HOUSES OF THE OIREACHTAS

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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉIREACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Déardaoin, 18 Meitheamh 2015

Thursday, 18 June 2015

The Committee met at 09.30 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

Department of Finance - Mr. Kevin Cardiff

Chairman: As we have a quorum, the Committee of Inquiry into the Banking Crisis is now in public session. Is that agreed? Can I ask members and those in the public Gallery to ensure that their mobile devices are switched off. We begin today's session 1, public hearing, discussion with Mr. Kevin Cardiff, former Secretary General, Department of Finance, and in doing so, I would like to welcome everyone to the public hearing of the Joint Committee of Inquiry into the Banking Crisis. Today, we will continue our hearings with senior officials from the Department of Finance who had key roles during the crisis period. At this morning's session, we will hear from Mr. Kevin Cardiff, former Secretary General at the Department of Finance. This is the first of two sessions with Mr. Cardiff and will focus upon developments in ... Mr. Cardiff was involved in up to the end of 2008. So as I say, there are two sessions that'll be involving Mr. Cardiff. This morning's matters will work up until the end of December 2008. This will include matters such as macroeconomic policy, departmental resources, regulation, supervision, oversight, the domestic standing group, solvency, liquidity and the bank guarantee.

Mr. Kevin Cardiff was Secretary General at the Department of Finance from 2010 to 2012. He joined the Department in 1984 and had a number of roles in the Department, including responsibility for the taxation and financial services division and tax policy. In March 2012, he was nominated as Ireland's representative at the European Court of Auditors in Luxembourg for a six-year period.

Mr. Cardiff, you're very welcome before the committee this morning.

Mr. Kevin Cardiff: Thank you.

Chairman: Before I hear 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 to 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. 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 Gallery, those documents will be displayed on the screens to your left and right. 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 Committee of 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 now said, if I can now call on the clerk to administer the affirmation to Mr. Cardiff.

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

Mr. Kevin Cardiff, former Secretary General, Department of Finance.

Chairman: So once again, welcome here this morning, Mr. Cardiff, and if I can invite you to make your opening remarks please.

Mr. Kevin Cardiff: Thanks, Chairman. Good morning, members of the committee. Well, the crisis in our banking sector that emerged in 2008 leading to significant Government intervention and ultimately international assistance was the worst in our modern history and, indeed, much of the same is true for much of Europe. I was involved in many and, indeed, most of the aspects of the management of that crisis and I hope my evidence to the joint committee will give a helpful insight into the challenges faced and the difficult decisions made during this unprecedented period in our recent history.

As you probably know members, civil servants in most committees are precluded from entering into certain areas of debate. So it's a pleasure to be here to be able to answer questions where there is less restriction where we can discuss policy, we can discuss all that needs to be discussed. And I have tried quite politely to wait for this committee before entering into public discussion. People have asked me over the last couple of years why am I not talking. It's because I have been waiting for this committee and it's a pleasure to be here to do this.

I have prepared a comprehensive report but my comprehensive report only really deals with about in total 20 weeks of the crisis. It's because I just ran out of steam. But I expect, I fully expect that you'll ask questions in relation to other parts because there was an awful lot that happened leading up, afterwards and so forth and I'm anxious to help with those issues too.

By way of background, I should outline the positions that I held in the Department of Finance and at what times because it affects a little bit the story I can give you. And it falls neatly in half years. Second half of 2001, 2002, 2003, 2004, give or take a month or so, I was assistant secretary general in charge of the unit in the Department of Finance dealing with financial legislation, including the Central Bank Acts 2003 and 2004. For 2005, broadly speaking, I was dealing with tax issues including evaluation of the various property tax incentives and so forth. And then for 2007, 2008 and 2009, I was a division head known as a second secretary general and for part of that time, headed what was known as the tax and financial services division. When the crisis intensified in autumn 2008, the tax element of that was taken away so that I could concentrate on the financial services matters. And obviously that was almost at that stage, entirely a crisis management job.

When the then Secretary General resigned at the very beginning of 2010, the Government asked me to take his position, which again, remained principally a crisis management job. And I did that job for 2010 and 2011, broadly speaking. I left just after the Troika mission of January 2012.

So as the crisis broke in September 2008, I became the *de facto* public sector co-ordinator for all the banking interventions reporting to the Secretary General and the Minister obviously, sometimes the Taoiseach. During this period, I tried and did provide options and advice for the Minister and the Government and leadership to my smallish team and to other parts of the public service in relation to the liquidity crisis, the recapitalisation process, the nationalisation of Anglo and the NAMA legislative process. Later the Government, by then quite familiar with me and my work, decided to appoint me Secretary General as I have said, to deal with the crisis.

As Secretary General, during the initiation and settling in of the EU-IMF programme, I was again the *de facto* co-ordinator and manager on the Irish side for the programme negotiations and for programme implementation working for the Minister, the Taoiseach and the Government. I had the opportunity to introduce a number of significant initiatives in my two years as Secretary General. One of the most telling was the four year plan or national recovery plan, as it became known, which in turn formed the basis of much of the EU-IMF programme, the non-banking elements, and it allowed us, I hope, to deal with Irish problems on an Irish basis, albeit not a very pleasant basis.

On the guarantee, and I run the risk of duplicating a little bit what's been in the papers but if you don't mind, my statement and report deal in a lot of detail with the run up to the Government guarantee for the banking system. The big question for many people is, was the guarantee necessary, was there not something we could have done differently that would have, in sort of one elegant manoeuvre, taken ourselves out of the line of fire? The answer to that is, is "No". I'm clear in my own mind that on the night of the guarantee, and we can go on to discuss why, but something had to be done. Whatever was to be done had to be very significant, so significant as to change the otherwise very negative trend in events. Intervention was, to my mind, very urgent to avert the potential for a real disaster for the many people who saved with and relied on these banks in our economic system. There was a range of options available to the Government. Considerable had been work been done ... work had been done by my team at the Department of Finance, by the NTMA and the NPRF, by the Central Bank and Financial Regulator, by the Attorney General's office and our various advisers, to ensure that these options were ready on the night. Options included: loans in huge amounts for the banking system - cash had been stored up for that purpose or for ... against a rainy day for some time; a special collateralised swop arrangement was ready to provide the banks with a new mode of access to ECB cash - European Central Bank cash; documentation and collateral had been prepared to allow for emergency liquidity assistance, detailed legislative provisions were ready to allow for a nationalisation of a bank or indeed a building society, so allow ... so as to allow for its control or resolution; legislation was also ready to provide for guarantees and other supports. But it was up to the Government to decide on the options it wanted and there were no ... there were no costless options.

Now I know some genuinely clever people, people I respect, will tell you with great certainty that things should indeed have been done very differently that evening. A different type of intervention or a delay until a European rescue might become available with the use of emergency liquidity assistance in the meanwhile. You can make that case but to my mind there is, even now, no real reason to believe that waiting a few more days, and in the meanwhile engaging with European partners, would have changed the situation much. The granting of ELA would not have reversed the trend towards very large outflows of funds from Anglo, in some ways it would have facilitated it. As news of Anglo's difficulty circulated, and you remember from evidence you've already had that they were going from place to place telling everybody about their difficulties, there was every possibility of a run on that bank. And not just a wholesale run, a good old-fashioned, queues in the street bank run, sometime in the next day or two. ILP, Irish Life & Permanent, was also nearly out of cash that week and was, in fact, expected to run out of cash that Thursday, give or take a day, exacerbating the systemic impact of the liquidity crisis. So even if we had leaped into the weekend on ELA, was there really any prospect of a European solution? The answer to that is two weeks later, two weeks after our guarantee, most of the leadership of the EU came together, all the eurozone Heads of State and Government plus Gordon Brown, and they agreed a common approach - but it was a common approach to national level rescues, there was no European solution. Each member state for itself, albeit following a similar intervention design. And remember, if the Government was plainly not behind the banks at the time of the guarantee, the ECB might not have allowed ELA so this theoretical view that ELA might have done something good for us, it's a reasonable view but it might not have been able to happen. The ECB certainly would not have opened the purse strings for a banking system which was waiting for a European rescue to come along when there was no immediate prospect of that. So of course things could have been different but they might have been a lot worse and it would have been a big gamble to wait a few more days. And maybe having waited, if we would then try to play the guarantee card, the market and the public simply wouldn't have accepted it. I think the point I'll try to get through in my whole evidence is there were no certainties. This was a most complex situation in which it was extraordinarily difficult to predict the future and which the ... the main point of decision was not to get the ... exactly the right solution, it was to get the one that was least likely to lead to a disaster.

Specific issues around ... about the guarantee. Let me try to answer some specific questions that ... that I think have arisen in the course of your inquiry to date, to the best of my recollection. Yes, the banks did seek a broad guarantee, including for themselves. Some people say it was four banks, some people say it was six, but if you nationalise two, then you have to look after them ... it's the same thing. Yes, they did provide a draft. Only one version so far as I can recall, though I know you ... you had in evidence someone suggest that there was a second version somewhere in the building. Yes, they did provide other documents. In particular, they provided to Eugene McCague, who was there as a solicitor acting with the Government, a list of the subsidiaries to which they wanted the guarantee to apply and I believe he passed that list on a couple of days later, in writing. They also discussed the pricing structure that they would wish to apply to the guarantee and, yes, I understood that they wanted Anglo nationalised or otherwise in some way dealt with. There were other views on the night. Minister Lenihan and I advocated consideration of other options. Later, the Minister changed his view and I discussed the reasons for that in my statement and report. I advocated a nationalisation or a ... with a guarantee for Anglo, and a strong public statement, amounting to a political guarantee, for the other banks. I think in doing so I was in line with the advice of Merrill Lynch and the NTMA. And it's a wonderful thing to be here and say I advocated something differently but I don't know that I was right. I don't know, still, that the guarantee was the wrong option. I'm not convinced it was. But certainly there had to be some guarantees that night, there was no doubt about that at all. No official adviser advocated a liquidation of Anglo at that point. Even now I think that would have been too dangerous to contemplate.

The guarantee was immediately quite well accepted in the market but it was a much more fragile edifice, even in the very first day ... very first week or so, than is now realised. There was a great deal of work behind the scenes required to make it acceptable with the European ... European Commission, whose word is law on this stuff, with the ECB, and with other governments and financial institutions. Apart from the people in the room, I don't know who else was advising the Government. I know Alan Gray spoke to the Taoiseach and I read that certain Ministers had contact with ... with Mr. McWilliams. And I know, too, that there'd been a discussion at Government ... some discussion the previous day, the implications of which I deal with again in the report. There is absolutely nothing incorrect or untoward about a Taoiseach or a Minister taking advice beyond the Civil Service. It would probably be negligent if they didn't do so but I just don't know exactly what the ... the full range of people in the mix were. As you've already heard, there was no information to say that any of the banks were solvent on

... on some definitions of that, at least, on the usual meaning for this kind of discussion, on the night of the guarantee ... were insolvent, rather.

There were reasons, explicitly ... there were reason to wonder about their future business model, their resilience to shocks, their potential for future losses and these things were considered both ... both that night and, more importantly, I suppose, in previous discussions. The scale of future loan losses was not known on the night, of course. I see the Chairman is a little worried, am I going too slowly?

Chairman: You're okay.

Mr. Kevin Cardiff: Okay. On the genesis of the broad guarantee, where did the idea come from? Well, it wasn't a new idea, it had been done in other crises and other places. And, as I laid out in my written statement and the appended report, no consideration of bank rescue options could have ignored the potential for use of guarantees. In the Northern Rock case is one example. It was not nationalisation ... it wasn't the point when they nationalised Northern Rock that the situation stabilised but it was the guarantee that did the trick there. Maybe we overlearnt that message. But there were also significant external voices who'd been expressing support for a broad guarantee, or something like it, at various points in time between March 2008 and the guarantee itself. I don't think I was influenced, in any advice I gave, by the presence of those external voices. So, of course, it's entirely legitimate for anyone who wants to contact the official system and give their personal view to do so. It was just in the air. The idea of a guarantee was in the air and I suppose that was captured in the McWilliams article that weekend.

So what about the bailout? Well at the time we said it wasn't a bailout because it was money lent not money given, but we can call it a bailout for this purpose. My report to the inquiry deliberately gives a lot of detail on how those discussions unfolded because it hasn't been much discussed. The big question in the public domain in relation to the bailout seems to be whether entering the EU-IMF programme was a free choice or were we pushed. Well, at the moment we entered it we were pushed quite hard. The push was in some elements, in some ways direct and transparent. You have seen the letter from-----

Chairman: Can I interrupt there for a moment, Mr. Cardiff? It's not to be interrupting your statement and to let you complete in full, but just to remind members that the matters that you are relating to now we will be dealing with in the second session. Just in case somebody was saying this has been discussed this morning, why has it been picked up in question time? So please continue, Mr. Cardiff.

Mr. Kevin Cardiff: Brilliant, that is good to know. Do you want me to...?

Chairman: Please, no, you can continue.

Mr. Kevin Cardiff: Okay. The push we got, as I said, in some ways was direct. We knew who was doing it; we knew what they were saying. In other cases though, the pressure came indirectly via some misinformation, via anonymous media briefings reportedly coming from official sources, which acted to accelerate market pressures and create enormous pressure on Ireland to enter an EU-IMF programme quickly. The ECB advice in regard to entry to the EU-IMF programme was specific, it was directly tied to conditions they had outlined in correspondence, and there were consequences for non-compliance. The ECB had its reasons and I don't say that they were wrong from their perspective, certainly, but their view was clearly an important pressure point. But it was the combination of negative circumstances and market developments that were the real push factor, quite apart from the timing issue. Barring some radical change of sentiment in the market and in the light of a very difficult domestic situation, and increasing scepticism prompted by the so-called Deauville agreement and public comments by the ECB about reducing atypical support for banking systems, increasing the risk of our stance on sovereign bond investors and so forth, it was unlikely ... quite unlikely that Ireland could finance itself in 2011. We were unlikely to be able to borrow or might only be able to do so at such high interest rates as to make our debt become unsustainable. We needed an alternative set of lenders, and I, for one, was grateful that there were institutions available to do that. I also appreciated that the negotiating and technical teams with which we dealt with were generally knowledgeable, they were professional and committed. They came here committed to Ireland and to its economic rescue within the bounds of their professional role. There were natural professional tensions, which I've outlined in detail in my report but we aimed to make these negotiators ... we aimed to make these negotiators ambassadors for Ireland back in their head offices and I believe they did act in that role. It was, though, clearly inappropriate that at the outset, at the point when we were trying to make decisions, that back door briefings of the media should be used to undermine our position in the markets so as to add to our pressures. Democratic systems should not rely on undermining reputations and distributing misinformation via anonymous briefings.

What about burning bondholders? Well, there is a number of misapprehensions which ought to be addressed. There is a view that Ireland was always in favour of burning bondholders; the Irish Government and everybody else was always against, just to simplify. Actually, the Irish Government did not always favour imposing burden-sharing on senior bondholders. Advice was at various times that it might be legally impossible or very unwise from a market point of view. However, by the end of November 2010, the Irish Government, represented by Brian Lenihan, did want to insist that senior bank bondholders would share the burden of bank failure. At the time, my information is second-hand but it is quite strong I think, we understood that Dominique Strauss-Kahn, head of the IMF, was not only in favour of imposing burden-sharing on the senior bank bondholders, but also that he believed he could persuade other major players, including the major European governments, the Americans and the ECB to go along. Strauss-Kahn was to, and I understand did, convene in a conference call to make this arrangement. We heard back however via the IMF team in Dublin that instead of a positive response, there had been a strong negative reaction from the ECB, from Geithner and others and that, moreover, the EU-IMF programme would not go ahead in senior bondholder burden-sharing was contemplated. This was confirmed by European Commission and ECB negotiators in Dublin and the IMF negotiators reluctantly confirmed that this was now also the official position of the IMF. So, of course, it was formally Ireland's decision not to burn bondholders, but it was one of those decisions without much option. But, just to provide some balance, and in the theme of things not being simple, one should remember that, from a European point of view, the burden sharing was seen as a real and very serious risk; a new Lehmans type event, perhaps. Even one of the IMF negotiators at the time said it might be havoc and Europe was teetering on the edge of a much more serious sovereign borrowing crisis than was already evident. Europe could be helpful if Ireland, or Portugal, or Greece - smaller countries - found themselves in trouble, but what if the bond-buying strike, the absolute pulling back from the markets by bond investors, extended to larger countries? Who could rescue them? So, you see why some partners might not have favoured too much experimentation in Ireland.

