Michael McGrath: And was that one of a large number of options?

Mr. John Hurley: A large number of options. It would have included nationalisation, it would have included emergency liquidity assistance, for example. They would probably be the three main ones.

Deputy Michael McGrath: Yes, but we're not talking one option out of ten, we are talking one option of maybe three, four or five, a relatively small number of options.

Mr. John Hurley: That's right, yes.

Deputy Michael McGrath: So, the impression that Mr. Trichet gave when we had the exchange with him was that the guarantee came as a big surprise to the ECB. But what you appear to be confirming is that the ECB was aware, right up to 29 September, that a bank guarantee was an option under consideration in terms of rescuing the Irish banks.

Mr. John Hurley: It was aware that a bank guarantee was an option. I don't think they were aware that a blanket guarantee was a ... that was never mentioned. But bank guarantees, as an option ... it is always an option.

Deputy Michael McGrath: Yes, but it was specifically referred to in the Irish context over the course of those days.

Mr. John Hurley: In those days, yes.

Deputy Michael McGrath: In those days. Okay. And, just to pick up on the point that Senator MacSharry raised with you about the backdrop behind all of this - and it was a time of crisis - that no bank shall fail. Was that ever conveyed to Ireland in the sense of being conveyed to the Central Bank or you, as Governor, or the Government in an Irish context by the ECB?

Mr. John Hurley: No, my recollection is what I said earlier, that these issues and these sentiments came out of the general discussion as something that was generally applicable.

Deputy Michael McGrath: So, at no time in the days leading up to 29 September - in the phone calls, teleconference calls, various communications - at no point was there any suggestion from the ECB, in an Irish context, that "You must stand behind your banks and not let them fail".

Mr. John Hurley: I think that that would have emerged in the discussions, yes. I think ... but it would have emerged in all of the discussions.

Deputy Michael McGrath: Yes, but we're talking about Ireland. And you said that, yes, it would have emerged in the discussions. Can you be more clear on that, please?

Mr. John Hurley: I will put it the way I put it earlier, Deputy, that from the discussions it was clear that these were the approaches that were being adopted across Europe for all countries.

Deputy Michael McGrath: Did the ECB make it clear that that is what was expected in the Irish case, that no bank would be allowed to fail at this critical juncture?

Mr. John Hurley: I think what ... I think I can't put it any better than I put it.

Deputy Michael McGrath: Can you be more specific?

Mr. John Hurley: No.

Chairman: He may not be able to.

Mr. John Hurley: Sorry, Chairman?

Chairman: You may not be-----

Mr. John Hurley: I have ... I have indicated clearly what the position was. I've indicated the context in which those messages were clear. I don't think I can go further than that. Chairman, I'm in your hands.

Chairman: Okay.

Deputy Michael McGrath: Well, I suppose what I'm asking is was that message made clear in an Irish context? In the heat of the crisis, at the end of September 2008, was it made clear-----

Mr. John Hurley: It was made clear-----

Deputy Michael McGrath: -----that Ireland must stand behind its banks?

Mr. John Hurley: It was made clear ... it was made clear in the general context but, of course, that applies to Ireland as well as everybody else.

Chairman: Again, it's the general context.

Deputy Michael McGrath: Yes, Chairman, I find that very unsatisfactory.

Chairman: Yes, I-----

Deputy Michael McGrath: And I don't know if that's a section 33AK issue or not, but that's very general and broad, and the question is reasonable, in my opinion, and Mr. Trichet, in the course of our discussions, was very clear in his statement on that issue. The ECB never gave any message. "No message to Brian [Lenihan], no message to the Government of Ireland, but, if you read the papers at the time, all central bankers of the world were telling all governments, 'Don't do ... Lehman Brothers.'"

Mr. John Hurley: The message was-----

Deputy Michael McGrath: But that's-----

Mr. John Hurley: The message, Deputy ... the message was clear to Ireland and to me. There was a general approach and there was no dissenting from this, I think, right across Europe.

Deputy Michael McGrath: The message was clear to Ireland and the message was clear to you. That message being-----

Mr. John Hurley: The message was clear-----

Deputy Michael McGrath: -----"stand behind your banks; no bank should fail."

Mr. John Hurley: The points I've mentioned earlier were clear. No Lehmans, governments to stand behind their banks. They were the messages.

Deputy Michael McGrath: Which you received?

Mr. John Hurley: Yes.

Deputy Michael McGrath: Including in the context of the Irish banking crisis?

Mr. John Hurley: At that time, that was the approach that was being taken right across Europe.

Deputy Michael McGrath: Okay. Over the course of that evening of the 29th, was any contact made with the ECB? Did you make any contact when you stepped out of the room where the meeting was taking place, for example?

Mr. John Hurley: Not during that evening, no.

Deputy Michael McGrath: Not during that evening. And can you give an approximate time of when the full plenary meeting made the decision on the course of action? The Government incorporeal decision is subsequent, but the decision where the course of action was decided upon of a six-bank guarantee?

Mr. John Hurley: It's difficult to put an exact time on it, but-----

Deputy Michael McGrath: Yes.

Mr. John Hurley: -----I left the building about 1.30 a.m., 2 a.m., around that time. That would have been after meetings with the banks. So I think the decisions would probably have been made probably about an hour earlier.

Deputy Michael McGrath: Okay. And as far as you-----

Mr. John Hurley: Probably, because this is-----

Deputy Michael McGrath: I understand, yes.

Mr. John Hurley: -----this is difficult.

Deputy Michael McGrath: I understand. And as far as you can recall, were the representatives of both the main banks present when that decision was conveyed by the Taoiseach?

Mr. John Hurley: My recollection was yes, that when the decision was conveyed, it was conveyed to all. As I said earlier, there were possibilities that some people were leaving the room and coming back in, but my understanding was that the decision was conveyed clearly.

Deputy Michael McGrath: Was there any discussion on the night of solvency, about any one bank or the banking system generally, or was it regarded as a liquidity crisis?

Mr. John Hurley: It was regarded as a liquidity crisis.

Deputy Michael McGrath: Was there any discussion at all about possible insolvency of one or more of the banks?

Mr. John Hurley: Not to my ... not to my knowledge.

Deputy Michael McGrath: Not while you were present at any-----

Mr. John Hurley: During that period, there would have been, you know, a view that maybe additional capital is required, but that would be a normal discussion. It was not ... there was no insolvency discussion that I can recall.

Deputy Michael McGrath: And in the context of issuing a guarantee, was the option of guaranteeing new debt issuances considered, as opposed to an almost blanket guarantee of existing liabilities?

Mr. John Hurley: My memory was that the discussion going back over the period, the previous days and week, was about a broad guarantee which included all liabilities.

Deputy Michael McGrath: Was consideration given to just guaranteeing-----

Mr. John Hurley: Just ... no, not-----

Deputy Michael McGrath: -----new debt?

Mr. John Hurley: -----not to my knowledge.

Deputy Michael McGrath: Why not?

Mr. John Hurley: Because I don't think it was a ... I would ... it's not a solution. As debt would roll off, it would have to be replaced. It seems to me that it wouldn't have been an answer to the problems that we were facing.

Deputy Michael McGrath: In that it may not have been credible for the markets, wouldn't have been robust enough, or-----

Mr. John Hurley: Yes, it would have been seen as a very significant gap I think, and you would then have people locked in who were not guaranteed and ... It was never really an option. In fact, if you look at some of the IMF papers on this, quite a number of them have broad guarantees, including all liabilities and don't just distinguish new debt guarantees.

Deputy Michael McGrath: The final area I want to touch on is ... you stated that arrangements had been made for emergency liquidity assistance to be available for Anglo on the following day. How much was arranged?

Mr. John Hurley: What we were working on was about €3 billion but only €1 billion was in fact drawn down. I'm not sure that it was fully drawn down because the guarantee clicked in and the process wasn't necessary.

Deputy Michael McGrath: But a facility was in place of up to €3 billion of ELA.

Mr. John Hurley: A facility would have been available were it necessary.

Deputy Michael McGrath: I accept it's in the realm of speculation but if a decision was made to extend that ELA to Anglo and not to issue any guarantee to any of the banks what, in your view, would have transpired?

Mr. John Hurley: I think the risks would have been enormous. I think the contagion risks onto the other banks from what was happening in Ireland, given the sentiment, given the flows, given the outflows, given the increased levels of ECB liquidity, we would have been taking an enormous risk. It's not a risk I would have recommended.

Deputy Michael McGrath: Just to clarify, that €3 billion and the €10 billion from AIB-Bank of Ireland which was requested at one point, would have been fully State guaranteed.

Mr. John Hurley: Yes.

Chairman: Okay. Sorry about my earlier confusion there to you, Mr. Hurley, but what I was referring to was an assessment of the assets and the loan books and an analysis carried out of six covered institutions by PwC, which reported in November -----

Mr. John Hurley: Yes, Chairman.

Chairman: What I am asking you to do is to comment upon the general capital adequacy impact results of the loan book reviews and whether they gave rise to any further action in that regard.

Mr. John Hurley: The reviews were really the basis, I think, for the discussion in relation to the recapitalisation of the banks later on. They were very important assessments. They were assessments made subsequent ... I think the Financial Regulator asked for these assessments to be made around the time or subsequent to the guarantee and they were very important in assessing the capital position of the banks going forward and informing the Government decisions about that.

Chairman: In assessing that, was this analysis based exclusively on the financial institutions' own management information and statistics and what level of professional scepticism was invoked by the Central Bank officials in using the analysis as the basis of evidence to the Minister?

Mr. John Hurley: The assessment was primarily based on reports, I think, from the banks themselves but they had the opportunity to question banks in relation to the exposures. In terms of the Central Bank assessment, subsequent to those reports I wrote to the Minister, with the chairman of the regulatory authority, indicating that there could be other scenarios which might worsen the capital assessments made by PwC and that needed to be borne in mind. I don't ... there is a letter to that effect.

Chairman: In that regard, was the loan book analysis carried out by PwC based exclusively on statistics ... based exclusively on management information and statistics provided by the financial institutions? Was it exclusive in that regard?

Mr. John Hurley: I think it would have been, yes. I mean, I can't be certain of that. I haven't seen these documents in a very, very long time but my instinct and my ... is probably that that is so but I can't be certain.

Chairman: Finally, on that matter, what level of professional scepticism was invoked by the Central Bank officials, in using this analysis as a basis of advice to the Minister?

Mr. John Hurley: As I said, we wrote to the Minister saying that there could be deterioration in some of those figures and there is a letter to that effect on record.

Chairman: So you would think that there was a level of scepticism built into the Central Bank's-----

Mr. John Hurley: Some scepticism that maybe the depletion wasn't strong enough or you could have other factors that would have made it worse. I don't have the correspondence to hand but there is a record ... there is a letter on file saying this.

Chairman: Okay, thank you. Deputy O'Donnell.

Deputy Kieran O'Donnell: Thank you, Chairman. Mr. Hurley, you were out sick for two months from the 19 July to 15 September. Who covered in your absence? Who was acting in your place at that time?

Mr. John Hurley: I discussed this with the Minister and because of the liquidity position ... there is a provision in the Act whereby I no longer become Governor and my deputy becomes Governor and that particular provision was activated.

Deputy Kieran O'Donnell: So the Governor at the time, the deputy at the time was?

Mr. John Hurley: Mr. Grimes, who was taking over my functions for that period.

Deputy Kieran O'Donnell: And the fact that you came back on the 15th, is there any coincidence or not that it coincided with Lehman Brothers filing for bankruptcy?

Mr. John Hurley: There is, yes. I think it was subsequent to the 15th, but the Minister phoned me, and we, he was-----

Deputy Kieran O'Donnell: Had you just left hospital at the time?