On other areas of the negotiation with the external partners, we strove hard to get the best deal possible for Ireland and, indeed, we achieved some considerable wins. First, no threat to our corporation tax system, on which many jobs depended and depend; no collateral requirement for the loans; adoption, wholesale, of the Irish four-year plan - national recovery plan; agreement to Irish figures for fiscal adjustment, so no addition front-loading of the fiscal adjustment beyond the numbers that had already been announced by the Irish Government. At some point, we got an extra year to make the overall fiscal adjustments required. We got a tacit - unfortunately not explicit, but a tacit - ECB commitment to continued banking system support and we got a "no fire sales" approach to bank deleveraging, which probably saved us some billions later. And there were other gains in negotiations later on. All of these were positive aspects of the deal, worked out by a relatively small group of people in Dublin, Brussels and elsewhere but, of course, the most positive of all was getting commitment to loans totalling nearly €70 billion from a range of partner countries, many of whom contributed to our rescue through three separate mechanisms. So, if you take, for example, Germany, they would have contributed about a quarter of the money for the EFSF, they would have contributed about 20% of the money indirectly for the EFSM and probably about 6% of the money from the IMF was theirs. So, some people were giving money to us on the triple.

Later on, at the end of March 2011, with the new Government in power and itself intending to engage in some senior bond burden sharing in relation to Anglo bonds specifically, there had seemed to be some shift of opinion within the ECB. The question of these Anglo bondholders was to be considered by the ECB governing council but in the end we received their decision - in terms very close to being an instruction - that bondholders were not to share the burden even on a purely voluntary basis. So important was continuing ECB support and opinion that the Government decided not to take the risk of alienating them. I've no doubt that Mr. Trichet and his governing council were sincere in their concerns and their actions. It would certainly be wrong to judge the balance of the ECB's very active support and engagement with Ireland on the basis of this event alone but, that day, the ECB did a good deal more than would be implied by the phrase "simply gave advice" and we shouldn't hide from that.

To go back for a moment, State support for the banking system was not just addressing the immediate liquidity hole: it was protecting the integrity of the Irish payment system; it was protecting the willingness of trading companies to deal with Irish companies; it was protecting the willingness of payment card companies to allow international transactions to the customers of Irish banks; the willingness of credit rating companies to leave the banks with any sort of credit rating; the willingness of auditors to sign off on their accounts; and the readiness of clearing houses to clear payments for Irish banks. Our banks were not just under attack from a single source - it wasn't just a problem of losing deposits - they were under siege from every quarter that they dealt with and their very existence was under persistent threat for much of the crisis period. Every official intervention brought with it a new workload and none of the interventions in the banking system was in the least straightforward. We had to manage within EU state aid rules and every minor aspect of our banking interventions had to be cleared and negotiated with the European Commission. We had to overcome major statistical and accounting hurdles, usually in the direction of being less transparent, incidentally. We had to negotiate through difficult moments with other member states and EU institutions while also negotiating with - or sometimes doing battle with - potential investors, hedge and private equity funds, vultures and angels, honest dealers and gougers. From 2008 to 2012, there was not so much a crisis as, it seemed, a crisis per week. There was, quite honestly, never a moment in that period when there was not some great peril to our banking system and our economy.

We are all well aware of the danger of judging events in the benefit of hindsight. Being aware of it doesn't mean we shouldn't do it. Those dangers are magnified where the events sought to be retrospectively judged were as complex and exceptional as those since September

2008. It is, of course, understandable that people will want to know, not just how things happened the way they did but will also understandably want to know who was involved, who was there - and I was one of the people who was there. Some other people will say “I wasn’t there” or “I was away and I left me phone at home” or those things, but I was there for the whole time. I believe it’s important against this background to reflect on the fairness or validity of the now standard narrative that hopelessly inept civil servants, poorly led, were incapable of dealing with our nation’s problem and that was the source of the difficulty. Those involved in dealing with the crisis on the public service side, myself included, I think, worked diligently over huge hours, to the point of real exhaustion, in the face of pressures which most people in the public or private sector, thankfully, won’t have to face in a full career. The Department of Finance team, I believe, formed ... performed with competence and integrity in the face of those pressures, helping to hold all the public institutions together to work in the same direction, while seeking to protect Ireland’s best interest when working with outside institutions.

I have, of course, already talked in previous committee hearings about failings and about issues that need to be addressed in this ... in the Department and in the Civil Service, so this is not to suggest that we should get a clean bill of health or anything like it. But many of the Civil Service managers moved mountains over those four years. They did things in a month which, in normal times, might be the biggest effort of a year. A huge legislative programme, budgets and emergency budgets, negotiations on many different fronts at the same time, hundreds of EU-IMF programme targets, all of them met on time, except where a ministerial decision said “We delay.”

This couldn’t have been the case if we were all inept. We were not. And yet we had an enormous crisis. To consider why, not long after I became Secretary General of the Department of Finance, I arranged for what became known as the Wright report. I wanted a reasoned report on the past and a blueprint for a new Department of Finance. Many of the recommendations from Wright I expected but otherwise were a significant challenge to my previous thinking and, of course, implementation was compliment ... complicated by the ongoing crisis, the change of Government, the split of the Department of Finance. I was able to get some work under way in that time and, in particular, by bringing into ... in a variety of new and highly-skilled individuals, through a range non-traditional mechanics - secondments, open recruitments, special public interest appointments. I feel I probably stretched the limits of Civil Service law in that period, in recruitment processes.

Chairman: Let me suggest keep to your time as well, Mr. Cardiff.

Mr. Kevin Cardiff: Almost there, thank you. I did say to stop me. Sure look, that’s enough. Thank you.

Chairman: Okay. Thank you very much, Mr. Cardiff. I just want to deal with one matter that we dealt with ... Mr. Doyle yesterday afternoon and maybe we’ll then go into question time straightaway. Was legislation already prepared for the nationalisation of Anglo Irish Bank on the eve of the guarantee?

Mr. Kevin Cardiff: Yes, it was.

Chairman: Okay. How advanced and ready was that legislation? In simple terms, was it ready to go? And were all the politicians, advisers, officials and participants in the room that night aware of the advancement of that legislation?

Mr. Kevin Cardiff: Okay, two points really, Deputy. You need your legislation and you need a plan. The legislation could have been in the House while we finished ... middle of the ... middle of the morning, it could have been in the House by that evening.

Chairman: Okay. So the-----

Mr. Kevin Cardiff: The-----

Chairman: Sorry.

Mr. Kevin Cardiff: -----the plan though, the actual practical implications were different. You can't just do it. You can't just nationalise because bond covenants have change of ... change of control clauses - some of them. And if you change control, you might create a default on a particular bond. And if one bond default ... defaults, they all default. That's just one example. There are a few little steps you have to take before you can nationalise. All right, we thought four days, five days. So, in the meanwhile, on that morning, the plan was ... because we'd worked this out for Nationwide, the plan was a set of directions from the regulator to the bank saying, "Here are the things you must not do in the next few days while we prepare for your nationalisation", including things like ... now, I'm not saying they would have happened, but including things like moving money around, entering big new deals, those kind of things - keep the business going but nothing new. The next day someone from the regulator would have turned up in the bank and would have been ... in effect, have ... have had to be there and with an instruction saying that "You don't do anything big in the next few days without consultation with me." There would have been a team then from the regulator probably ... would have to be in the bank within two days. The biggest problem of all was we would have had to find a new chief executive within about five ... and we had a list. We knew who ... who in Ireland was not running a bank at the time who had run one before and we had some phone numbers and so forth but that would have obviously been a controversial decision because, at the time, there was a view that no ... no one who had ever been in an Irish bank should run an Irish bank. So that would have been difficult. But there was ... there was a process of legislation ready but also a good deal of thinking about what the steps would have to be. It would not have been pretty but it could have been done in four days.

Chairman: Okay. So could I maybe just conclude this line of questioning then before I bring in Senator O'Keeffe? Was legislation that was ultimately used in January ... in around January, four months later, for all sense and purposes, the same legislation that was available on the eve of the guarantee?

Mr. Kevin Cardiff: I believe it was broadly the same, Chairman, but the only reason I don't say it was the same was because with legislation there's just no way to resist tinkering - you keep going until it's all ... so the structure would have been similar. There were one or two things that we learned along the way that I'm sure were in the new legislation.

Chairman: So, taking on board the comments that you made this morning with regard to the immediate difficulties that would arise if you were to activate the Bill on the eve of the guarantee ... however, something similar or that was evolved out of that was ... was passed in the House four months later - why did it take four months to nationalise Anglo when it was already cognisant of the Department and the officials and politicians that there was a Bill there to do it?

Mr. Kevin Cardiff: Well, it didn't take four months to do it. When we did it, it took a few days. The four-month gap was a policy decision.

Chairman: The four-month gap was a policy decision. Okay, thank you. Senator Susan O'Keeffe. Senator, you've 25 minutes.

Senator Susan O'Keeffe: Thanks, Chair. Mr. Cardiff, why did you write that large statement that you gave us and when did you write it?

Mr. Kevin Cardiff: I started writing it on my Christmas holidays and I wrote it because ... well, I remember, Deputy, I got a letter from you saying I shouldn't write anything too long but I got it ... I got it three months or two months after I'd started writing. And I wrote it because I wanted to put ... to put things in the public domain that were not yet.

Senator Susan O'Keeffe: So it's not a contemporaneous document from 2008?

Mr. Kevin Cardiff: Oh God, no. No, I have a lot of contemporaneous notes - loads of them. But ... and I'm sure you've had them on disclosure from the Department of Finance because I left them there when I left. But, no, no. No, it's not. And I say explicitly ... on the very front page of it I say this has not been fact checked. This is ... I've done a ... it took a great deal of research to put that much together but still there are things that ought to be checked with the people concerned and I've said that on the document. There's ... a lot of my recall is in there.

Senator Susan O'Keeffe: Can you explain why a lot of the documents over that ... over that month of September, a lot of the official contemporaneous notes are so short and so bitty, with single sentences and words rather than more detailed minutes? Was there a reason for that?

Mr. Kevin Cardiff: Yes, there's two reasons. First of all there are ... there's a misunderstanding. Some things that you have are not minutes at all. I seem to have been the only person with a pen, but some things that ... that ... that you see are simply ... not just contemporaneous notes but simultaneous notes of things that were said in meetings, and I was just scribbling. And then when people asked later for papers, I, of course, made sure that those were, were, were disclosed, as appropriate. Other things are bitty ... are minutes but they're quite bitty and frankly, the reason is that we were dead on our feet. We were working for some parts of that time literally 24 hours a day, other times more figuratively. But, but there wasn't much time to sit down and write minutes of meetings.

Senator Susan O'Keeffe: So you were dead on your feet and nobody thought to bring somebody in, perhaps who wasn't dead on their feet, to take a correct contemporaneous minute of what happened at such a crucial time. Is that correct?

Mr. Kevin Cardiff: I can't remember whether we thought of it or not, Deputy, but most of the people concerned were ... were exceptionally stretched and if you had the body ... I mean, you ... the person you would bring in would have to be quite expert, and if you had an expert, you'd want them working on the stuff. So that's it, there ... there's nothing sinister and despite what people say, so far as I know, there were no records deliberately destroyed or any of that kind of stuff. That's just how it is.

Senator Susan O'Keeffe: No, I wasn't suggesting that, I was suggesting, perhaps, it never existed.

Mr. Kevin Cardiff: No, no, no I know you weren't. I was-----

Senator Susan O'Keeffe: In June 2008, and, again, it's not really that you need it, but Vol. 2 of the Department of Finance, page 52. It's quite clear from that document ... Irish bank shares were falling, the number of banks remain on negative rating, everything was very unsteady and uncertain. And you'd accept, I take it, that by June things were in a precarious state. Would that be fair assessment?

Mr. Kevin Cardiff: Yes, except that they were an awful lot more precarious in ... in September.

Senator Susan O'Keeffe: No, I just want to concentrate on June and July just for a moment before I move to September, if I may. Would you accept that that's ... that things were not great in June?

Mr. Kevin Cardiff: Sure, but I'll ... I'll answer the question as well as I can and what I was saying is, if you needed a definition of precarious ... yes, precarious, but then some things happened later that ... that were in a ... of a different order altogether.

Senator Susan O'Keeffe: Okay. And in a note in ... in July - there was obviously a memo to Government about the budgetary consolidation, obviously, that was going on at the same time - and quite clearly in that note ... it shows exactly how poor the finances were becoming that there was a ... that the ... "As a result, combined with the tax shortfall of at least €3 billion, **there is now a strong likelihood that we will be in breach in 2008 of our EU commitments arising under the Stability and Growth Pact**". So, again, as I'm saying, just there in June and July as we came in to the end of the summer, problems were already there on the horizon. Is that correct?

Mr. Kevin Cardiff: There had by then been a very, very significant shift in tax revenues, which signalled something underlying in the economy, yeah.

Senator Susan O'Keeffe: Okay. Where ... we ... we then see in our ... in the notes and things that have been passed to us and have been made available to us, there seems to be a pause in August, where we see no meetings ... no minutes no ... can you explain why there was a silence or a gap in the month of August?

Mr. Kevin Cardiff: I don't think there was. I mean, August is a time when some people take holidays and so forth but actually there was a lot going on in August. From what I recall, for example, the ... the budget that would normally be in December was ... was going to be in October and ... was brought forward to October. And that decision was made, as I recall, at the very end of August so there were clearly people working on the figures and so forth during August. On the financial side, as I understand it, the ... around about the end of July there was a new iteration of legislation which would have been worked on through August. So it may have been that in the natural course of things that people weren't sending notes around as much but there was work going on, you can be sure.

Senator Susan O'Keeffe: Was there any sense of ... given that all the figures seems to be heading in one direction, was there any sense of crisis through July-August?

Mr. Kevin Cardiff: It depends ... by comparison to what came later, no. By comparison to what went before, yes. There was a sense that, for example, in ... in June when we were working on this financial sector legislation, we were thinking, this was a might. In August we were much more of the view that this was ... this was real, this could definitely happen, you know, and we would need to use some of this legislation. But we thought we might be using it for one or two banks, we didn't expect, as it turned out to be, using it for every bank.

Senator Susan O'Keeffe: I mean, I would put it to you that August seems to have been a month where people went away, they took holiday and everything came becalmed. And when everyone returned in September ... and the first note we have, 3 September, that it then seems to have rushed into a crisis that then was ... I just ... I put it to you, that's what it feels like from the documentation.

Mr. Kevin Cardiff: No, no. I ... I ... I can understand why it would feel like that, but what actually happened at the very start of September was a ... there was a trigger. Certainly on the ... on the ... on the financial sector side there was a trigger. And the trigger was that ... Reuters published ... Irish Nationwide received a credit rating downgrade. Not a good thing, but not in any sense fatal. But Reuters ran a story and their story was ... their story was "Irish Nationwide about to be liquidated." This was a trigger point because that could cause a run ... and it could cause a run on Irish Nationwide, this was a Friday, it could cause a run the next Monday. And, in a sense, in our minds that was ... you know, this was the point. This was ... well, this is, "Okay, lads, this is what we have been getting ready for, this is what we have legislation for. We know now there has to be a series of meetings, we know there are a series of steps and we know that since we now have a specific case, the preparation will have to accelerate and become very specific." Up to then, we knew we might be preparing for something, but we didn't know what.

Senator Susan O'Keeffe: Yes.

Mr. Kevin Cardiff: Certainly, it looked like we were preparing for a building society in a great deal of difficulty in potentially two or three days. So I think that's why on ... certainly on the financial sector side, that's why you see a sudden rush. It's because of that trigger. And that ... if that trigger had happened mid-August, you would've had the same rush in mid-August.

Senator Susan O'Keeffe: It just does seem as if all the figures ... everything was steadily getting worse and worse and worse and then there was a calm in August and then everybody came back to work. That's how it appears.

Mr. Kevin Cardiff: Well, yes-----

Senator Susan O'Keeffe: But I hear what you-----

Mr. Kevin Cardiff: Well, but in a sense, Deputy-----

Senator Susan O'Keeffe: Yes.

Mr. Kevin Cardiff: -----it was almost a relief. It was almost a relief because suddenly you knew you had something more concrete to deal with. Up to then, it was ... it was this miasma of potentials and now you had something specific to act on.

Senator Susan O'Keeffe: So the Reuters story almost helped-----

Mr. Kevin Cardiff: Yes.