Mr. John Hurley: No, I was recovering at home.

Deputy Kieran O'Donnell: Okay.

Mr. John Hurley: And ... it's ...I wasn't really in a position to return to work, but the Minister contacted me after Lehman's, we had a discussion about the very difficult situation that emerged. He didn't ask me to return to work, but I think the message was, when would I be ready to return to work, so ... essentially, he didn't ask, he was very diplomatic but I came in as soon as I could.

Deputy Kieran O'Donnell: Okay; and can you just outline, I'm looking at it here, there were four meetings on the night of the guarantee. You had a plenary meeting, was that at seven o'clock, the first meeting, I think-----

Mr. John Hurley: Around that time.

Deputy Kieran O'Donnell: That was with all parties, excluding the banks. There was a second meeting with the banks, roughly what time was that, Mr. Hurley?

Mr. John Hurley: The second meeting, the second meeting with the banks would probably, probably have been around half past 12.

Deputy Kieran O'Donnell: At night?

Mr. John Hurley: Yes, probably.

Deputy Kieran O'Donnell: The first meeting was with the banks, was obviously much earlier.

Mr. John Hurley: Nine or ten o'clock, I'd say.

Deputy Kieran O'Donnell: And then the next meeting, the final meeting was, so you had, effectively, plenary meeting with not the banks, second meeting with the banks, third meeting was a plenary meeting, then a final meeting with the banks.

Mr. John Hurley: Yes, and the meeting with the banks, well, the meeting with the banks involved that discussion then about the additional funding, and that involved into people leaving the room and coming back into the room, and making phone calls, so that was ... I don't know can you call it just one meeting, but-----

Deputy Kieran O'Donnell: And that was tying up what you would regard was the contingency funding being provided by the banks?

Mr. John Hurley: Yes, yes.

Deputy Kieran O'Donnell: And were they made aware at that time that it was contingency funding?

Mr. John Hurley: Well, yes, we were talking about support for the banks if the guarantee ... didn't work as well as it should do in relation to Anglo Irish Banks, and the issue of getting to the weekend was mentioned.

Deputy Kieran O'Donnell: Do you believe, on the night of the guarantee, because we've had many witnesses in before who have said it, they believe that Anglo was insolvent on the night of the guarantee, do you believe Anglo was solvent the night of the guarantee?

Mr. John Hurley: There is no way that a central bank can give emergency liquidity assistance to an insolvent bank; and we can only give emergency liquidity on the basis of a certificate from the Financial Regulator that the bank is solvent. If Anglo bank, Anglo Irish Bank, was insolvent on the night, there would have been no emergency liquidity assistance.

Deputy Kieran O'Donnell: And did you give emergency liquidity, or was it the guarantee was put in place, and liquidity wasn't required?

Mr. John Hurley: No, we had emergency liquidity assistance ready, €3 billion of emergency liquidity assistance, outside of the guarantee.

Deputy Kieran O'Donnell: Was it used?

Mr. John Hurley: No, it wasn't drawn down in the end, but there was potential to draw down, I think, at least a billion; I don't think it was used in the end.

Deputy Kieran O'Donnell: So the option, if that was the case, Mr. Hurley, is that ... did you, I presume you've read the Merrill Lynch advice, that was provided to the Government?

Mr. John Hurley: Yes, well, I didn't see it at the time, but I've read it.

Deputy Kieran O'Donnell: Okay, and they make, I suppose I'm referencing two of their, of their, Vol. 3, page 63, and they say - this is a memo, meeting of 26 September, Merrill Lynch: "On a blanket guarantee for all banks - [Merrill Lynch] felt could be a mistake and hit national ratings and allow poor banks ... continue". And then, subsequent to that, on 28 September, which is Vol. 2, page 168, they specifically deal with Irish Nationwide and Anglo; and in relation to Anglo, they say that "If [we] were to apply the ... stress [test] scenarios, the writeoff ... would [be] deplete ordinary shareholders and other lower category subordinated debt of €7.5 ..." which technically would have meant that Anglo was insolvent.

Mr. John Hurley: Well, I don't think that's the position, and I don't think that's what it says. As far as we were concerned, there was no question of insolvency at the time.

Deputy Kieran O'Donnell: No question.

Mr. John Hurley: No, we could not have supplied emergency liquidity assistance.

Deputy Kieran O'Donnell: And the fact that, subsequent to that, over €30 billion of taxpayers' money, in a relatively short period of time, which will never be recovered, ended up going, being paid into Anglo, into a bank of that nature.

Mr. John Hurley: But it took a considerable period of time for that to come about, I mean, we discussed this earlier in terms of the fact that there was actually no market there at the particular moment in time; and the falling market going through, even in 2010, there were a number of different shots to try and assess the actual capital required in relation to these banks.

Deputy Kieran O'Donnell: And do you believe that Anglo-----

Mr. John Hurley: So-----

Deputy Kieran O'Donnell: When do you believe Anglo became insolvent?

Mr. John Hurley: I don't know the answer to that, Deputy, but I mean, it wasn't insolvent at the time, nor for a considerable period afterwards, in my view.

Deputy Kieran O'Donnell: That's your view.

Mr. John Hurley: In my view ... well, Pricewaterhouse reported within a number of months.

Deputy Kieran O'Donnell: And looking back everything that we know now in hindsight, do you still believe that it was solvent on the night of the guarantee?

Mr. John Hurley: On the basis of the information we had, yes, but I can't say when it became insolvent, and ... Pricewaterhouse examined the books of Anglo Irish Bank some months later and didn't come to that view.

Deputy Kieran O'Donnell: Can I ask, prior to the night of the guarantee, in the period from when you came back from 15 September, what was your interaction with Government, Department of Finance officials, the regulator, consultants and other Government officials over that period?

Mr. John Hurley: It was fairly intense, I mean, we were spending a lot of time at meetings in the Department of Finance. The regulator and the NTMA and the Department-----

Deputy Kieran O'Donnell: What was the subject of the-----

Mr. John Hurley: The subject was the situation, the problems that had risen, the options, the discussion with Merrill Lynch. I mean, this was essentially all around the crisis that was unfolding.

Deputy Kieran O'Donnell: Can I go to Vol. 1, page 212, and it's specifically, it's a memo ... it's an e-mail from the Department of ... from the Central Bank to the Department of Finance, and it states, "Following our telephone conversation, the following are the points (in very rough form) the Governor would like to make if asked about a Special Resolution Regime." That's dated 9 July 2008. Was a special resolution mechanism regime considered?

Mr. John Hurley: It was discussed in the course of 2008 before I left the bank. It was an option that was being looked at. The matter was ... my ... the report to me when I came back was the matter had been discussed with the Department of Finance, and the Department of Finance, I think, were in touch with the Attorney General's office, and my understanding was this ran into legal and constitutional difficulties.

Deputy Kieran O'Donnell: So you didn't proceed with the special resolution.

Mr. John Hurley: It wasn't proceeded with.

Deputy Kieran O'Donnell: If it was there on the night of the guarantee, would you have made ... would you advise differently in respect of how to deal with Anglo?

Mr. John Hurley: It would have been a different option that would have meant that ... the some of the stigma in ... attached to emergency liquidity assistance would have been reduced.

Deputy Kieran O'Donnell: Okay.

Mr. John Hurley: So, it's still hard to say that ... what the decision would've been. My view was ... having ... I've thought about this ... that's ... because it's a very good question. It strikes me that the decision is very likely to have been the same.

Deputy Kieran O'Donnell: And why was the special resolution mechanism legislation ... why wasn't it proceeded with? You were in July '08, clearly there was a crisis in ... on the horizon. Why wasn't it proceeded with? Why weren't those legal difficulties overcome, Mr. Hurley?

Mr. John Hurley: Well, they were overcome much later but they hadn't been overcome at the time and I just mention that I don't think the ... I think the United Kingdom had similar problems with a special resolution regime after Northern Rock. This was not ... this was a very complicated issue.

Deputy Kieran O'Donnell: With hindsight should it have been put in place?

Chairman: Just give a bit of space there now.

Deputy Kieran O'Donnell: Sorry, yes.

Mr. John Hurley: It would very much depend on the legal and constitutional issues. We have a written Constitution, there are very significant complications.

Deputy Kieran O'Donnell: Mr. Hurley, if it was there on the night it would've offered other options.

Mr. John Hurley: But I can't answer that question because it's a matter for the Attorney General and the legal officers of the State to decide what's possible in relation to these matters.

Deputy Kieran O'Donnell: Well if it's based on their advice.

Mr. John Hurley: Well, my understanding from what I was told when I returned, is that there were such issues.

Deputy Kieran O'Donnell: Okay, can I just, two very quick questions? Thanks, Chairman.

Chairman: Quickly.

Deputy Kieran O'Donnell: First thing, asking you, why, Mr. Hurley, did you not consider providing ELA funding for Anglo over a couple of days' period and going to the ECB to discuss a pan-European solution to the banking crisis?

Mr. John Hurley: Because emergency liquidity assistance for Anglo Irish Bank really didn't solve the bigger problem of contagion. None of the other banks were illiquid at the time, even though they were moving in that particular direction. The risks, as I mentioned earlier, of actually doing this were extremely high and even recognised in the Nyberg report.

Deputy Kieran O'Donnell: And the final----

Mr. John Hurley: It was a roll of the dice and I don't think any Government that ... since I became a public servant at senior level, would've taken such a risk.

Deputy Kieran O'Donnell: And finally, you said in your ... in your presentation that if the guarantee was not put in place "we would have come down", and I quote. They are your words earlier. What do you mean? What ... how ... what would have unfolded over the following day and weeks?

Mr. John Hurley: I think the banking system would have become unstable. I think there could have been runs on Irish banks. The implications of that would have been devastating for the country and I think you would have seen an unravelling of the economic and financial life of the country over a period of time, and the cost of that would have been horrific.

Chairman: Thank you, Deputy. Thank you, Mr. Hurley. Deputy Joe Higgins, you've ten minutes.

Deputy Joe Higgins: Mr. Hurley, just on a quick point of clarification, when Deputy Doherty put to you your annual salary over a number of years of over €350,000 a year, you said to the effect public sector pay was too high. Could I ask you if you would consider qualifying that by saying that the highest paid public sector pay-----

Mr. John Hurley: I'm sorry. Of course that's what I was talking about.

Deputy Joe Higgins: Because, as we know, there are thousands of very low paid public sector workers.

Mr. John Hurley: No, no. Payments at the higher level, in my view, were far too high. I'm sorry if I gave the wrong impression there.

Deputy Joe Higgins: Yes, because the majority, as we know, of public sector workers are either low paid or middle paid, yes.

Mr. John Hurley: No, that's absolutely correct.

Deputy Joe Higgins: Okay. Now, just a brief supplementary in response, or in following on from the questions of the Chair with regard to what was known as Project Atlas. Did the analysis that emerged from that prove to be accurate in the following months?

Mr. John Hurley: I think probably again ... I think in the context of the letter that we issued, we saw downside risks for the capital requirement to increase. In the following months, it probably did so because the capital requirement for Anglo Irish Bank, for example, was higher than was in the Atlas report at the time.

Deputy Joe Higgins: But, if you take the next two years, would it be true to say that there was a serious underestimation of what the cost to the Irish people would be?

Mr. John Hurley: Oh, of course. I mean, the depletion and the devaluation of property over the following number of years caused a very, very significant injection of capital to be required by the Irish ... by the Irish taxpayer and with ... that was not foreseen at the time.

Deputy Joe Higgins: But does this beg the question whether PricewaterhouseCoopers went behind what the banks just said to them and delved deeply into the background information?