Senator Susan O'Keeffe: -----if you like, to-----

Mr. Kevin Cardiff: Because-----

Senator Susan O'Keeffe: -----pierce that-----

Mr. Kevin Cardiff: Because we had a week or two working on Nationwide, which was a small problem, before the huge problem of Anglo became as evident. And that meant we were two weeks ahead. So, a lot of the set of practical steps I was talking to you about about Anglo, those were worked out for Nationwide.

Senator Susan O'Keeffe: At that meeting, at the weekend ... there were several meetings at the weekend of 7 September 2008-----

Mr. Kevin Cardiff: Yes.

Senator Susan O'Keeffe: -----where the banks came in and they met the Central Bank and Financial Regulator to talk about potentially rescuing Irish Nationwide in some way, shape or form. The minutes taken by both of the banks from that meeting would suggest that things were very bad indeed for INBS in talking about a hole in the ... on page 132 of Kevin Cardiff's Vol. 1, it talks about, "The banks reiterated it was not a realistic proposition for either institution to provide unsecured funding for an entity that had a hole in its balance sheet which would exceed its reserves," and a Bank of Ireland document also suggests that there was a funding gap of €4 billion. So, at that point, at the beginning of September, those two banks, in their assessments, assessed INBS as being in a very perilous state, I think. Was that information clearly communicated back to you, because I know that you weren't at that particular meeting?

Mr. Kevin Cardiff: Well ... so it's a recollection of something that didn't happen. But no, as far as I can recall, that never happened. We got a message-----

Senator Susan O'Keeffe: I'm sorry, what never happened?

Mr. Kevin Cardiff: The clear communication back that they believed that INBS had this hole. Okay, now, what I got back was a different message. What I got back was a message that they were concerned, that they were not in the mood to take on this problem, that they thought its property book had some real problems, but I saw absolutely no quantification of it and, indeed, when I was looking through the documents, and you have it here now, it wasn't clear to me whether their minute implies that they even told the regulator at the time that this was their view. This seems to be a discussion that they had afterwards. So, "No" is the answer. They didn't say ... at least no one told me that they said that INBS had a hole in its balance sheet to that extent but they were certainly signalling some issues. And for us, remember, this was important, not because of INBS which was, as I said, a small problem, it was important because if they were saying that about INBS, were there things we were ... started to ask ourselves were there things that they know about the property market from their own books that they haven't told us? So, this was our worry.

Senator Susan O'Keeffe: So at that meeting... this was a crisis meeting that took place on a Sunday. Allied Irish Bank, Bank of Ireland, the Central Bank, the Financial Regulator - and that was Tony Grimes and Pat Neary and Con Horan - and you're saying that what was communicated ... or what was discussed at that meeting was not clearly communicated back to you and this was at the beginning of the serious crisis. Is that correct? Have I understood that correctly?

Mr. Kevin Cardiff: Well, I just want to be specific. I wasn't there so I don't know how it was discussed so I don't know what was ... whether what was discussed was-----

Senator Susan O'Keeffe: No, but you never saw any minutes back from the meeting, or you were never told, "These guys say that INBS is in a serious state." That's what I'm asking you.

Mr. Kevin Cardiff: Okay, yes. I think I've already said these guys said that INBS had serious problems in its property book, but no quantification, no suggestion that it would run through their capital was made, that I can recall to me. And I was, I was sitting in a room outside, it wasn't like it was, it was three hours between the time this meeting happened and the time I heard about it. I was down in Dame Street. The reason this meeting happened was because I insisted on it. I insisted on it because the plan was always private sector solutions first. Now I didn't really, in my heart, think that although they might have implied it in the past that two banks were going to come to our rescue at their own risk but that was always the plan. The plan was private sector solutions first, so I wanted at least to make sure that we had explored that option.

Senator Susan O'Keeffe: On page 1 of your own ... what I've called the long statement, you refer to your ... who ... the secret team, the secret work that you were doing. Was there a secret team and, if so, who was in it?

Mr. Kevin Cardiff: Well, the secret work was the work on the banking preparations. I mean, we were-----

Senator Susan O'Keeffe: And who was doing that work with you? Sorry.

Mr. Kevin Cardiff: It was a very small team, myself reporting to the Secretary General, obviously. Below me William Beausang was the assistant secretary. Michael Manley was the principal officer and two or at most three people, I think, below that. The reason it was secret was because we were afraid that at any point the knowledge that there was a team working on a banking rescue might trigger a run on a bank and we were ... well, it was handy. The fact that the budget had been brought forward meant that there was lots of people in the building late at night, which meant that, you know, our team could work under cover of that. I did remember once a colleague from an entirely different ... who happens to work very late hours at all times tugging me on the elbow and says ... saying, "I see a lot of people around here who only work on banking. I know what that means, but I won't tell anyone." So we were trying to do it under cover of other things.

Senator Susan O'Keeffe: Did Minister Lenihan know about this secret group?

Mr. Kevin Cardiff: Look, it's a hierarchy, of course, yes.

Senator Susan O'Keeffe: Yes. I'm just-----

Mr. Kevin Cardiff: Minister Lenihan was deeply involved at all stages and it wouldn't have been and shouldn't have been otherwise.

Senator Susan O'Keeffe: And the Taoiseach also?

Mr. Kevin Cardiff: Oh yes. Well, because there were a lot of ... this work started back in ... back when the Taoiseach was the Minister for Finance.

Senator Susan O'Keeffe: Okay. What was the purpose of your meeting with Tiernan O'Mahony on 25 September? He was the former head of treasury at Anglo?

Mr. Kevin Cardiff: He requested a meeting. I said yes. Tiernan O'Mahony was the chief executive of a company that had run into trouble. But he was, by repute, and probably was genuinely, an expert at raising funds for banks. And since we had a bank liquidity crisis, the notion that you would have a meeting with a person who was expert in raising funds for banks is hardly surprising. If a person of that sort rang me even today and said ... if I was still in the

Department, and said "I would like a meeting," you would take that meeting. When he arrived, and I can only go on the notes, because I didn't ... I don't actually recall the meeting. I remember meeting Tiernan a couple of times, but I've no recollection ... I had no recollection of this specific meeting until a year or so ago. Someone ... well, just before I left the Department of Finance someone showed me the note that I had taken. But the note makes clear that, among things, that we talked about money raising, and he suggested a sort of a broad Government guarantee.

Senator Susan O'Keeffe: Did he come to talk to you about Anglo?

Mr. Kevin Cardiff: I don't ... well, I just said, I don't recall the meeting except from my notes. I don't believe that he came to talk specifically about Anglo, no.

Senator Susan O'Keeffe: Did you meet anybody else in that kind of time zone, people like Mr. O'Mahony who were working in the financial sector? You've said it was perfectly reasonable for Ministers to take advice from, if you like, outsiders. Were you doing the same thing and, if so, who did you meet?

Mr. Kevin Cardiff: I'd have to check notes but we met various people ... when I say ... me, myself, my bosses and so forth. So I remember that there were meetings in the Department, whether Ministers were involved or not, with Sean FitzPatrick, Gillian Bowler, I know there were phone calls with Brian Goggin, there was that meeting with Tiernan O'Mahony, there was ... I've a recollection, though I'm not clear if I'm just mixing it up with the Gillian Bowler. Also there was Denis Casey, the Central Bank had a series of meetings with each of the main banks, formal meetings to ... around the same time, and reported those back. So I just don't want to confuse meetings I heard about with meetings I was with. There was obviously the meetings in the Central Bank early in the month about the ... about INBS. I think that Mr. Walsh, who was the ... was it Walsh, who was the chairman of INBS either had a meeting with or a conversation with David Doyle and there's a document on that. Anglo passed us in a document about themselves. That's all that comes to mind at the moment, but that's ... but yes, that's the kind of thing that you would do. At the same time there was all sorts of ... a sort of a way of doing it; people would sort of ring you up and say, "My name is X, I'm a high-powered executive in such and such a bank with a very big name and, sure look, if you need any help, not saying you do, but if you need any help you know where we are."

Senator Susan O'Keeffe: On the night of the-----

Mr. Kevin Cardiff: So there were lots of those phone calls as well.

Senator Susan O'Keeffe: On the night of the guarantee, you say in your statement that the Taoiseach raised the issue of a broad pre-emptive guarantee early in the discussion. Can you say if there was an analysis presented with that or a comment or a paper to support that view or was it just a verbal statement?

Mr. Kevin Cardiff: Not a paper. But we had been discussing it as one of the options, so it wouldn't necessarily have needed-----

Senator Susan O'Keeffe: Yes, no, I'm talking about the Taoiseach, whether he had-----

Mr. Kevin Cardiff: He didn't present a paper. He ... an awful lot happened that night and don't take me at my word on the exact sequence but my recollection is he started the meeting more or less along the lines of, "Look lads, we have this big problem" ... a very calm meeting incidentally, and quite professionally chaired and so forth, even though the pressures were huge. He started the meeting along the lines of, "Look lads, we need a good broad solution that has a real chance," more or less along the lines of what I said in my statement, "that has a real chance of changing the trend, of doing one big job that will be somewhat comprehensive." And it became quite clear in his discussion that, you know, what he had in mind by that was quite a broad guarantee. Now, he didn't say "And here's the list of things." That ... the list of features emerged later in the discussion. But that took me ... not took me back, because it was one of the options, but it surprised me a bit. I thought the meeting would go somewhat differently, where he would say, "Okay, Department of Finance or Central Bank or whatever, you start from scratch and build up." But actually he had a view, I think, from the start. Now, I've read since, I didn't know at the time, but I've read since that there was a ... some level of discussion at the very least of this option at the Government meeting the day before, which is perfectly appropriate and natural. So maybe that was, that was what was generating that. But, I mean, frankly, it was good. Here we were, we had been talking about options for quite some time and now we had someone who was saying, "Let's make decisions."

Senator Susan O'Keeffe: In your statement when you say, "They [meaning the banks] explicitly sought a very broad guarantee, and [they] provided a suggested wording." Do you recall which or ... of the banks, or who provided the wording in the document, and if so, where did that document go in the end? Was it filed somewhere?

Mr. Kevin Cardiff: Well, I have an impression of who handed it round, Deputy, but I'm not sure I'm right. It came from the two banks. My impression was more likely it was AIB that was more on top of this particular wording, so maybe it had come from them. But it was being presented as the banks' view. Where it went I just don't know. I've looked for it. I can't find it. And I looked for it some years ago. Probably ... this was sort of almost like a Government meeting, so I would surmise that, as happens with Government meetings, at the end of the meeting whoever is running it takes up papers, and if they don't look like they should be put out on the street they get destroyed in favour of the official record. But I'm just surmising. I had a ... I have no concern with the ... with the notion that the banks would give us such a draft. I did later have a little bit of concern about the content of it, which I've explained in my statement. But to the very best of my recollection it was one document and it came from the banks. It certainly wasn't generated by us and then handed to them.

Senator Susan O'Keeffe: And it was a document, that's your recall?

Mr. Kevin Cardiff: It was a short document, yes.

Senator Susan O'Keeffe: Before I, before my last question, which is about you looking at that guarantee, do you recall, as was reported by the journalist Pat Leahy, that at one point at the meeting on that night, the Taoiseach said, "We are not effing nationalising Anglo?"

Mr. Kevin Cardiff: It would be a lie to say that I never heard the Taoiseach use the F-word, but I don't remember that specific turn of phrase. But it was clear at a particular point in time, that he had ... I don't think that happened, I don't think it happened in that way. I mean, I mentioned, round about, it must have been midnight, it must have been nearly midnight, that, even at that stage, I said to him, "Look, if we're doing a nationalisation, I need a few hours to get it ready - a few months would be great, but I need a few hours." And he said, "Look, Kevin, I'm not going to be rushed." He didn't say, "Eff off, Kevin"; maybe he did, but I wouldn't have, maybe I'm immune to that, but he certainly didn't. There was no tone to it, there was no sense of, you know, "How dare you." So I don't remember it; if it was said, it, maybe it was, but certainly there was a point in the evening when the ... the decision was made. And honestly, to my mind, it's a bit of an irrelevance in what tone the decision was made, so long as it was made.

Senator Susan O'Keeffe: And I'm sure others will ask that. In terms of your own statement, you talk about being asked then to draft, and you were using the wording of the banks' own guarantee, and you say you sat down, you were at your computer, and you realised that if you carried on using their wording, you know, it would not be appropriate. You said that in your opinion, "The banks would be laughing at us if we did that." What was it you did to the statement to change it? I think you went to talk to the Taoiseach about it. What happened?

Mr. Kevin Cardiff: I went to the Taoiseach, I said, "Look, Taoiseach, there are turns of phrase in this short draft that to me mean that if we, if I use it, we will end up giving a guarantee that is even wider than the one we have just discussed."

Senator Susan O'Keeffe: And in what way? Can you remember, Mr. Cardiff? By what do you mean, like, by "wider"? Giving more to the banks?

Mr. Kevin Cardiff: Yes. I'm ... I have a specific recollection which is probably wrong, because, seven years on, specific recollections are not to be trusted.

Senator Susan O'Keeffe: Well, give a go at it.

Mr. Kevin Cardiff: But I'll give it to you, I'll give it to you nonetheless. My recollection is that there three features, and I can remember what I think two of them were, if my recollection is correct. One of them was that the banks' wording - we had a two-year limit - the banks' wording, as far as I can recall it, would have said that any new borrowing in the course of that two years would be guaranteed for the full extent of its term; and the second thing, and I'm less clear on this, but I still think I'm correct, it was my view that the wording, just through a turn of phrase, would be such that any existing long-term borrowing, at the time of the guarantee, would also be guaranteed not just for the two years, but for its full term. Now, remember, this is not that the banks did something dreadfully wrong in giving us a draft. It was that, if you're in a negotiation, it's not a good thing to take the other side's draft uncritically. And I think this was a minor incident in a very big night, but the reason I mention it is because that the public has this view that the banks walked in, told ... said what they wanted and got exactly what they wanted. It wasn't like that. In fact, the decision to give them a guarantee was not fully made, but I think it was certainly in the minds of the Taoiseach long before that evening started. Certainly at the very beginning of the evening, long before the banks came in, at nine o' clock or ten o'clock or whenever it was. So it wasn't that the banks came in, that no-one had done anything and the banks came in and said, "Guarantee" and everyone said, "Oh yeah, okay". It was a different sequence. And my reason for mentioning that story of what I actually said, to the best of my recollection is to the Taoiseach, was, "They'll be laughing at us", was simply because anyone would laugh at you if you take their draft and you don't critically analyse it.

Senator Susan O'Keeffe: Yes. And finally, Mr. Cardiff, do you believe that Anglo Irish Bank had an influence on the Taoiseach that caused him to believe that he was not going to nationalise the banks at that point ... nationalise Anglo Irish Bank at that point? Do you believe that there was an influence there?

Mr. Kevin Cardiff: Excuse me ... I dealt with him for a long time, and I believe he was influenced, as anyone should be, by information that came to him, by discussions he had, but the implication of the question maybe - and it's a fair question - was was there some special influence there, and I never saw it. You know, I could invent incidents, I could look at a whole series of incidents and say, “Oh maybe that, and maybe that”, but in the round, I think, and still think, that the man was doing his best for his country, and I don’t think he was trying to do his best for anybody else.

Chairman: Thank you very much. I just want to deal with one matter there with regard to the NTMA before I bring in Deputy Doherty, Mr. Cardiff. It’s reference document DOF, KCA, and it’s coming up on your screen there, it’s actually ready to go, I think, at this moment. It relates to, it’s about midway down the page, it says:

> In the NTMA, Brendan McDonagh and John Corrigan were my principal contacts at this stage, and they were briefing their CEO, Mr. Michael Somers, on a daily basis. For a part of this time, John Hurley was missing while recovering from the Oireachtas [*sic*] [and we’ve discussed that earlier with Mr. Hurley] it was a relief when he came back in because the Dame Street system clearly worked better when there was a single person to co-ordinate.

In this regard, if I could maybe ask you, Mr. Cardiff, is it your view that senior staff at the NTMA were aware of the range of policy options being considered and analysed, including a guarantee, prior to the decision on 20/9/2008?

Mr. Kevin Cardiff: Okay. There was, I think, a meeting in April or May, about options in general, which the guarantee would have been discussed, but was never suggested that it would be ... it would be something ... that guarantees in general were discussed. In September, according to ... I had a notebook that I was using as my sort of jotter, and I’ve had access to that since, so that notebook has a note of a discussion with Dr. Somers, sometime around 11 or 12 September 2008, in which I said on the phone to Dr. Somers-----

Chairman: What date was that, Mr. Cardiff?

Mr. Kevin Cardiff: About 11 or 12 September. I said to Dr. Somers, “Look, people, people are talking about this option; what’s your view?” And got, the next day, just an informal view back that, well, it might have an adverse ... it might look bad in the market kind of thing, but, that’s not to say you mightn’t consider it in certain circumstances. So there was that, then ... from then on the NTMA was our, as the Department of Finance, our closest advisers, very welcome advisers, and there were detailed discussions on almost every option. So, yes, as the idea of the broad guarantee developed, they were involved. Dr. Somers was not only talking to me, he was talking to Mr. Doyle, I think, he was talking to Mr. Hurley, I know, because I have a note of it, so I can’t imagine that there was any possible way in which he didn’t know that this was one of the options. And, indeed, it was discussed at meetings he was at on 18 September, and again later, I think, I’m pretty sure, and he knew that his staff were attending meetings about these issues also. For example, I have a note somewhere that says, you know, “Meeting such-and-such a date, would have been 25 or 26 September, Dr. Somers has decided to send Mr. McDonagh.” So they became our principal banking advisers in September, and they were engaged in all of the discussions. I mean, there might have been a moment when Brendan wasn’t there or John wasn’t there when I was there, but we were talking all the time; it was ... it was an intimate, almost, relationship.

Chairman: Okay, so maybe you can explain to this committee, then, Mr. Cardiff, because Mr. McDonagh, in earlier testimony to this inquiry, said that the NTMA got a telephone call on the eve of the guarantee, that they arrived some time in the evening, to Government Buildings, they were approximately four or five hours outside a door, they were unsure as to what their purpose over there was, and that they were consulted on one occasion in the course of the evening, Mr. McDonagh and another official, and that was to get information with regard to the broader implications of the guarantee with subsidiaries of the banks that would be covered by it, by subsidiaries that might be abroad, and would they have to be covered. If the level of involvement with the NTMA that you're talking about now, prior to the eve of the guarantee, is operating at that intimate level, how was it that the NTMA were outside the door for the ... when the decision was actually being made and, from the testimony that this inquiry has that the only consultation that took place on that night was very much of an ancillary issue, not the substantive one?

Mr. Kevin Cardiff: Well, I don't know how that view is formed. I don't ... I was in the room. So, I don't know what Brendan was doing outside. There were people who had been in the room who were outside. People who were in the room outside were in the room and so forth. Now, part of the issue might have been that I think it was ... it was probably 9.30ish when Brendan arrived. I say this as if I can recall such things but in fact I checked the door logs in the Department of Finance ... so. The door logs show someone from the NTMA coming in around, you know, late that evening. I also checked my phone logs which don't say what happened in any phone call but there seems to have been three or four attempts to contact Brendan and finally obviously, I got hold of him. So, I was certainly trying hard to have NTMA advice available and indeed, I also telephoned ... both telephoned and e-mailed the Merrill Lynch people.

Chairman: I'll just deal with the NTMA business now and I take on board what you're saying there, but Mr. McDonagh in his testimony to this inquiry is that he and another official from the NTMA ... it wasn't anybody was trying to find them, they were in a room in proximity to where the discussions were located and that the only engagement that was discussed that night was an ancillary matter as to the extension of the guarantee for subsidiaries of the bank.

Mr. Kevin Cardiff: There's no inconsistency there. In order to be in that room, someone had to go and get them and tell them, "You should be in the room-----

Chairman: For what purpose?

Mr. Kevin Cardiff: -----you should come in".

Chairman: So why were they called?

Mr. Kevin Cardiff: Since it was me that was calling them and since I was relying on them as part of the team, I'm sure I called them because I was thinking, "Big things happening tonight, you'd better come in."

Chairman: And the only discussion that took place was the ancillary matters as to how far the guarantee would extend to subsidiaries of AIB and other banks. So, was that the only requirement, in your view, that was required of the NTMA on that evening given that extensive discussions, you're saying now, were taking place with Mr. Somers?

Mr. Kevin Cardiff: Well, I wasn't controlling who was in or who wasn't in the room. That was ... it was the Taoiseach's meeting and at one point I wondered would I be in there or not but------

Chairman: What was the purpose of ringing Mr. McDonagh to get him over there? Was there a view ... it was just to have him inside in the room or was it that we need to speak to NTMA about specific matters?

Mr. Kevin Cardiff: Well, it was ... I rang him.

Chairman: Yes.

Mr. Kevin Cardiff: And while I ... I mean, I don't want to invent a memory-----

Chairman: I'm sure you don't, yes.

Mr. Kevin Cardiff: -----but it was a reasonable supposition that I wanted him there because I trusted his judgment and his advice and I wanted him around.

Chairman: And was it used on the night?

Mr. Kevin Cardiff: Oh, yes because remember, we had these discussions before------

Chairman: But on the night, was------

Mr. Kevin Cardiff: Well, that's what I'm saying ... on the night, the Government had the advantage of the NTMA and Merrill Lynch's views because the people in the room had been talking to them over the previous days and I presented ... I certainly made sure that the ... the fact that the NTMA/Merrill Lynch, the team, had a different view was presented to the Taoiseach, the Minister, the attorney, who were all in the room.

Chairman: Was there any other discussion other than discussion that Mr. McDonagh has given to this inquiry and I presume that you are familiar with the testimony that he gave? Was there any other discussion or any other advice or any other matters drawing upon the NTMA that evening, other than what Mr. McDonagh has told us which is, "Wait for approximately four hours - a brief discussion with regard to the extension of the guarantee in those areas", and that was it?

Mr. Kevin Cardiff: Okay. Just to be clear, waiting for four hours for a Minister is not an unusual event for a public servant.

Chairman: Okay, but the NTMA now are the nation's bankers and you're saying they'd a very, very pivotal role in the lead up to this and all the rest of it. These are not some sort of ... even with Merrill Lynch with fairness to them, this is the NTMA, this is the nation's banker. They're outside the door for four hours.

Mr. Kevin Cardiff: I was the second secretary general in the Department of Finance and I've often waited four hours for a Minister, I can tell you.

Chairman: Yes.

Mr. Kevin Cardiff: So, the fact that you were waiting, was not an issue. The issue was, was your view represented. I tried to represent the view of the technical teams that had been working. If Brendan's view was not sought directly, it was because the people leading the discussion either thought they knew what it was or they thought that they didn't need it. What I suspect it was, was that they thought they knew what it was. And remember there were people in and out and I ... because ... I was in an out myself a little bit because I was mostly in the room, I don't know what information Brendan was getting. But, for example, William Beausang, who was in the room with Brendan, had been at the start of the discussion in the room ... now ... look, you're asking people to remember conversations or non-conversations of seven years ago. There is a clear difference, I think, between what I'm giving you as evidence and what Brendan said. But

Brendan was a man of great integrity who was trying very hard to be helpful at a time when not everybody was, and I don't think, you know, I don't think he's making up this story, I think he just has a different recollection to the one that seems most likely to me.

Chairman: Okay. Deputy Doherty.

Deputy Pearse Doherty: Go raibh maith agat, a Chathaoirligh, agus fáilte roimh an tUasal Cardiff. Thanks for your extensive reading material. Can I just go back to what Senator O'Keeffe was talking about in terms of the AIB document that was provided. Can you just quickly answer a couple of questions? Was it a one-page document or was there a number of pages in the document?

Mr. Kevin Cardiff: It wasn't even a one-page document.

Deputy Pearse Doherty: It wasn't even a one-page document, okay. And did they provide one copy or was there other copies provided?

Mr. Kevin Cardiff: To the best of my recollection, there were copies handed around. I don't know whether they provided them or whether someone went off and made a photocopy but ... yes.

Deputy Pearse Doherty: Okay. And can I ask you just how certain ... bearing in mind, we're trying to recollect events that happened, because there has been evidence given under oath that a document wasn't provided. So, how certain are you that the banks provided a document outlining the type of guarantee that they wanted?

Mr. Kevin Cardiff: I suffer, Deputy, from the fact that many years ago in a psychology course in studying with a woman who was the world's leading expert on witness testimony - she explained to us just how bad witnesses tend to be. So, I'm trying to be very careful.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: Witnesses, it turns out, and I read 50 papers on this ... turns out are not reliable, just not because they're dishonest ... just because the passage of time-----

Deputy Pearse Doherty: Of course.

Mr. Kevin Cardiff: -----and other events ... so ... but my story about going to the Taoiseach and saying, "This draft doesn't work", it's a very specific story.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: And it seems unlikely that I was ... you know ... unless I was inventing which I'm not, it seems unlikely that I would have that recollection unless that happened.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: And that couldn't have happened, unless there was a bank draft.

Deputy Pearse Doherty: Okay and the 12 drafts of the statement that you mentioned in your opening statement that were created, were any of them circulated or were they saved on your computer, or were they just ... was it an open file that kept continued to be edited?

Mr. Kevin Cardiff: It was probably an open file. I was sitting at the computer of a guy called Joe Lennon who was one of the Taoiseach's advisers simply because his room happened to be next door. I think Joe or someone else was going in and out. I might have been in and out myself but that it was an iterative process.

Deputy Pearse Doherty: So, none of those documents were ... none of those drafts were circulated at any time to the meeting ... any of the 12 drafts?

Mr. Kevin Cardiff: Oh, no, they were all circulated at the meeting.

Deputy Pearse Doherty: Oh, they were ... so ... okay.

Mr. Kevin Cardiff: So ... how ... you wouldn't do a draft and then what would happen. No-----

Deputy Pearse Doherty: It wasn't a case of people crouching over a laptop and looking at the screen and working on an open document?

Mr. Kevin Cardiff: No ... and I say 12 because my recollection is about that many but there were minor differences. You'd change a word, you'd send it back in and they'd say, "Okay, but what about this."

Deputy Pearse Doherty: Okay. Who would have been in charge of the meeting that would have the authority to destroy documents as you outlined earlier on?

Mr. Kevin Cardiff: Well, I'm not ... I mean ... be clear, I didn't say that the documents were destroyed. I said that my surmise is that, as part of a routine practice, documents left behind ... they wouldn't be just left around ... so they would be ... and in the Department of the Taoiseach where they take these things seriously, you know, they would probably be put in a confidential waste pile or something so as to be probably destroyed. It's just a security thing so, it wouldn't require authority, it would be routine, if my surmise is correct.

Deputy Pearse Doherty: But who would be the person that would make ... like ... this wasn't a Government meeting. Would you agree?

Mr. Kevin Cardiff: Well, I agree now because I think the legal advice has shifted a bit on it since but it was certainly a meeting of certain members of the Government with others.

Deputy Pearse Doherty: Okay. So, we know ... we don't have access ... well, to my knowledge, we don't have access to any of the 12 drafts or thereabout of your statement, we don't have access to the AIB document in terms of the guarantee. So, either they are lying somewhere in the Department of Finance or they were destroyed. The question I would ask is who would actually, at that meeting, take the decision? Who takes that decision to, "They're the papers from that meeting. Therefore, I will take the decision that these aren't relevant for the future and let's dispose them?"

Mr. Kevin Cardiff: If it was a decision ... well, the meeting was in the Department of the Taoiseach, so I suppose the Secretary General to the Government, who was there, would be, if you like, in charge of the place but you are saying who would take the position? I'm not saying that there was a decision, I surmise what might have happened.

Deputy Pearse Doherty: Okay, okay. You say in your statement, "We already knew", this in relation to the bankers coming in and informing their view of the banks. You say in your statement, "We already knew they were in trouble." Can you explain how you knew and who communicated that information to you and what detail did you have at an individual bank level or an aggregate level of the issues within the bank in terms of liquidity?

Mr. Kevin Cardiff: Okay, well, at the most basic level, if you didn't know it from anyone else, you'd know it from Joe Duffy and George Lee two weeks ago ... two weeks previously who had been running big stories about how all the banks were in trouble. Not accurate, but not very helpful. At a more specific level, you'd know it because you ... we saw what was happening in the banking system after Lehmans. We knew that banks internationally were having great trouble getting funds. We knew that the banks, Irish banks ... some were already very close to out of money and, for others, they still had money, but the term was getting shorter. So, even back in ... in June what was happening was that the person who six months ago would have given you money and they would have left it with you contractually bound for six months and then they were saying three, and then they were saying one, and on that night, after the point when we already knew they were in trouble the banks were saying to us, "Actually, now they're only leaving it to us overnight."

Deputy Pearse Doherty: No, my question, Mr. Cardiff is-----

Mr. Kevin Cardiff: So there was a ... there was a build-up of information over time.

Deputy Pearse Doherty: Yes, but my question is you are saying you knew after the bankers came in and told you that Anglo were going to default the following day.

Mr. Kevin Cardiff: No. No, no, no. Hang on, they ... they might say that but we knew that Anglo was going to default-----

Deputy Pearse Doherty: But that's my question. How did you know?

Mr. Kevin Cardiff: Sorry.

Deputy Pearse Doherty: That is the question I asked you. How did you know? Who told you and what level of information did you have in relation to Anglo going to default the next day?

Mr. Kevin Cardiff: Okay, so ... excuse me for the confusion. The Central Bank told us; Anglo told us, because they had asked Central Bank for money the next day. They said, "Look, we no longer have any cash, please give." They'd asked in the middle of the month for a €7 billion facility. So that was an ... pre-notification, if you like. We had pressed and the regulator had done it. We had pressed that someone would be sent into Anglo to look at ... start looking at their loan book, but also to look at their liquidity position. So we had a ... I believe a document from PwC. Certainly that day, I'm sure you have it but we had e-mails from PwC saying, ''We're in.'' And for both Anglo and Irish Life and Permanent they said, ''Here's our current position as far as we can ascertain it'', pretty accurately, "and here's how the next week looks", best case, worst case and so forth. And worse case actually-----

Deputy Pearse Doherty: Okay-----

Mr. Kevin Cardiff: -----could even have been worse. But so ... so, excuse me for the confusion but there were three or four different sources of information, but all arranged from within the official system as well as what the bank, Anglo itself would have been saying-----

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: -----to the Central Bank.

Deputy Pearse Doherty: From evidence already given to the committee, it appears that the NTMA - and I want you to just either clarify this or agree with this - the NTMA, Bank of Ireland, AIB were opposed to a blanket six-institution guarantee, and Merrill Lynch advising against such a guarantee. Would that be correct in your view so far?

Mr. Kevin Cardiff: No.

Deputy Pearse Doherty: No. Okay.

Mr. Kevin Cardiff: Okay. Let me ... let me run through them. NTMA, Merrill Lynch, some elements of the Department of Finance were advocating for a nationalisation of Anglo with guarantees for Anglo, because there was no point just nationalising it. If it was going to fall apart the next day, and I think, just don't get me wrong, but certainly some level of strong public statement of support for the rest of the banks in the same way as had already happened or was about to happen in France, Germany and a range of other countries. The banks themselves came in and they said, "Deal with some form Anglo and ... or Anglo and Nationwide and give the rest of us a guarantee." Now, why I said "No" to you is that and is that I don't believe it is particularly likely that they wanted Anglo and Nationwide to fall apart that day. So they must have known when they advocated a guarantee for themselves that whatever was going to be done with Nationwide and Anglo would either involve a guarantee or amount to a guarantee. Because-----

Deputy Pearse Doherty: Yes, well, see-----

Mr. Kevin Cardiff: -----I mean the notion that Anglo would fall apart and it wouldn't hurt them-----

Deputy Pearse Doherty: No, I know that. Mr. Cardiff, see when we talk about broad guarantees and it's probably important that we define this because we can .... within broad guarantee there is a number of different versions. And it would probably best helpful to ask about the political guarantee and the legal guarantee because what has been suggested in evidence is that if there was a political guarantee you would be able to nationalise ... keep the bank going until the weekend and then take the bank down through ... through some type of resolution mechanism or some ... so there is a difference between that. But I'll ... I'll move on to ask you can you outline the individuals and organisations who suggested that a broad legal guarantee approach before the night of the guarantee? Who sought the views of those individuals and organisations? You mentioned that they had come forward. You mentioned some to Senator O'Keeffe.

Mr. Kevin Cardiff: Okay, well I ... if you don't mind, I'll steer clear of people I just think I remember and stick with the ones I know for sure.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: Okay. End of April, Sean FitzPatrick.

Deputy Pearse Doherty: Legal guarantee or political guarantee?

Mr. Kevin Cardiff: Some guarantee.