Mr. John Hurley: But it has ... well, there are a couple of issues there. The first issue is this was a falling market and values were going to be determined very much in the context of the falling market, so it wouldn't have been known at a particular moment in time how far property prices were going to go, but the other element to your question is very relevant. It's really got to do with the risk assessment within individual institutions and why that went so badly wrong over the period of time, and what that means is that, irrespective of the international crisis, there would have been a higher capital requirement because of the risk management practices in some banks.

Deputy Joe Higgins: But were decisions made on the basis of that report with regard to, you know, continuing the guarantee that proved to be far more costly than might have been the case if the true state of affairs had been known in the end of September of 2008?

Mr. John Hurley: But the true state of the bank books really didn't emerge for a considerable period of time and wouldn't have until such time as the value of property changed. Now, it was on a trajectory, but the significant drop only occurred much, much later.

Deputy Joe Higgins: Mr. Hurley, you finished your statement to the inquiry and I quote:

> There was a strong view on the night that the Government had one opportunity to assuage the markets. If the decisions taken were considered inadequate and failed the consequences for the banking system would be devastating and lead to very serious economic and social fallout for the country as a whole.

I will just repeat one sentence: "There was a strong view on the night that the Government had one opportunity to assuage the markets." Can I ask you, Mr. Hurley, does it sit well with a society and a system of governance that is supposed to be democratic that a government can have an economic gun put to its head by institutions in the financial markets that are unelected and, as far as the vast majority of people in Ireland and Europe are concerned, are faceless and anonymous?

Mr. John Hurley: I think it's very unsatisfactory and I accept the substance of what you're saying but, unfortunately, that was the position and that is the situation in relation to the influence of markets in the world at the present time. I think, as a result of this crisis ... and a lot of reflection has got to be done on that particular issue ... it strikes me that the influence of these decisions on governments across the world has been very, very severe and, through that, the impact on populations has been very significant. So, I think that there's a ... there's a very significant point there, that really has to be dealt with in the context of the reconfiguration of how the financial sector is going to be dealt with.

Deputy Joe Higgins: But even in the course of that reconfiguration, Mr. Hurley, and in the course of all that went on towards bailing out these entities, etc., and in relation to decisions that the Central Bank made, the question that is routinely put by commentators all over the media and everywhere else is ... is this measure or that measure enough to satisfy the markets? Is ... is ... are these cuts to public sector budgets enough to satisfy the markets? Can this be called an economic dictatorship of the markets, where-----

Mr. John Hurley: No, because ... I mean, there is a reality ... this is the reality, the reality of the markets. But I do believe in designing systems going forward ... I mean, and it is the balance between principles and rules ... that balance has to be struck, it has to be struck properly ... and, we will always face a particular moment in time when there will be a cry that the rules are now too hard again and we need to soften the rules. But it seems to me that this is an area that constantly needs to be looked at to get the balance right. And we know that the balance wasn't right.

Deputy Joe Higgins: Yes, but it seems to be the case, or does it, that massive financial institutions, unelected and faceless, wield far more power over governments than the people who elect those governments? Would that be a fair assessment?

Mr. John Hurley: Well, the power ... the power of the markets has been very, very substantial, except governments have to live in the real world and reality, and they have to actually make decisions and ... in that context. But some of the issues you're speaking about need a broader approach, which is an approach on world level institutions to try and deal with some of these matters.

Deputy Joe Higgins: Mr. Hurley, on Thursday, 20 March there was an Anglo Irish Bank board meeting by conference call. In chapter 10 of a book called *Anglo Republic* by a financial journalist, Simon Carswell, who appeared at this inquiry, he states: "Later that afternoon, Drumm [which is David Drumm, the chief executive officer of Anglo] placed a call to John Hurley and pleaded with him to release a statement on the health of the banking system to avoid a run on Anglo's deposits." He continues, "Unusually, Hurley agreed to run past Drumm a draft statement the Central Bank was going to issue. The Anglo chief executive approved it and asked the Central Bank governor to release the statement as quickly as possible." Did that happen?

Mr. John Hurley: There were statements issued around that time. I'm not quite ... I don't know the context and I haven't got any documents but my instinct probably is that is around short selling, is it?

Deputy Joe Higgins: Yes.

Mr. John Hurley: I'm not sure.

Deputy Joe Higgins: Yes, but did you run a statement past the chief executive of Anglo bank for approval?

Mr. John Hurley: I doubt very much if that happened, but certainly there might have been a conversation. But I don't see that I would be seeking approval of a statement I would issue from anybody. But, that said, there could have been a conversation at that time and it probably was around a statement that the Financial Regulator was issuing and it probably was around short selling. But now, I could be entirely wrong-----

Deputy Joe Higgins: But Mr. Carswell says-----

Mr. John Hurley: -----and I'm working with no papers.

Deputy Joe Higgins: Yes. This ... he says the two statements emerged, one from you and one from the Financial Regulator later on that day.

Mr. John Hurley: Yes, there was a statement issued at the time, so far as I recall.

Deputy Joe Higgins: Just the last question perhaps, Chair.

Chairman: Yes, Deputy, yes.

Deputy Joe Higgins: On Wednesday, 17 September 2008 there was an Anglo board meeting ... page 36 of the core document, Vol. 3, but it's not necessary. "the Chairman and Chief Executive [I quote] should meet with the senior officials in the Central Bank and explain the dire consequences not just for the bank but for Ireland as a whole, should they not act quickly to re-establish liquidity". Did you meet the chairman and chief executive after that meeting of Wednesday, 17 September?

Mr. John Hurley: I don't believe so, but I ... it's not in my diary so far as I know, but I'd have to check ... I can't ...