Deputy Pearse Doherty: Some guarantee. Okay. And that was to who?

Mr. Kevin Cardiff: To John Hurley.

Deputy Pearse Doherty: To John Hurley. Okay.

Mr. Kevin Cardiff: John was ... was trying to be ... I saw his evidence. I have a note of what he told me.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: So ... so John-----

Deputy Pearse Doherty: And John is prevented from saying some of this stuff while you aren't.

Mr. Kevin Cardiff: Well, I'll tell you lots of things that he told me.

Deputy Pearse Doherty: Yes, yes.

Mr. Kevin Cardiff: So that ... a few days later, maybe a week later somebody and, unfortunately, and in my notes it just says DD suggested the idea of a broad guarantee ... I'm not sure whether legal or political, quite possibly at that stage political.

Deputy Pearse Doherty: And your ... your impression of who DD is?

Mr. Kevin Cardiff: Now, look, so there's two people it could be in my mind. But it's not fair. I mean maybe I say the wrong name and then somebody is-----

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: So, let's just stick to somebody-----

Deputy Pearse Doherty: Okay-----

Mr. Kevin Cardiff: -----it had to be someone of ... of-----

Deputy Pearse Doherty: Okay-----

Mr. Kevin Cardiff: -----substantial presence in the ... in the financial sector or I probably wouldn't have been-----

Deputy Pearse Doherty: Okay-----

Mr. Kevin Cardiff: -----it wouldn't have been referred to me. So DD whoever that was. And I'm sorry I ... as I say, I have an impression of who it was but if I'm wrong I'd be ... it just wouldn't be fair.

Deputy Pearse Doherty: And was that to John Hurley again?

Mr. Kevin Cardiff: Also to John Hurley.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: A lot of these approaches were to John Hurley. May ... 23 May, I think, to me. I was at a seminar at which Charlie McCreevy was speaking and he said, "Kevin, look I think you need to make some sort of broad statement." So political.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: He said, "I think it's coming time, if not now, eventually." In July, there was a meeting of some sort with ... with Davy stockbrokers. I can't remember just now who, but I probably could find it in notes, if was necessary. And they said, ''Look lads, probably if things get worse, you might consider a guarantee so why don't you just do it now?"

Deputy Pearse Doherty: Davy were Anglo's stockbrokers as well, were they? They were the main stockbrokers for Anglo?

Mr. Kevin Cardiff: You've been working on this a lot more than me lately; I don't remember.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: But, I bow to your superior knowledge and great research. But they were stockbrokers for a lot of people-----

Deputy Pearse Doherty: Yes, yes. Okay-----

Mr. Kevin Cardiff: -----it wouldn't be you know, there's only two or three big stockbrokers. There's Davy. Into September at some point, I've a clear note and it's clearly at one point in my book which suggests it's quite early in September. It is certainly in the first half that Dermot Desmond rang John Hurley and said, "Look, I'm in this market, I see things happening. I think you might need to consider this guarantee thing." And again, I don't know whether he was talking legal or political. He probably wouldn't be said.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: Now, this was ... this is second-hand information. So this was John Hurley told my boss, Dave Doyle, and Dave Doyle told me.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: And I only know this because of my habit of scribbling in my jotter.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: Then my only reason for doubting the date was because John was ill at that time. So maybe it's later.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: But certainly in September. Then in ... a day or two later I ... a day or two after the time I think that conversation probably happened, I spoke ... I had the conversation I talked to you about with ... with Michael Somers, but he wasn't advocating a guarantee or anything like it. He was ... he was, you know, just being consulted. I think then afterwards that my notes would substantiate a ... a suggestion from Gillian Bowler, chairman of Irish Life and Permanent, in a meeting. And my notes also suggest a discussion about it and my recollection is, though it is only a recollection ... a positive suggestion from Brian Goggin around about the 25th or 26th to Dave Doyle who was then the Secretary General. Now my note isn't comprehensive, my note says, you know, "Discussion with Mr. Goggin, not have a bank guarantee." My recollection is he meant ... he was saying, "Can we not have a bank guarantee?", but ... but ... theoretically, he could have said, "Never, let's not have a bank guarantee", but anyway ...

that ... that ... but ... but my recollection is that at that point Bank of Ireland was sort of coming around to it. But all of these were conversations; you wouldn't read too much into them. These were ... of their nature, they had to be a little bit exploratory so I'm not saying that, you know, anyone was nailing their colours to a mast at any of these points.

Deputy Pearse Doherty: Okay, that's very helpful and thanks, thanks for putting that on the record. Can you advise who in the Central Bank kept in contact with the ECB and who ... with who in the ECB? And also, was there contact with Mr. Trichet around the time of the guarantee and was the ECB aware of the policy options being considered by the Government on the night?

Mr. Kevin Cardiff: Yes, I can tell you that with great ... in great detail, but it's probably not ... probably would waste too much of your time. If you just take senior level people, forget ... because the ... the Central Bank is part of the European system of central banks so they're in contact with them, probably, daily. But at a senior level, if you remember since Mr. Hurley was ill, Mr. Grimes was the Governor - not, you know ... he ... in legal terms he had become the Governor for the period of the illness, I suspect ... I suspect that's how it works out legally, so he would have been the principal contact at senior level until the deputy came ... until the Governor came back. And he was at meetings, for example, on the 17th or thereabouts, out in Frankfurt - the regular monthly meetings, I suspect. There's a dinner beforehand and the reason I know the night before they have an informal working dinner, I think so he was in touch with them then. And the reason I know this is because some of the working teams were discussing this and were saying, "We'd better get a message to Tony to say, you know, we need to press on the collateral issue", and the message back from Tony ... so you have the meeting ... and the message back was, "They're not going anywhere on the collateral issue." So there was that discussion around about the 17th.

Now, I also have a fairly specific note which, I think, is in my statement somewhere at the back and it says ... it's headed, "JH after telecon with ECB", so John Hurley, after a teleconference with the ECB. I think I said it's the 28th, it was either the 28th or early on the 29th. It's location in my jotter suggests the 28th but maybe it was early on the 29th. In any event it should be easy to find out when the teleconference took place, and that has discussion of a few issues, the two big issues for Ireland. Issue No. 1, Depfa, Irish-based bank going bust. The same reasons that different ... entirely different type of bank but the same reasons a lot of banks were going bust. Actually, most of their lending was to the public sector around Europe, not that risky, but most of their borrowing was very short ... not most, but a lot of their borrowing was very short term so they weren't able to fund it, they were just running out of cash. Much more the classic liquidity thing than the other banks, the Irish banks, turned out to be. But that was a big issue and, as I recall it, John Hurley was saying, "Hold up now, lads, we've enough troubles without taking on this subsidiary of a German bank", although I suspect he was asked explicitly and he said "No, we're not going there thank you very much. That's your German problem." At the same day he had a conversation ... at the same time there is a note, in my notes, that he had a conversation with Mr. Trichet, and it's a very short note-----

Chairman: What date is this, Mr. Cardiff?

Mr. Kevin Cardiff: So either the 28th or the 29th, so this is a breach of 33AK by proxy. So he reported back to us - you don't seem to mind - he reported back to us that Mr. Trichet had said ... okay ... maybe if you don't mind taking ... you, you have the note there and you have what I say, but I'll say ... so I'll say it in English and then you can check back against my more ... my more specific wording. But, what the message was was that John had said to him, "Look, in Ireland, we've got significant troubles in a few days, in the next few days", and the message back was, "Well, look at what we've just been discussing. The Belgians are looking after Fortis; the Germans are looking after HRE; Ireland has to look after its problems." So the message that was reported to us, and it's consistent with the ... what I've actually written down is that the ECB certainly, and probably Mr. Trichet through this private discussion, but the message back was you have to make sure your own banks are dealt with by your own Government. And I mean I think ... that ... that's my recollection of the message that ... that was passed on. At the same time, I have notes that suggest that there were attempts back and forth to make contact so I don't know if there was an earlier contact or not, but that's a fairly specific recollection and it should help you along I think.

Deputy Pearse Doherty: Okay, and have you any view in relation to the ECB or Mr. Trichet's views in relation to standing behind your own banks? Do you have a view of whether he meant that that should be a legal guarantee, which was not done, I believe, anywhere at that stage, or a political guarantee, which was the common solution that were being used by other member states?

Mr. Kevin Cardiff: I'd be almost 100% sure that he didn't care.

Deputy Pearse Doherty: Right so.

Mr. Kevin Cardiff: Well no, I'm exaggerating but he ... I'd be almost 100% sure that there was no discussion of the specific modes of rescue.

Deputy Pearse Doherty: Okay so-----

Mr. Kevin Cardiff: So I don't think there was any message from Mr. Trichet to guarantee our banks, if that's ... if that's the basis of the question.

Deputy Pearse Doherty: Okay.

Chairman: In a prescriptive sense?

Mr. Kevin Cardiff: In ... in any sense. I think the message was, "Save your banks-----

Deputy Pearse Doherty: Broad message?

Mr. Kevin Cardiff: "Save your banks."

Deputy Pearse Doherty: Yes, okay. Yesterday Mr. Doyle, David Doyle, gave evidence to the committee and he was asked as to whether there were solvency issues expressed on the night of the guarantee. He cited discussions around nationalisation as evidence that there were issues. Can you clarify to the committee were there concerns, or not, around the solvency of any institution, or the future solvency of any institution on the night of the guarantee? Was there any discussions in relation to that?

Mr. Kevin Cardiff: Yes. Okay. I've said in my statement ... the word "solvency" has many different definitions so that's an ... that's an awkwardness.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: On that evening, there was clarity. There was no evidence to the contrary to suggest that as of that moment they not only were solvent, on an accounting basis, but that they had additional capital sufficient to meet their capital requirements ... at that particular moment. There was also a strong view from the Financial Regulator that into the future they were going to be okay; not that they'd have no troubles but that they were going to be okay. There was a ... a rush, in the two or three weeks previously, to get views and opinions as to how their loan book was looking, not because there was a worry about whether they were solvent on the night, actually is a bit of a side issue, because what happened was not a ... the problem ... we didn't lose money that night; we lost it later in huge amounts. So where are they going was the issue. And if I just run through them, the particular issues ... the particular two big ... the banks with the two most issues at the time were INBS and Anglo. There was a ... an exercise to evaluate INBS by Goldman Sachs and Goldman Sachs knew the business somewhat because they'd already been doing work for INBS. The regulator took advantage of that and said, "Okay, so you're in there, you know the business. Now we want you to stop working for INBS, contract with us and give us advice." And INBS, I suspect, agreed it had to be-----

Deputy Pearse Doherty: Mr. Cardiff, sorry, I'm just ... because I have another question, I'm going to be pushed for time, so sorry about this here, because I'm ... I'm aware of Goldman Sachs' work that they've done, and I'm sure it will come up again, but it's just in relation to ... was any concern raised on the future solvency of INBS or Anglo at the meeting-----

Mr. Kevin Cardiff: Well, I-----

Deputy Pearse Doherty: -----by yourself, by Minister Lenihan, by the NTMA's views-----

Mr. Kevin Cardiff: I can say it in two sentences in that terms. One sentence - not on the night. They were not insolvent on the night so far as we knew, in accounting terms. We knew that they were property-based banks at a time when property prices were falling. We, we knew, and I said explicitly, that Merrill Lynch are saying that the Anglo business model is not sustainable into the future. Not saying that they were insolvent, or going to be, but they would not be able to do the same kind of business in the future as they are now. They had, therefore, a real business problem. And, we knew, and said explicitly ... I said explicitly that look, if you do a broad guarantee now there is no choice, not that there was much choice anyway, but there will be no choice but to sustain these institutions, whatever happens their capital position.

Chairman: Final question, Deputy.

Deputy Pearse Doherty: Okay. We may come back to that, that issue later. Mr. Cardiff, you, you say in your statement, in relation to the Minister for Finance, that he didn't trust his ... at least one of his Cabinet colleagues, in terms of keeping information confidential. We know from evidence we have before the committee that Minister Lenihan wrote to the Attorney General in relation to the nationalisation Bill and asked him to circumvent the normal procedures where he would seek approval for that before Cabinet, before he would go to the Attorney General. Did Minister Lenihan confide in you who he didn't trust, and therefore these issues weren't discussed at Cabinet? And can you inform the committee if, if that individual or individuals were, were named to you?

Mr. Kevin Cardiff: First of all I'm slightly shocked, I thought I'd edited that out because I'm not sure it's that relevant. There was a problem at various times that the Minister was concerned that if he put specific information into the, into the Cabinet, it might leak and might undermine our attempt to keep things together. I, I never had a ... any inclination ... indication ... inclination of who he suspected or if it was a particular person he suspected, or just the process.

Deputy Pearse Doherty: The system.

Mr. Kevin Cardiff: But there was that sense, and I said in my statement, I think, if I didn't edit it out, that that had implications later. And it did, it had implications for ... I mean it's a democracy, so the Cabinet needs to be informed. So, we always wanted the Cabinet informed and we were giving the Minister notes on a regular basis about what was happening, himself and his predecessor, so that he could brief the Cabinet informally as things developed. I'm not sure if he was doing that. I mean, he wouldn't come back ... you don't discuss ... the Minister doesn't discuss in detail what happened at the Cabinet meeting, so he doesn't come back and say ... but we were giving him notes and I'm not sure just on body language and things I've heard since, that, that they were hearing all those things at, at the time. And, I think it was a bit of a problem later when I think, you know, a couple of Ministers made statements that turned out to be regarded as not, not credible. I think it might have been a, a problem even then. I don't think there was anyone ... I don't think there was any malicious intent anywhere, I think the Minister was just trying to be careful about what he said in places where it might, it might spread. So, I think it did have a little bit of an implication for how business was done over the next few years, even down to the moment when we produced the, the memo for Government on the IMF bailout process, you know. I saw the Minister checking the figures, not because he wanted to hold anything back but because he was thinking, "Well, what can I expect to be in the public domain in the next few days?" That, you know, is this really confidential now or is it not? So, it had that implication, it's ... it, it was a pity. I mean, we're all for ... I worked on the Freedom of Information Act for years and, and I'm a great believer in it. There are moments when people have to have a little bit of space to discuss in confidence and I think this problem was ... I don't even know if it was real but that perception was a bit of a problem at times.

Deputy Pearse Doherty: Okay. Thank you.

Chairman: Thank you. I just need to give a yellow card to somebody up in the balcony as well, will you turn off their devices please? Deputy McGrath, ten minutes and then we'll go for a break.

Deputy Michael McGrath: Thank you, Chair. Good morning, Mr. Cardiff. Can I start by asking you, when was PwC first appointed to go in and examine the balance sheets of the banks?

Mr. Kevin Cardiff: I don't recall the date exactly but-----

Deputy Michael McGrath: Approximately.

Mr. Kevin Cardiff: Mid to the ... maybe in the early 20s of September, maybe a little bit before that but not much.

Deputy Michael McGrath: And had they reported, in any form whatsoever, by the end of September 2008, when the guarantee decision was made?

Mr. Kevin Cardiff: Some very brief reporting, but especially on the liquidity position, nothing. I don't want to say nothing, but not more, not a lot more substantial on the loan book. They had, you know, they would have presented, I suspect and again, I can send in my notes, you probably already have them, but I suspect they were presenting, you know, the broad outlines of the loan book and so forth, but they had not ... they couldn't have done a proper evaluation at that point.

Deputy Michael McGrath: Can I put it to you, Mr. Cardiff, that as far back as January 2008, in a scoping paper on financial stability issues, the Department of Finance was examining very serious matters relating to the Irish banking sector, examined the scenario of an illiquid institution, an insolvent institution, the possibility of examinership for a bank, the need for different legislation and yet, by the end of September, when the crisis hit, nobody had actually checked the underlying health of the banks. And, in essence, a decision was made to guarantee €375 billion of liabilities without comprehensive, complete and accurate information about the health of the banks. So what I'm asking you is why-----

Mr. Kevin Cardiff: Okay, well I'm-----

Deputy Michael McGrath: -----prior to September 2008, despite the fact that the Department had serious concerns about the banking system, for many months, why did nobody go in and examine the banks, look under the bonnet and see what kind of a state were they actually in?

Mr. Kevin Cardiff: Well, because it ... this was a failure. There, there ought to have been better information. Why ... but it's not the case that nobody examined ... if you, if you ... you recall, and you know from your previous witnesses that there was a whole system, with a Financial Regulator, with stress tests, with examinations, with external bodies and so forth, doing that work. And, we believed ... were led to believe that the regulator had a good picture of the banks under its remit, that reasonable loan loss stress testing had been done, that the banks were regarded as solvent, resilient, capable of withstanding significant shocks and we accepted that. And we stopped accepting it at the beginning of September when, when we had the Nationwide issue and it became clear that in fact, this general sense of how the banks were being run wasn't, wasn't being backed up by very specific data.

Deputy Michael McGrath: But, in hindsight, Mr. Cardiff, was it not a mistake to insist, earlier in 2008, when there were serious concerns and different scenarios were being examined ... was it not a mistake to insist that the underlying health of the balance sheets of the banks would be examined, that the loans that they had extended would be looked at in detail, the underlying collateral, the likelihood of being collected, the concentration risk in certain sectors? Within weeks of the guarantee decision being made you had information, for example, that the banks had loaned out €426 billion, including over €200 billion to property. In early December there's a note from Jones Lang LaSalle and PwC that the value of assets to different banks would be ... were overstated, in AIB by 40%, Nationwide 40%, Bank of Ireland 25%, Anglo 25%. And, what I ... what I'm putting to you is, was not the single biggest economic decision of the State made with incomplete information?

Mr. Kevin Cardiff: Well, I've just agreed with you, Deputy, that it was, but it wasn't clearly incomplete. Okay. If we had a sense, or, in retrospect, greater wisdom, we would have, as the Department of Finance, asked harder and pressed harder on the Financial Regulator to evidence its, its views. But it's not that there was no evidence, as I said, and I've explained why not. So, it was certainly the case ... it is certainly the case, in hindsight, that more and better information would have been desirable, not just on the night of the guarantee but even before then. As it turns out, when the work, the initial work was done by Pricewaterhouse in the two months after, they weren't coming back with a sense of the loan books that was very very different to the one that the regulator was providing, allowing for the fact of two more or three more months of information on the property market and so forth. So I don't think it would have made a lot of difference to the decision on the night to have this more intrusive information available. It probably didn't make much difference but that doesn't mean that it oughtn't to have been available, it ought to have. So it was a failing. It was a failing mostly of the regulator, it was a failing of imagination and-----

Deputy Michael McGrath: But you were the head of banking-----

Mr. Kevin Cardiff: Not at that-----

Deputy Michael McGrath: -----in the Department of Finance Mr. Cardiff. You were involved in meetings and a drafting of reports and contingency planning from early 2008. You could have insisted that the regulator would go in and do that underlying check in terms of the health of the banks.

Mr. Kevin Cardiff: Well I couldn't have insisted.

Deputy Michael McGrath: You could have requested.

Mr. Kevin Cardiff: But I could have requested and I didn't. I wish I had. I reassure myself that since Pricewaterhouse went in immediately after the guarantee and didn't find, as I said, anything very very different, that it didn't make much difference. But I wish I had done it differently.

Deputy Michael McGrath: But Mr. Cardiff, within nine or ten weeks, the Government announced a recapitalisation package of €5.5 billion. That was largely based on the PwC exercise, which was not available when the decision to guarantee the banks was made. Did you not essentially buy a pig in a poke? You didn't know what you were getting into at the end of September 2008 in making that decision.

Chairman: Deputy now, you are leading. Be mindful of being leading now.

Mr. Kevin Cardiff: I don't know about you, Chairman, but I don't mind the Deputy leading a little bit on this because it's important.

Deputy Michael McGrath: It is challenging questioning, Chairman, and it has to be.

Mr. Kevin Cardiff: It doesn't matter what it is. Here's the answer, okay? Actually when the capital was put in, it was put in ... yes, the first tranche was put in because yes, PwC had gone in and so forth and that, and yes there were some, they had a picture of the loan book. Actually the first tranche of capital was mostly because the ... it was clear that whatever was the PwC evidence or whatever was the Financial Regulator's view or the bank's own view, that the markets were no longer happy with a 4% capital ratio for any bank either in Ireland or in the UK or anywhere else. All of the recapitalisations that had been happening up to that point around Europe were being done to a standard of an 8% core tier 1 ratio and our banks were somewhere in and around, well the minimum was 4%. So even if there had been zero problem with the loan book, they would have needed to raise capital in those months and that's what that first tranche of capital was about. The loan losses that PwC was talking about were on stress cases and all the rest. They were speculative. As it turns out, they did not speculate nearly as far as things went but that was the future. So, so notwithstanding your suggestion that this capital made it clear that there was a hole that hadn't been known on the night, actually, no, the hole became a bit clearer a bit later. And the situation was changing very quickly. Remember now, property values in retrospect when you look at the figures, they have started to fall off but the biggest, you know, the first, they started to fall off and then there was a bit of a more, more swift fall-off. That was in the third quarter of 2008. Data that wasn't available and couldn't have been available at the end of the third quarter 2008.

So even a perfectly reasonable bank, bank accountant would not have been able to say, even on a revaluation at that point, that actually we have this big problem yet. But that property value thing kept going and it went well beyond stress tests and it went well beyond stress tests for a few ... because of a few different confluences of events. First of all, we had a bubble here in Ireland. Secondly, the kind of international ... and very important is the international situation we had was extraordinary. There was not just a huge fall-off in property values in Ireland. There was a substantial fall-off in property values in other places, including the ones that ... that the places that the Irish banks had used to supposedly diversify their book. And there was an absolute liquidity freeze and in a liquidity freeze, there's no money to buy anything and if there's no money to buy anything the values are forced down even further and it, it feeds off itself. So, none of that was known and could only be guessed at, in truth, as of even December 2008.

Deputy Michael McGrath: Mr. Cardiff in your opinion was there a lack of skilled professional economists in the Department, and how did this impact the way in which the Department performed its duties during your tenure?

Mr. Kevin Cardiff: Yes I think I said at a public accounts committee and I referred in my statement to the various places I have given evidence before, there was, there were fewer than we would have liked, even at the time I think. There were certainly a lot fewer than the Wright report would have suggested and we were as Wright said, reliant on generalists who became economists, more than he thought was appropriate, more than, looking back on it, I would think was appropriate. And certainly, you know, and when you look back, I suppose the evidence of what you think you did wrong is what you tried to change and that was one of the things we tried to change quite early on. But I don't think this was what created a crisis in any sense. Remember at the time, the bulk of the economic crisis was not ... of the economic profession was not seeing the world changing a lot differently to the way that the economists in the Department of Finance were saying. The bulk of the banking profession, who ought to have been the experts, were also not saying that things were very different. So if we had had more bankers and more economists in the Department, we wouldn't necessarily have gotten a different answer. Groupthink can apply to big as well as small.

Deputy Michael McGrath: Okay, and finally---

Mr. Kevin Cardiff: But what we might have done ... I'm sorry to ... I know you've got a time pressure but what we might have done is had more skills for handling the crisis. Especially on the ... I know the economists are important but especially on the banking side, especially on the banking side. That is why we needed to rely so much on the NTMA. We didn't have in-house expertise. As the Chairman said, they handled ... they and the Central Bank handled our banking for us. We had to look to them immediately and even they then had to bring people in.

Deputy Michael McGrath: Finally Mr. Cardiff, in terms of the overall Central Bank and Financial Services Regulatory Authority board and their work on financial stability issues and issuing bulletins, did you feel that board members had the knowledge and expertise to draw their own conclusions on financial stability aspects?

Mr. Kevin Cardiff: In retrospect no, not because of the board members themselves, who had a range of expertise of different types, but because it now seems, and it's easy to say in retrospect, it now seems they weren't getting the kind of information that you might want them to get. I wasn't there, I don't know what they were getting but I would have assumed they were getting a lot of data on concentration limits, on who borrowers were and so forth. We had a bit of a problem, in the Department of Finance we used to have a process that when the Governor, when the Secretary General got board papers, he would sort of circulate them around the Department for comment. But the 33AK stuff and all the rest, that started to seem like it mightn't be fully legal so that practice stopped. But before it stopped, which was back in the 90s, I used to see Central Bank papers and they would have things like ... I don't know if they had names but they would certainly have lists of big concentrations and they would have ... there would be regular reporting that would suggest these things were being looked into, and maybe they still were but I don't know. So if they ... so, depending on the quality of the information they were getting, I think the quality of decision-making. But also remember there was an enormous pressure, huge pressure on the new regulatory system to spend a great deal of time on consumer matters. That is not ... it is not a flaw but if it was at the expense of prudential matters, then it had a consequence and, you know, it was probably a feature of the thing being newish even in 2007. If it was a more settled organisation, the consumer side would have been up and running and they mightn't have had to give it, you know, relatively speaking, so much attention and they might have spent more time on the prudential side.

Deputy Michael McGrath: Thank you.

Chairman: Okay, I just want to just finish that line of questioning with Deputy McGrath and then we'll go to a break. Because events around the guarantee, while they are important, there's a whole period leading up to it to which you can provide information to this inquiry, Mr. Cardiff, and certainly after as well. Can you just clarify for me, Mr. Cardiff, that your primary role within the Department of Finance in the build-up to the crisis was in the financial services supervision division, yes?

Mr. Kevin Cardiff: No.

Chairman: No, okay.

Mr. Kevin Cardiff: Not quite. Let's ... let's break it down.

Chairman: Okay.

Mr. Kevin Cardiff: So, I was involved in the financial services division dealing mostly with legislation.

Chairman: Okay, maybe if I reframe the question for you it might make it easier for you. Is ... what was your accountability within the Department of Finance for supervision of the banking sector and management of its impact on the Irish economy?

Mr. Kevin Cardiff: Zero.

Chairman: Zero? You'd no-----

Mr. Kevin Cardiff: Zero.

Chairman: -----relationship in that area at all, no?

Mr. Kevin Cardiff: No. I mean, let's be clear. The supervision of the banking sector was a matter for the Financial Regulator. The Financial Regulator provided an annual report to the Minister which he would lay before the Houses, strategy documents and so forth, but the Financial Regulator was independent in the supervision function.

Chairman: Okay, and did you have any interaction or relationship with the-----

Mr. Kevin Cardiff: Well, I'll just finish-----

Chairman: -----regulator or the Central Bank?

Mr. Kevin Cardiff: I'll just finish my answer first.

Chairman: Yes.

Mr. Kevin Cardiff: He was accountable to the Oireachtas-----

Chairman: Okay.

Mr. Kevin Cardiff: -----and one of the questions I know and it's not for ... it's not one of my things that you'll be asking is whether the Oireachtas did any oversight of the Financial Regulator, as the reporting relationship was there. But we had responsibility for the legislation under which they supervised and that gave us an influence. So, for the supervision itself, zero. For the system, yes, that was ... the legislative structure was there for us. But here's the sort of circular problem: if you're responsible for the legislation for the financial supervisory system, to whom do you go for advice? You ask the regulator, the supervisor, to tell you what they need and what they don't need. As it happens, the actual supervision system they were working within wasn't designed that way because actually the political system ... very much, as it happens, the political system had decided they wanted a different supervision system and that was sort of ... they imposed a model. But all the minor ... all the, sort of, more micro-level legislative adjustments were heavily based on advice from the supervisor itself.

Chairman: If I can just maybe deal with this at the top level and we can drill down into the detail maybe after the break then. So, did you have an interaction with the regulator and the Central Bank? Was it a structured or informal regulation, or engagement, you had with both the regulator's office and the Central Bank?

Mr. Kevin Cardiff: Oh, both.

Chairman: Okay.

Mr. Kevin Cardiff: I mean, I had, at different times, weekly or regular; at other times, daily or more frequent interaction with people in the regulator's office depending on what was-----

Chairman: And arising out of those engagements and your ... the financial stability reports and all the rest of it that were coming out, what did you know of the sectoral lending risks being run by the banking institutions, especially into commercial lending?

Mr. Kevin Cardiff: I don't recall ... well, we would not have been getting those reports. We were not getting ... except what was in the financial stability reports themselves, we would not have been getting data on sectoral lending risks. My assumption was, as I told you, because I had seen previous board papers and so forth, was that the systems that had been there in the past for checking on those things were still there, especially since the ... I think they call them now the supervisory directive is the capital requirements directives and so forth that came afterwards, made various sectoral limits and the like compulsory. And we would hear, from time to time, and we would be informed of particular initiatives that would be taken actually that were sort of reassuring. So, you would hear, as we did, that, for example, they were concerned about additional property lending so they had changed the capital rules, or they were making a change in capital rules to deal with housing lending and so forth and it had the picture ... it gave you sort of a picture of quite an active and interested regulator.

Chairman: Okay.

Mr. Kevin Cardiff: And we took quite a bit of comfort from the fact that international organisations were saying that this is pretty much in line with the model elsewhere and in line with good practice elsewhere. There was one exception, I think, to that which was in relation to insurance supervision. There was a sort of a hint in the IMF's 2006 oversight report that insurance supervision might need some additional looking at, but in fact-----

Chairman: I just want to concentrate though specifically on the commercial lending that was taking place in the banks.

Mr. Kevin Cardiff: Yes, sure.

Chairman: Okay. Finally-----

Mr. Kevin Cardiff: Well, I think ... I think I've answered, not that ... we weren't getting specific information.

Chairman: Okay, all right. And just finally on that, and then we'll go for a break, what was your knowledge or awareness of the solvency/liquidity challenges in the banks from 2007 moving through into 2008?

Mr. Kevin Cardiff: Well, you might want to take the break, Deputy. It's a long answer.

Chairman: Okay, well we ... in that regard, we'll take the break and maybe you might just come back to us when we do on that. In that regard, I'm ... it's now 11.45. I'm proposing that we would break until 12 noon and return at that time. I'm also proposing that we would just go into private session, just to deal with some administrative issues that we have with regard to notifications coming in the following weeks. So, with that said, I now propose that we break. The witness is reminded that once he begins giving evidence, he should not confer with any person other than his legal team in relation to his evidence on matters that are being discussed before the committee. With that in mind, I now suspend the meeting until 12 noon and remind the witness that he's still under oath until we resume and, in doing so, if I could maybe, just with people's cooperation, get the public Gallery cleared as well so we can briefly go into private session. Thank you very much.

The joint committee went into private session at 11.46 a.m. Sitting suspended at 11.50 a.m. and resumed in public session at 12.12 p.m.

Chairman: We will go back into public session, is that agreed? Agreed. And now we're back in public session, we were just talking about liquidity and solvency matters there, Mr. Cardiff. Maybe if you just want to give some context to that and then I'll bring in our next questioner, Deputy Higgins.

Mr. Kevin Cardiff: Okay. It's a very broad question, Deputy, but on liquidity ... first indications of stresses were in the middle of 2007. There was a ... I'll run through it very quickly as I know you've time limits. But there was a heightened concern in ... towards the end of '07 because of the end of year liquidity action slows down typically at the end of the year. And over, on a sort of a gradual basis over the next several months there was a tightening of liquidity and as I described in particular a shortening of the terms on which banks were being lent to, there's one exception to this I'll come back to. And then in September and especially, especially after Lehmans, there was an absolute sea change, an amazing revolution in how the world's financial markets were operating after Lehmans. So, there was a gradual build up of the crisis, but the Lehmans event was a significant, additional change in the structure. The one exception I wanted to mention was Anglo, which had some particular stresses around the end of March 2008 ... which eased over time, but they had a ... their share price fell a lot and they had a problem. There was a, sort of a, a view that at least some of this was coming from a serious attempt by hedge funds and the like to both short their stock and talk them down to create rumours to undermine both their deposit base and their share price. The truth of that, there's always stories as to why things are happening or not. But the Central Bank and Financial Regulator did take action to ban some of the practices that might ... exacerbate that.

On solvency, well the banks were regarded in 2007 as not just solvent but resilient to future difficulties. You'll have seen in the various papers you've got and in the various indeed in the papers you've given me that ... the SLAP principle or slam principle, SLAP principle applied. SLAP was solvent, liquid, assets and I forget what the last one ... personnel was okay. So that was the message both from the Financial Regulator, but not just from the Financial Regulator, all the external commentators even up to July 2008 were saying, "Banking system okay." I think, for example, Goldman Sachs issued a paper along those lines in July or August 2008 ... the credit raters were holding them on quite a high credit rating until the first sign of trouble from them, that side was the, from recollection was the INBS problem. So that's the sort of story in summary.

Chairman: Thank you very much. Deputy Higgins. Deputy you've ten minutes.

Deputy Joe Higgins: Mr. Cardiff, could you tell us very briefly just to begin, what level of preparation you were able to manage for this hearing and in particular, what if any level of consultation you had with other senior, former senior colleagues in finance or in the Department of Finance itself currently serving?