Deputy Joe Higgins: And then, Mr. Hurley, on Thursday, 25 September, there's an extensive minute of the board meeting of the Central Bank, it's page 33 of Vol. 3, core. I won't quote them because they're too extensive but what we have is an extensive outlining essentially of the bank guarantee that came to pass the following week ... and one sentence says: "A senior management member of the CB advised the meeting that an explicit Guarantee from the State for over €400 bln liabilities of the domestic banks and societies was 'not something that the management member would have favoured up to now', but in the evolving situation, it required serious consideration." Was that senior management member yourself?

Mr. John Hurley: Yes.

Deputy Joe Higgins: And the ... so, in reality, the Central Bank had virtually decided already that week that there would be a guarantee-----

Mr. John Hurley: I think I've answered this earlier. There was an evolution moving ... going ... taking place from the 17th-18th on through that period of time because of what was happening in the markets. The ... I chaired that meeting and I ... this was ... the broad guarantee was being discussed, as I said at the time, in other meetings. I had given my view in other meetings and I raised the issue in the board of the Central Bank to update the board about what was happening and what the thinking was at the time. And our thinking was evolving and I did mention ... I can't remember the precise words ... but the possibility that this now would have to be countenanced.

Chairman: Okay.

Deputy Joe Higgins: The last sentence of that tranche was: "There would be a need to talk to two banks who to date been negative on such a proposal".

Mr. John Hurley: I referred to that earlier.

Chairman: He's been refer-----

Mr. John Hurley: That's what I dealt with earlier ... I spoke about that and that's precisely the actual notation in the minutes that I was referring to.

Chairman: Right, thank you.

Deputy Joe Higgins: The last thing then, just to sum up the day, Mr. Hurley, in a sense. €64 billion of private bank and bondholders' debts was put on to the shoulders of the Irish people, which was private debt by private entities, by decision of the Government with the full support of yourself and the Central Bank. After seven years of austerity, hardship for our people, as a result of that decision-----

Chairman: Question now, Deputy, not a statement.

Deputy Joe Higgins: ----was it moral or just or defensible that such a decision was taken?

Mr. John Hurley: This was a very serious situation ... I wouldn't be able to ... I hope I've conveyed in some way the extraordinary situation that the country found itself in. There are all sorts of arguments of why it shouldn't have been there but this was the situation that the Government faced and the choices were very, very limited. And if they didn't take a decision to actually manage the situation at that time, I said earlier that I thought our financial system would have come down with extraordinary implications for the country, not just for a week or a few days but for years. Now, that was, you know ... that was a very, very traumatic moment, it was a sobering moment but that was the issue that was being considered in the room at the time. It wasn't pleasant .... it was pleasant for no one in the room but the scale of the implications for this country was truly extraordinary. I've been a public servant for 46 years, I've headed up a number of different Ministries, I thought I had seen every sort of crisis ... I have never seen a crisis like this.

Chairman: Okay, thank you very much. I'm going to move towards wrapping items up there, Mr. Hurley. I just want clarification on one piece of documentation that we have and I just ... it may be familiar to you ... it's a note from a Department of Finance presentation and I'm just trying to establish the date of when that was actually provided. There's a particular line on it; it's the second last bullet point on it, it says: "Open-ended State guarantee exposing the Exchequer to significant fiscal risk are not regarded as part of the toolkit for successful crisis management and resolution". Do you have any recollection of that as to when it was-----

Mr. John Hurley: That was much earlier in '08 and it was part of the ... the domestic standing group, I think, discussions at the time. I remember this at the time, but then you have the last sentence, which then indicates circumstances where that might be possible. I referred earlier to guarantees coming up in the context of a crisis simulation exercise and the too quick a reaction into guarantees which essentially informed my view, particularly around the 17th or 18th that we should, you know, that it shouldn't be ... should be considered more carefully. I basically said it might be counter-productive and I think the minute of the meeting of 18 September is there to that effect. But, as Deputy Higgins has said, this situation changed absolutely dramatically within a short space of time and the options for the Government were quite limited and in the circumstances of the change, and in the circumstances of the implications for the country as a whole, I changed my view too.

Chairman: Thank you. So it was in around March you reckon, I'm not looking for specifics?

Mr. John Hurley: Early-----

Chairman: It was February. Thank you very much okay. Just on ... in an earlier engagement today you spoke about being in a meeting with the NTMA in close proximity to the evening of the guarantee, a couple of days before. When was that meeting?

Mr. John Hurley: I think the meeting that I mentioned ... in 18 September, I think it's possible that they might have been present at that meeting.

Chairman: Can you recall who the personalities from the NTMA were that were present?

Mr. John Hurley: I think the ... there's a note of the meeting of 18 September and I think it would have been Mr. Somers, Mr. Corrigan and Mr. McDonagh.

Chairman: Thank you very much. And the general discourse at that meeting, was it related to the night of the guarantee? Was it saying that-----

Mr. John Hurley: It was options generally, it was 18 September. It would have been a general run through of the situation, a run through the pressures and trying to look forward to see ... it was chaired by the Minister if I recall.

Chairman: And at that meeting was there any sort of discussion that we may need to actionise some of these proposals and that maybe one of those actions could be the roll-out of a guarantee, regardless of what shape the guarantee would eventually have?

Mr. John Hurley: No, but it was suggested at the meeting because I gave a response. A broad guarantee as an option was suggested.

Chairman: Okay, so you were-----

Mr. John Hurley: And I gave a response to that which says that I thought it might be counter-productive and the Central Bank wasn't suggesting it at that stage.

Chairman: Did the NTMA at that time express any view as to what the implications of a guarantee might be?

Mr. John Hurley: My memory is that the ... there was no comment on that from the NTMA representatives. I'm sure they were there in their different capacity in terms of looking at the borrowing issues.

Chairman: That brings me to my next question because one of the functions of the NTMA is to issue bonds on behalf of the Irish State and obviously bonds at that time had a particular rating to them. Did they give any ... or offer any opinion, by your recollection, as to how it might affect Ireland's rating if a blanket guarantee, or any type of guarantee, was put in place?

Mr. John Hurley: I don't specifically recall, Chairman, but they would have talked about the borrowing situation for Ireland. I believe that's probably why they were at the meeting.

Chairman: Okay, I just want to wrap up maybe, and to just have it on the record this evening. The rules governing ELA require a bank to have liquidity difficulties not solvency difficulties?

Mr. John Hurley: Yes, the ELA cannot be given to an insolvent bank.

Chairman: Okay. So I ... when you were seeking liquidity for a ... financial institutions was it your view that there were not solvency difficulties there and that they met the ELA criteria?

Mr. John Hurley: Could you repeat that, Chairman?

Chairman: After the guarantee ... we ... mentioned some institutions today in which, under your tenure, ELA was sought for Irish institutions. You received-----

Mr. John Hurley: Yes-----

Chairman: Okay and were you-----

Mr. John Hurley: -----emergency liquidity assistance would only have been sought or given to an institution, at any time, that was solvent.

Chairman: And were you satisfied that those institutions under your examinership, were meeting the liquidity criteria?

Mr. John Hurley: The liquidity?

Chairman: The ELA criteria.

Mr. John Hurley: Yes, because I would not have been able to do it without certification from the Financial Regulator.

Chairman: How many institutions availed of ELA?

Mr. John Hurley: Offhand I can't actually say, I'll have to check that.

Chairman: In and around the time of the guarantee how many banks, or sorry institutions not banks, how many institutions were you considering that may need ELA potentially?

Mr. John Hurley: Only one around the time of the guarantee, but arrangements had been in place throughout the year for emergency liquidity assistance for all institutions, just in case.

Chairman: Alright thank you, I'm going to move to wrapping things up, Deputy John Paul Phelan.

Deputy John Paul Phelan: To touch on the two issues briefly, I only have five minutes, Mr. Hurley, that the Chairman has raised. The meetings with the NTMA that were requested by the Department of Finance that took place in the Central Bank, they were referenced by Mr.

McDonagh in his evidence here prior at the inquiry. Is there anything that the NTMA were able to inform you, as Governor, about the state of the Irish banks at the time that was news to you during those meetings?

Mr. John Hurley: No, not at that particular ... no.

Deputy John Paul Phelan: Did the NTMA express concerns or observations on the solvency of any institutions in the Irish banking sector?

Mr. John Hurley: No such comments were made to me.

Deputy John Paul Phelan: Okay. I want to directly quote Mr. McDonagh, where he said in his evidence earlier to the inquiry that, "the Department of Finance, I think, were becoming understandably concerned maybe about the Central Bank and the regulator and the banking system." What's your understanding of what he meant?

Mr. John Hurley: Well, I don't know particularly what time he's speaking about, but I know that around the time I was ill that the locus of meetings changed and I ... my view about that ... at that time is that that would be normal because you are now looking at a situation where State money was required, so my feeling-----

Deputy John Paul Phelan: It's referencing the period from mid-September onward. I mean, you think it was normal for the Department of Finance to express concern about the Central Bank and the regulator and the banking system?

Mr. John Hurley: There was no such concern expressed to me, but there were consultants employed to look at the individual banks, and I think that the engagement of Pricewaterhouse was to try and get a better handle on what was happening in the individual banks.

Deputy John Paul Phelan: Okay, can I ask you about his further evidence that the NTMA were not consulted until 1 a.m. in the morning after the Government had made its decision, he said, in relation to the guarantee. Do you believe that they should have been consulted on that particular night?

Mr. John Hurley: I think that's a matter for the Department and Minister for Finance. I wouldn't comment on it.

Deputy John Paul Phelan: You don't have any view.

Finally, in relation to the ... one of the central tenets of your contribution here this afternoon, you have said that the blanket guarantee in your view in all its circumstances was the right decision. I think you might have even used the only decision that could have been made on the night of the guarantee. Yet you have also outlined in your evidence that a facility, at least for one institution, was available for emergency liquidity assistance to be provided. In light of that I want to quote to you evidence of your successor, Governor Honohan. On 11 March 2015 before the inquiry he was asked by Deputy O'Donnell whether Anglo should have been nationalised on the night of the guarantee, and he gave the following response:

> It should have been nationalised because that was the only tool available legally for the State to take control. Control should have been taken. It should not have been left in the hands of the management. It was very risky to leave it in the hands of the management. I would have left it to the weekend using emergency liquidity assistance, ELA.

I just want to, I suppose, ask you of your view on-----

Mr. John Hurley: I think Professor Honohan is very much entitled to his view. The whole issue of the nationalisation of Anglo Irish Bank was discussed on the night. A lot of time was spent discussing the options. The conclusion reached was that it would be more negative than positive to do that. Now, that was the overall conclusion. A decision had to be made in real time and the decision had to be made before markets opened.

Deputy John Paul Phelan: Sorry, you have already given evidence that when the markets were opening the ELA facility was there to be used by Anglo.

Mr. John Hurley: Yes but we are talking about ... the decision we are talking about now is about nationalisation-----

Deputy John Paul Phelan: Yes.

Mr. John Hurley: -----and that decision was made primarily, I said earlier, because of the contagion effect from Anglo Irish Bank to the pillar banks.

Deputy John Paul Phelan: What I am trying to, I suppose, suggest to you at least, Professor Honohan, as he was at the time, was one of the world leaders on, you know, these financial difficulties, we'll say, that had emerged in other countries. He had done a lot of research and was widely published in this sector. He subsequently became your successor. He gave evidence that is contradictory to what you said, that on the night of the guarantee - sorry I just want to finish - that there was another option in his view, and the other option was a partial guarantee of four institutions and nationalisation of the other two. You have given the evidence already that the ELA facility was there and therefore I am trying to ask you to-----

Mr. John Hurley: I just simply have a different view.

Deputy John Paul Phelan: Okay.