Mr. Kevin Cardiff: I'll answer the question, I'm not sure that there's anything within your terms of reference that ... that deal with who I talk to and who I don't, I'll answer the question. I have had done very extensive work to prepare for this hearing, as I think you would expect. As part of that I have been granted access to old papers and files which have informed my evidence to you. If I hadn't had that you wouldn't get as much evidence from me, maybe you'd be delighted. I've also talked regularly ... to former colleagues at different levels to try and see whether, where I had gaps in my recollection, I could fill in those gaps to assist you. And I have had, we had one session in the Department of Finance where we got together a number of people who were involved, including people who were more junior in the hierarchy, so as to try to have as much information as possible so as to service your committee as well as possible. But the tone, not the tone, but the question is a bit strange. Just to be clear-----

Deputy Joe Higgins: Sorry-----

Mr. Kevin Cardiff: No, no let me finish. I'm, I'm speaking, I'll finish.

Chairman: I'll allow you back in then Deputy Higgins, Mr. Cardiff.

Mr. Kevin Cardiff: Just to be clear, I have received very little advice or assistance from the committee as to what preparation it wanted. So I have on my own initiative done a great deal of preparation, and I hope that's not seen as a bad thing.

Deputy Joe Higgins: I think it's exemplary that a witness would put a lot of time into preparation.

Chairman: If I could come in for a second, Mr. Cardiff, so there is no ambiguity about this, the engagement that the inquiry had with you is equal or commensurate with every other witness that we have actually had. So I wouldn't have it for a situation, at all thought suggested, that you or any other witness has been treated differently to any other witness. Deputy Higgins.

Mr. Kevin Cardiff: I'm sure that's true, Deputy, I'm not saying that. But I'm saying that until the point when you sent me an instruction saying, "Please turn up on such and such and please send this statement", I had no instructions whatsoever as to what the committee wanted from me. But it would not be possible for me to give the evidence I'm giving today if I hadn't started my preparation long before Christmas, so I have been preparing on spec all along. Indeed, when you finally give us instruction you say, "Cover 23 lines of inquiry and, by the way, also we'll ask you questions about anything else the inquiry is dealing with and anything any other witness says." So, really, you get very little instruction as to what you want from me. I have done my best and I think I'm doing okay in terms of information flow at least. So, I'm a bit ... I find the question a bit strange, Deputy, that's all I'm saying.

Chairman: Fine. Deputy Higgins.

Deputy Joe Higgins: Yes, and a lot of my time is gone.

Chairman: I actually stopped the clock.

Deputy Joe Higgins: It was going for quite an amount of time before it was stopped, Chair.

Chairman: Now, I did stop it, Deputy. I'm sorry.

Deputy Joe Higgins: Mr. Cardiff, no, may I say, it's not strange at all. But we are trying ... we have all kinds of senior officials, former officials, etc., ... we are ... simply an interest in if there was a level of co-ordination in the evidence. I don't say that that in any way undermines the evidence or something like that but-----

Mr. Kevin Cardiff: Well, that's fair enough. There has been no ... zero co-ordination of evidence but a good deal of attempt ... mutual attempt to find out where papers are, what ... who might've been where at particular times, so as to assist you.

Deputy Joe Higgins: Okay.

Mr. Kevin Cardiff: For example, the first I realised that I would've known that Mr. Doyle had my statement, which apparently you sent to him ... I didn't know that. He never saw my statement from me or any part of it. There's been no exchange of that kind. But, yes, I mean, frankly, this is ... and most of these lads are retired now and this is the biggest event in their lives at the moment. Of course they're talking about it.

Deputy Joe Higgins: Okay, thanks, Mr. Cardiff. Mr. Cardiff, during your term as second secretary of the Department of Finance, and from your own knowledge, would you say that the Department was aware or to what extent it was aware of the risks to the overall economy from over-reliance on property sector lending by the banks and exposure by the banks to the construction sector? And the background for that question would be - it's in the evidence but we don't need to take time to go there - but what ... the charts will show that property lending by banks went from €15 billion, roughly, in February 2000 to €175 billion in October 2007, an increase of 1,100% and construction credit for projects from €3 billion in 2000 to €26 billion in 2007 - 866% increase. How aware would you have been of a threat that this can pose to the macroeconomic situation?

Mr. Kevin Cardiff: Okay. There was ... in the usual fashion, Deputy, I read a document this morning that I can't remember and I read a document years ago, I can't ... there was certainly specific advice to Ministers about problems that might come from over-reliance on the property sector, in particular, in the fiscal field. It wasn't coming from me so I can't ... I can see if I can find it where I saw this and send it in to you. But there was advice on that. There was also very specific advice and probably much more specific than any of the external agencies were giving and so forth, and I think the Wright report says this, for example, in relation to the fiscal position.

In relation to credit, there was a clear knowledge of the fact that credit was growing very strongly and I think there was also a general belief that most of that was underpinned by, sort of, fundamental shifts in the economic position. That was ... the things that were shifting that would support a credit growth or more credit in the economy - first of all, the sectoral change in interest rates, we had moved from a place where there was always ... pre-EMU we had always had to have higher interest rates to avoid outflows of funds from the economy so, in EMU that ... and for other reasons too, monetary policy reasons, in EMU, we had the European interest rate, which was lower, and that was a sectoral shift.

Deputy Joe Higgins: May I just ask you ... we've had evidence on all those factors but just to ask yourself, in relation to subsequently from what we've learned, were you surprised that the Financial Regulator hadn't delved much deeper in the bubble into exactly what was going on and, therefore, be more aware of the dangers that subsequently came to pass?

Mr. Kevin Cardiff: Well, to take the Central Bank and Financial Regulator together, I don't think it was awareness of the developments. In fact, in ... for example, in the financial stability reports, things were dealt with but also, in 2006, there was quite a detailed paper by a guy called John Kelly and a colleague, I think, in the Central Bank, that they published that, sort of, looked into the documents in credit. Now, the last time I read that was in 2007 so I can't tell you which quarter bulletin to look at but it was there. I only remembered it because John was a friend of mine at the time. So, there is a, sort of, a ... there was a real attention to the fact that credit was changing, growing and so forth but there were also these other factors that people were using to explain it-----

Deputy Joe Higgins: Yes.

Mr. Kevin Cardiff: -----including, for example, the fact that although everyone now was more indebted, they also now had much more valuable assets. So, in net terms, the shift haven't been as great as in gross terms.

Deputy Joe Higgins: Okay, thank you, Mr. Cardiff. Just to move on ... you said today in ... to the effect that ... no reasons to say any of the banks were insolvent on the night of the guarantee and I want to probe that a little bit. And we've already had, in Senator O'Keeffe's contribution, that minute from the meeting of the banks on 7 September with the Financial Regulator and the fact that AIB and Bank of Ireland said there was a hole in INBS and that wasn't challenged in that minute. And then, I just want to move then to, quickly Mr. Cardiff, if you wouldn't mind, to Vol. 1, page 153, and-----

Mr. Kevin Cardiff: Of the DOF or the KCA ones?

Deputy Joe Higgins: No, this is KCA, Kevin Cardiff.

Chairman: Okay.

Deputy Joe Higgins: And this - I'll be just talking you through as it comes up - this relates to minutes of a meeting, Mr. Cardiff, and if I'm not mistaken this ... the minutes were taken by yourself. This ... you have ... is this your handwriting, it is? Just have a glance.

Mr. Kevin Cardiff: No one else's would be that bad, Deputy.

Deputy Joe Higgins: But in any case, it says here that ... sorry, David Doyle ... there was a discussion on Anglo and INBS and the note in your handwriting says, "D Doyle noted that Government would need a good idea of the potential loss exposures within Anglo and INBS - on some assumptions INBS could be 2bn after capital and Anglo could be 8½.." Mr. Doyle said that he believed he didn't say that. He thought, perhaps, somebody from the NTMA said it.

Chairman: It's on your screen there, Mr. Cardiff, as well if you want to see it. It's on the screen, I'm just saying-----

Mr. Kevin Cardiff: Yes.

Deputy Joe Higgins: But, whoever said it, Mr. Cardiff, it obviously was said because you made a note of it. Doesn't that strongly suggest that both INBS and Anglo ... but for the purposes of this questioning just at the moment, INBS was not solvent?

Mr. Kevin Cardiff: Okay, well, Deputy, I'm assuming that somewhere in your system you've received copies of my jotter which deal with these also. So, this was a note of a meeting but it was based on my jotter and my jotter didn't just say "8½", it actually broke it down into numbers that I can't ... I don't remember the detail. But ... so I'm pretty sure that, yes, that was definitely said and it's down beside Dave Doyle in my jotter so I've checked back in it ... it seems like it was him but, yes, in the confusion of a meeting, maybe someone else said it, but it was said. "After capital" was my recollection of it when I wrote this note. Now, at the end, I should ... maybe I should've put this in the note too but the very next page of my jotter, it says, "Merrill Lynch says, 'This is all finger in the air stuff, we just don't know.'" I think what was happening, to be honest, is that people were testing assumptions, as you would expect them to do. Trying to say, you know, if X was so much worse, then Y could happen - that kind of thing. At the end of the meeting, I'm sure ... and I'm sure that later in the month, we did not have a view ... none of the official bodies had a view that these banks were insolvent at that point.

Deputy Joe Higgins: Okay-----

Mr. Kevin Cardiff: And if there were assumptions, they were intended to be extreme assumptions. But what I did say in my answer to - I think it was Deputy Doherty's questions - is that, yes, we went into that meeting knowing that there were property exposed and if things went in a bad way, then, yes, of course, they would have problems. And we said in the meeting, we said ... I said, "You do know, if these banks have problems and need capital ..." or I don't know if I said it exactly like that but I made clear "... if they need further assistance, the guarantee means that we have to give them the further assistance or else pay out on the guarantee."

Deputy Joe Higgins: Okay. But was it very strange then, Mr. Cardiff, that the Taoiseach came in and from the very beginning, according to your statement, was for a broad pre-emptive guarantee, rather than doing the sums first and seeing what the potential exposure might be?

Mr. Kevin Cardiff: Well, I don't think it was very strange. I mean, just to put it this way, remember the Taoiseach wasn't, you know, a *deus ex machina* that arrived at the last minute to sort things out. He'd been involved in discussions prior to this, and with the Minister certainly, even in some of the formal discussions that you have notes of, so this wasn't a sudden Pauline conversion based on no information. He had information, and the information was that, yes, you know, if you apply extreme stresses, then things would be worse, but as of that moment the extreme stresses hadn't arisen. The stresses that happened in the next two years turned out to be worse than we'd all imagined, unfortunately. But so no, I don't think it was strange. It did take me as, I think, by ... as I think I said, a little by surprise because, well, frankly because I'd a different view and, therefore, I was, I suppose, grappling with the fact that someone else in the room had a view that wasn't mine, and was trying to address that.

Deputy Joe Higgins: Thank you, Mr. Cardiff, my last question on this. Just by the way in passing, you might say in a word before I ask this question or when you answer it, if, if the Minister for Finance was overruled on the issue of broad guarantee on the night, as some have, have speculated. But I want to ask you just this last question, Mr. Cardiff, that in response to Deputy Doherty, you listed really one big player after another in the financial world throughout 2008 who came looking to the Irish people for a guarantee of the banks and the financial institutions. And what happened to the brave new world of deregulated financed capital, where as Nyberg summarised it for us in his report,"the paradigm of efficient financial markets provided the intellectual basis for the assumption that [finance] markets, left essentially to themselves, would tend to be both stable and efficient", which was also underpinned by a document you're familiar with, I'm sure, Regulating Better, of 2004, which essentially said that regulation should be subordinated to competitiveness? And was the cohort, the entire cohort of public service supervisors, people like yourself at the senior level, taken in by this as much as apparently the establishment politicians were, and forgot the real nature of these institutions, which was private profit maximisation being their *raison d'être*?

Mr. Kevin Cardiff: That's a lot of philosophy, Deputy. I've probably become more of a socialist over the last few years than I used to be and that's probably because I see some of the things you're talking about. I don't think we were ever as taken in as you say, otherwise we wouldn't have had a regulator at all.

Deputy Joe Higgins: It was a question, Mr. Cardiff.

Mr. Kevin Cardiff: Well, I thought I was answering it. Maybe I missed it. But no, I don't think that, I think, for example, the Regulating Better document you referred to, which I haven't seen in a long time, but I imagine, from recollection, that if it had said what you said ... what you say it says, we would have stopped it. You will see, for example, in the legislation that established the Financial Regulator, where it says, the Financial Regulator should be supportive of growth in the financial sector, growth in the financial industry, it says, and I might have had something to do with putting it in, it says "without prejudice to the prudential protection of the system". And without prejudice doesn't mean you do it a little bit; it means you don't do it if it prevents ... if it goes against the prudential necessities. But what we did want to do, and we were very encouraging where we could be, is create new jobs in Ireland. And certainly my personal predisposition, whenever I met people with ... in the banking sector who might bring new jobs to Ireland, was to be positive. Because, I mean, maybe by the skin of my teeth, but I haven't lost my job in this recession, but I was out of work for a year in the last one and it's an awful thing, so I always have a predisposition, Deputy. If someone comes in and there's jobs involved, I'll do whatever I can for them. But the regulator always had that provision. And, as I say, I don't know if it was me put it in, but if I hadn't ... if it wasn't me I would have put it in, "without prejudice to prudential supervision."

Deputy Joe Higgins: And the Minister for Finance overruled?

Chairman: Deputy, I'm going to move on. Deputy, you-----

Deputy Joe Higgins: Just that point, one point, it's only a sentence.

Chairman: Go on.

Deputy Joe Higgins: The Minister for Finance, was he overruled on the night by the Taoiseach?

Mr. Kevin Cardiff: Well, I've tried to describe that as honestly as I can in my statement. They had a meeting that I wasn't in. So I don't know what, what, what happened. I can only tell you what the Minister said, and he didn't put it in the form of overruling. For most of the things that I've done in my statement, I've tried to avoid recounting what the Minister said about what happened, because, you know, it becomes hearsay. Unfortunately, with his passing that's the only information I can give you. It would be unfair of me to say more. But he never used to me the word "overruled."

Deputy Joe Higgins: Thank you, Mr. Cardiff.

Chairman: And I would appreciate you not going into a hearsay, as you've said as well, Mr. Cardiff. Deputy Eoghan Murphy. Deputy, you've ten minutes.

Deputy Eoghan Murphy: Thank you, Chair, and thank you, Mr. Cardiff, you're very welcome. I just want to ask, just briefly, in the years prior to 2008 and the onset of the crisis, did you ever give any advice to the Minister or the Government on the risks associated with the trebling of public expenditure, the growing dependency on construction-related economic activity and tax revenues?

Mr. Kevin Cardiff: Me personally? Or the Department?

Deputy Eoghan Murphy: You personally.

Mr. Kevin Cardiff: I don't recall, Deputy, I might have. But remember that for most of that time, I wouldn't have been the person who was dealing with the ... who was giving the fiscal advice. So in the Department, the tax unit that I dealt with was dealing mostly with specific taxes and even tax packages but not with how they tie in to the overall fiscal balance for that year, that was in a different unit and a different section. Now ... so it wouldn't be that I wouldn't be unaware or that I wouldn't be co-ordinating with those people, but it wouldn't be me most of the time who would be giving that advice. Just going back to 2004 then, when I was in the financial sector unit, and the credit growth was starting to take off, no, I didn't ... I never gave, at that point in time, a specific advice that said, "Look, this credit growth is now a real systemic problem." Probably it was a bit too early to say that anyway, but I did have a little bit of a concern that, to be honest, that the ... see, what I was running was a factory, it was a legislation factory. You don't see most of it because most of it actually is in transposition of directives and so forth, so it doesn't come to the House except to the relevant committee. So you won't see it. But there's a huge factory job that goes on in that, that part of the Department of Finance of producing legislation. And in that unit then there was ... there was one or two people whose job was a holdover from pre-EMU, which was to, sort of, keep an eye on markets and credit growth and so forth. And I didn't really think that we were doing that analysis job. We weren't giving it justice, doing it justice, because the unit wasn't ... it was doing other things. So I arranged at the time that that unit would be moved into the economics area, so that credit would be seen and I think it later was, in fairness. It was sort of wrapped into overall economic analysis. I then went off elsewhere to a different job, so ... so the answer is no, but not, but you know, it wouldn't necessarily have been me. But if you read the Wright report there's a fairly, a fairly detailed exposition of who or what advice was given and wasn't given. And I was on the management committee so if I thought, if I had a sense that there was something being done seriously wrong or seriously inadequately, I would have said so. I don't remember saying so, which makes me think I didn't have that sense.