Mr. John Hurley: And ... and Professor Honohan is entitled to his view. This is not an easy situation where there are simple answers. There are judgments in this and judgments can be right or wrong. But on the night, there were a group on people in Government Buildings ... do their best to make the right decision. It was extremely difficult, an extremely sombre occasion where we were pretty much on our own and we had to make those decisions. Now, you ... you ... some people might be very content to take risks but with those sort of risks, I doubt if many governments would have taken it.

Deputy John Paul Phelan: You have already stated in your evidence that there were ... that the ELA facility was in place for the following day and that could have taken things to the weekend. That's the point I'm trying to make. You-----

Mr. John Hurley: No, but the ... but the broader point I've been made in my ...made in my evidence is the situation of what Anglo Irish Bank was at that stage, common knowledge in Dublin. I had evidence of that during the day. The notion of emergency liquidity assistance being ... being required in the context of a guarantee ... without some plan seems to me to be extremely dangerous. The contagion to the other banks ... was very, very risky. It was my view that it was a risk that we shouldn't take.

Deputy John Paul Phelan: Okay. That's fine.

Chairman: Senator MacSharry.

Senator Marc MacSharry: Yes. Just following on from that line, the men, the people in the room making judgments ... in your opinion, was that judgment ... you said judgments can be right or wrong. So looking back with hindsight, was that judgment correct?

Mr. John Hurley: I believe that it was correct at the time. I can't see that another decision could have been made in the circumstances that presented.

Senator Marc MacSharry: Just to clarify, because I am conscious we are all getting a little bit used to terms like ELA and everything here in this room ... and there's people watching at home, is it ... just to clarify, is it your contention that if ELA on its own was provided to Anglo the next day, that theoretically we could have got to the weekend, but the risk in doing that was because the word around the campfire that ... all around Dublin as you said earlier on, was that Anglo was in trouble and this could have led to serious contagion for the other banks and things would have been worse? Is that what you mean?

Mr. John Hurley: The dangers to the entire system would be heightened. In my view, it was ... it would have been an enormous risk and it's for that reason ... the contagion reason that the six-bank guarantee was given.

Senator Marc MacSharry: With hindsight, and this touches a bit into this morning if that's okay and we are just finishing up and -----

Chairman: Yes, once it's in order, that's fine.

Senator Marc MacSharry: ----- it's been a long day. With hindsight, has principles-based regulation in your view, been tantamount to self-regulation in practice?

Mr. John Hurley: Well, I think the objective and the intention was very good and the intention of our regulator was to follow the best in relation to principles-based regulation. But the fact of the matter is given the ... the crisis, given the risk management practices within the institutions that particularly happened in 2006, it seems to me that you have to have an amalgam of principles and rules-based systems. And it's a question of getting that balance going forward. I think the chairman of the Financial Regulator before has accepted that in the circumstances, that there probably should have been more intrusive regulation. But principles-based regulation was adopted for good reasons. We weren't the only jurisdiction, it was fairly widely implemented. And it was consistent with the Government's own regulatory White Paper.

Senator Marc MacSharry: Very finally, and back to the old chestnut that many of us have touched on in terms of banks being allowed to fail. In the discussions and the deliberations in the room when people were trying to make that right judgment and when discussions around the potential to allow banks to fail was being considered, what was the contrarian view put forward? Were people ... was it said, ''Look, everybody knows we can't do that'', or was it, ''The ECB won't wear that, the IMF won't wear that'', or, ''The Commission won't wear that''?

Mr. John Hurley: No, the ... the contrarian view centred around two options. One was the guarantee for six banks and the other was a guarantee plus nationalisation. I don't know if that's a contrarian view but they were the ... they were the key options that were being looked at.

Senator Marc MacSharry: I understand they were the key options. But in the context of allowing banks to fail ... was that option being discussed or thrown around?

Mr. John Hurley: No, there was no question of banks being allowed to fail.

Senator Marc MacSharry: So would ... back to Professor Honohan's view where he articulated that it is his belief that the Minister wished to intervene in those two other banks, to your recollection that was never discussed on the night. Is that the case?

Mr. John Hurley: The nationalisation of banks?

Senator Marc MacSharry: No, they intervened-----

Mr. John Hurley: The liquidation?

Senator Marc MacSharry: To quote Professor Honohan-----

Mr. John Hurley: Liquidation?

Senator Marc MacSharry: Yes.

Mr. John Hurley: No. I mean, to the best of my ... I don't believe anyone was countenancing liquidation. I mean, in the context of what was happening across Europe and the broader messages that I spoke about earlier, the question of liquidation was out of the question.

Senator Marc MacSharry: Thank you.

Chairman: Okay. I'm going to bring matters to a conclusion, Mr. Hurley. In wrapping up, and it's been a long day starting since 9.30 a.m. this morning, is there anything you would like to further add as I bring matters to a conclusion?

Mr. John Hurley: No. I'd just like to reiterate the point I made earlier, that when the discussion came to a conclusion, the Taoiseach did ask everyone about the decision and there was no dissenting voice that I can recall in the room. Other than that, I just want to thank the committee for giving me the opportunity to come here. I haven't spoken about this in public before, but I was very anxious to come here to say what, you know, to give my information to the committee in relation to all of this. I'd like particularly to thank the committee for the way this has been conducted. It's been a long day but it has been very well conducted, and I want to thank the back-room staff of the committee for the way they've dealt with me over the past weeks. They were ... very constructive and they're a credit to the committee. And, finally, I just want to wish you well in your task. I think this is an extremely important examination. I think everyone involved has to come here and account, and I believe that you will do a great service if we can find a way of preventing this from happening in our country again. So thank you very much.

Chairman: Thank you, Mr. Hurley. I would like to thank you for your participation today and your engagement with the inquiry. I want to formally excuse you and to bring matters to a conclusion by proposing that the meeting is adjourned until 3.30 p.m. on Tuesday, 26 May 2015. Is that agreed? Agreed.

The joint committee adjourned at 6.12 p.m. until 3.30 p.m. on Tuesday, 26 May 2015.