Deputy Eoghan Murphy: Is it fair to say then that the management committee in the Department wasn't aware of the systemic risks that were building up in the system through that period?

Mr. Kevin Cardiff: Oh no, no, no, no. We were ... the system ... the management committee was mostly a co-ordination committee, but the managers, the senior managers were aware of systemic risks building up, did bring them to notice, did explicitly advocate tighter, significantly tighter fiscal policy than was decided by Government and was not ... and their advice was not followed. According to Mr. Wright, we should have not just given the advice when we did but we should have banged the table more, should have been more strident or more insistent or whatever, even more public. But that wasn't the system we were operating at the time. So there was, explicitly, advice and there was, explicitly, advice on these kind of imbalances, but there wasn't a kind of strident opposition, internal opposition, if you like. There also wasn't, and to be clear, there was not a sense of a looming crisis of the scale we reached.

Deputy Eoghan Murphy: But still, just to clarify the advice that was being provided to the political level wasn't taken up at the political level, and then do you accept the criticisms in the Wright report on the role of the Department in that budgetary process in those years?

Mr. Kevin Cardiff: Well, I commissioned the Wright report; I know formally the Minister did, but it was pretty much entirely my initiative, which he was very willing to take up. I wanted a better Department of Finance, and I didn't want what happened to be repeated. And, you know, that being the case, I'm hardly likely to say, "Well, I disagree with the criticism." I wanted criticism, because without criticism, you can't have improvement, so yes, I agree with him. I don't think yet that our system is developed in the way that it could be, that would allow us to do what he says. For example, he wants a more open and expansive Department of Finance which would ... indeed where the Secretary General would be making his own economic statement on a yearly basis. I haven't yet had the, sort of, understanding that the political system would run with that, even while I was still in the Department. But what the political system does accept and has run with is a more public Department where, for example, individual economists are making ... doing papers and so forth in public, where, I notice my sort of half successor, Robert Watt, who took over half of my old bailiwick, is much more regularly in the public than I would have been. Maybe it was ... I suppose when I was Secretary General there wasn't much choice ... much time to be doing speeches but ... so there is movement in that direction, but the political system, even now I'd say, would resent a sort of a public internal opposition, that on the one hand was working with it, and on the next day was making a statement that said, in public, you know, "By the way, the Minister didn't do this when I told him."

Deputy Eoghan Murphy: I might come back to that a little later on. I'm running out of time, Mr. Cardiff. I just want to follow up a couple of things that weren't clear from the documents you presented to us. The Sunday Cabinet meeting the day before the guarantee was made: was any decision taken at that Cabinet meeting, because you provided in documentation a quote from John Gormley, who was in Cabinet at that time, "The arrangement had been made the previous Sunday [right] and we had gone into that in quite a bit of detail and said, "Yes, this is the expert advice to go down the guarantee route?" So was the decision made the day before, on the 28th, on the Sunday?

Mr. Kevin Cardiff: Well, see, John Gormley seems to have said that, and knowing the guy, that was straight down the line exactly what he recalls. But there was no formal decision, because that would have been ... we would have received that; and if there was an informal decision, that wasn't, you know, we weren't told that. But Government decisions tend not to be informal; it's either a decision or it's not

Deputy Eoghan Murphy: Would the expertise have been in the room on the Sunday to, kind of, come to even an informal decision?

Mr. Kevin Cardiff: That's a ... I know I've left the Civil Service, but you'd never get a civil servant to say that the, the Government isn't competent to make the Government decisions.

Deputy Eoghan Murphy: I'm not asking that question. When you look at the people who were in Government Buildings on the night of the guarantee, were they in at the Cabinet meeting attending on the day before?

Mr. Kevin Cardiff: No. No, the Cabinet meeting on the day before was, I think, explicitly to discuss the budget which had been advanced, so it wasn't ever so far as I know intended to be a discussion of the guarantee. Indeed, just to underpin that, at the same time as that Government meeting was happening, there were meetings happening - I presume at the same time - there was a very lengthy meeting in the NTMA that day, where we were supposedly still working out the options, so it would not have made sense for that, you know, for the Government ... there was no paper put to Government about the guarantee or anything like it that night .... that day, because we had been instructed to meet the same day to finalise a range of options.

Deputy Eoghan Murphy: So it's unlikely then that the Cabinet might have even made an informal decision on the Sunday, the day before the guarantee, to implement a guarantee.

Mr. Kevin Cardiff: Well, it would seem unlikely except for the fact that Mr. Gormley has said that at least a certain amount of, quite extensive, he says, discussion had happened. So, and all I did is I put it out because I don't know the answer, but, I mean, that's, thankfully, that's your job.

Deputy Eoghan Murphy: Thank you. Just to move on then to the next day, and you said in your report on page 29,

> But once the main decision to grant the broad guarantee had been made, the level of movement in and out of rooms and corridors went up considerably. There was a lot to be arranged:[including]...
>
> - Preparations had to be made for an incorporeal Government Meeting
>
> - a consultation of Government members and decision to be taken by telephone.

Was the decision made at that point or not? Essentially, I mean. Substantively, was the decision made?

Mr. Kevin Cardiff: Well, other, there were two decisions that night. The first one was to recommend something to Government and the second was the Government's decision itself. So, I mean, you couldn't ... well, it depends on how you look at it, Deputy. If you think that when a Minister, a Taoiseach and an Attorney General come to a conclusion, it's likely to be carried by the Cabinet, then we were at that point before the Cabinet was rung. But they were called, they were each advised of what was being done, and they could each have queried it. But, realistically, I mean, there's a, sort of a ... people ... Ministers occasionally get slated in the press, "Why didn't you stop it?" If the Taoiseach rings you and he says, "There's a big problem and we have to stop it and it's urgent, and, by the way, this is what we're doing", you probably have to take it on trust. And, also, in fairness to various political parties and so forth, the next day, when the Government came to them in the Dáil and said, "We're going to have to do this", it's not really fair later to criticise them for saying, "Okay." When it's a crisis, you have to come behind something, and unless you're dead sure, you're going to come behind the Government, so this criticism of people for agreeing to the guarantee or not agreeing to the guarantee or some people saying they did and some people saying they didn't, and some people saying on the day that they don't really agree but they're going to vote against it anyway, the truth is, the Government presented ... the Taoiseach and the Minister presented to the Government and then to the general public and to the Dáil, a problem and a proposed solution. In the event that they hadn't ... in the event that the Dail had voted against their proposed solution, we might have had a much bigger problem. There wasn't much choice for Ministers at that-----

Deputy Eoghan Murphy: I just want to come back to the Cabinet in terms of the level of information they were receiving at the time-----

Chairman: Deputy, you have to wrap it up now.

Deputy Eoghan Murphy: Yes, final question, concluding question. Because as you say in your statement, there was always going to be a meeting that day. Things were happening, things had been happening over the weekend. I mean, would it have been possible for a Cabinet member to disagree with the decision, if they weren't at the actual meeting at which the decision was arrived at?

Mr. Kevin Cardiff: Well, a very well personally informed Cabinet member could have said, when he was phoned, at one in the morning or whatever, two in the morning, whatever time it was they got to them, "I don't like the look of that, I'm voting against."

Deputy Eoghan Murphy: This would be over the phone.

Mr. Kevin Cardiff: Over the phone.

Deputy Eoghan Murphy: To whom?

Mr. Kevin Cardiff: The phone call is ... civil servants don't usually get to see this, but I suspect, I think the phone call is made by the Secretary General to the Government.

Chairman: Okay, thank you. Mr. Cardiff, before I move on to Deputy O'Donnell, I just need to ask you one question. From the period of 1998 to 2008, if you could please describe the general nature of the advices, if any, that you provided to the Minister and Government on the risks associated with the trebling of expenditure, especially the growing dependency on construction-related economic activity and tax revenues.

Mr. Kevin Cardiff: No, I can't, specifically, for the very good reason, as I explained to

Deputy Murphy, that mostly it wasn't ... that advice wouldn't have come from me; it would have come from the Secretary General or it would have come from whichever senior officer at the time was in the fiscal co-ordination because the economic unit and the fiscal co-ordination unit were usually together under the one manager. Now at various times on the ... when I was dealing with tax, in particular, I would have given advices on particular aspects. For example, I ran the process, ran it as hard as I could, that led to the abolition over ... on a phased basis, of the tax incentives. And at the end of that period ... so that would be, I forget, you'll know, you'll remember better than me, probably end of 2005 or beginning of ... whenever that was ... whenever we were abolishing the tax incentives. At that point, there was already some sense in the mix that, you know, maybe we're abolishing these things actually just as property is about to top out. So, the property incentives were to be phased out rather than immediately cut and there were two reasons for that. One was because in, in natural justice and having regard to legitimate legal expectations and so forth, people had made plans on the basis of existing law and were entitled to finish through ... to carry through their plans. But the other was, that at that point, if the market, if the property market was toppy, you could actually ... you could actually, sort of, precipitate something more quickly than you wanted to. I think it was Nigel Lawson said that the economy doesn't crash ... it doesn't crash on the fast downhill run, it crashes when you put on the brakes ... maybe it was Brittan. So, there was a danger, I suppose, at that point, in relation to that particular issue that if you slammed on the brakes very hard, you might have more impact than you realised. But the general fiscal advice was coming from someone else , so my pieces of it would be a bit different.

Chairman: So, maybe if I could maybe draw upon that analogy of stepping on the brakes, there maybe is a case to check the brakes every now and again and make sure that the brake discs and the shoes inside there are actually in order and if I could take you through the following graphs. The first one up there is the increase in credit between property and other sectors excluding financial intermediaries and you see in February '99, there is kind of a concurrency. Okay, one is over the other but by February '09, it's like the difference between Carrauntoohil and Mount Everest - the difference between those two spikes or two peaks and if you can just move on to the next number of graphs there. You have the ... if you go on to page 3, or sorry, page 11 of the next document, you have cyclical taxes as a percentage of revenue which is page, sorry page 3, my apologies there. It's page 11 on the other document ... page 3.

Mr. Kevin Cardiff: Okay, I get the idea, Deputy.

Chairman: So what there is, is ... there is all these escalating ... it's not going downhill, there's all these massive cyclical taxes as percentage of revenue massively up ... total revenue moving massively up, credit rate of credit advance to households we see dropping and credit rates instructions going up quite significantly, percentage of commercial credit for construction, so on and so forth. Now, at the macro level, had you any responsibility for oversight of these issues?

Mr. Kevin Cardiff: Well, I had a responsibility as an official of the Department of Finance to serve the public as best I could. But I wasn't ... after 2004, I wasn't the person who would be ... who would have the pen, if you like, in drafting the response but there were quite specific advices about risk. Even in the budget, you'll see ... even budget '07-'08, you'll see a listing of risks and even in the manifestos for the 2007 election, you'll see that those similar risks are not just noticed but acknowledged by the various parties and everyone, sort of, decides "Well, we see the risks but we keep spending unless things get bad." Well, that's reasonable within limits. The Department of Finance was advocating much tighter fiscal policy than governments and even oppositions were ... were acceding to but even we didn't have a sense of the impending doom that was there and while we might have been more conservative than most, we weren't conservative enough.

Chairman: But the point I'm making, Mr. Cardiff, is that this is not new information uncovered by the inquiry.

Mr. Kevin Cardiff: No.

Chairman: This is factual information that was to hand------

Mr. Kevin Cardiff: It was to hand within a few months of the end of each year. Yes.

Chairman: -----to economists, to the Central Bank, to the Department of Finance, to Government of the day and everybody else. So, it's not a case of, "Well, we know this now, we didn't know that back then", it was known back then. And this would show that there was 24% of the Irish economy in construction. It would show that if there was to be a slowdown there, that there was a relationship between employment and construction. It would show that there was a lot of the taxes that were coming in were based upon consumer or consumption taxes instead of what might be considered a real economy and so forth. And at any time, was there an advice from you as part of your role in the Department of Finance to say, "That we need to kind of slow this down, we need to cool it down, that there's a lot of concentration going on here and that there may be a cliff that we could be going over if we don't pull ourselves back from the exposures that we have at present?"

Mr. Kevin Cardiff: Well, I've answered the question now twice, but maybe I'm not being clear. I didn't have ... there was no specific advice from me but then it wasn't me who would be giving the specific advice.

Chairman: Okay.

Mr. Kevin Cardiff: Sectoral advice in relation to particular issues, yes, and, for example, on the one big element that I had that was to do with property in 2005 and 2006, my specific advice was, "Look at these evaluations - we've done a really professional job, I hope, of evaluating, I think, it was 23 different tax headings, these must stop but they must stop in a phased way so that you don't precipitate a faster reaction in the market than you want." Now, the truth is, Deputy, that most people who saw the crash coming or who now say they saw the crash coming, saw it too late to be in a position to undo most of the damage. And even those people who had an inkling and there were some, in the official system as elsewhere, that things were now in a dangerous spot in space ... at that point, say, end of 2006 and so forth. The quandary at that point was, you know, how do you climb down ... like you're on the cliff, the wind is blowing, how do you climb down off the cliff without precipitating the crash? So, as I said, the thing I was involved in at the time, the property tax exemptions, which was a big enough thing - we were saying "Yes, you have to stop these but watch out for this slippy slope that you might actually create a ... create the event that you're trying to avoid", and it was also by, by certainly in '07 but even by '06, it was a bit of a problem in the construction sector. We knew that construction, even kept going in 2007 but in '06, the end of '06, there were small changes or retrospectively smallish looking changes in the rules and mortgages and so forth. But you could see that there was now a top ... kept going a little bit but there was a sort of a top to the market but you couldn't just say, "Well, let's, let's draw a line." Let's say at that point that suddenly we'll cut credit by 20% because you'd have a ... you know, you would precipitate the crisis even earlier than it happened. Maybe, in retrospect, if you knew you were going to have the crisis and there was no soft landing, you would choose to do it earlier rather than later but the soft landing, the soft landing looked in prospect and what people were talking about when they talked about that in the official system, it wasn't a soft landing in a sense of, "Ah, it'll be no problem, lads." It was a soft landing in the sense of,Yes, you might lose 3% or 4% or 5% off your GDP but you'd be able to manage it. So for the-----

Chairman: So, if I can say, Mr. Doyle or Mr. Cardiff. Mr. Doyle in his evidence yesterday to this committee said there was no research whatsoever carried out internally by the Department of Finance in-house, no documentation whatsoever, no modelling, no assessment of any kind with regard to the soft landing theory. This was information that you were hearing from other sources, other reports ... there was nothing in the Department of Finance to base your own evidence that you actually had a soft landing coming down the line.

Mr. Kevin Cardiff: Well, that may be true-----

Chairman: Would you concur with that view given by Mr. Doyle yesterday afternoon that there was no documentation inside there that there was a soft landing?

Mr. Kevin Cardiff: Well, through your whole line of questioning here, Deputy, I've been explaining to you-----

Chairman: Yes.

Mr. Kevin Cardiff: -----I wasn't the person who would have happened to have that. Yes, I'm sure-----

Chairman: But you're quoting the soft line landing this afternoon, or the soft landing theory-----

Mr. Kevin Cardiff: The soft landing theory was-----

Chairman: Just hear me out a second.

Mr. Kevin Cardiff: Yes.

Chairman: You're quoting the soft landing theory with us here. We have to establish where that theory came from. Mr. Doyle, to us yesterday afternoon, confirmed to us that there was no - unless you have information to the contrary - that there was no modelling, no assessment, no financial examination that they had actually based the soft landing theory upon, that it was other reports externally outside the Department of Finance that ... to which that discourse and language came from, nothing that they had by means of evidence.

Mr. Kevin Cardiff: Well, I don't think anyone ever said ... I'm sure that Mr. Doyle is right. He would know much better than I. I don't remember anyone ever using, widely at least, soft landing as a soft landing theory. But what I do recall is that people were putting assumptions and risk statements into budgets. And for the 2008 budget, the assumption was ... don't quote me, I'm here ... but, from recollection, the assumption was something like 50,000 house constructions that year compared to 90 the previous. And 10,000 houses was about 1% on GDP or GNP, I'm not sure which. So, there was, at least within the assumptions, a very significant shift in that dimension alone. Within ... so there was no one ... so when people say we all expected a soft landing, it wasn't that soft. That was quite a bump that would have a real impact on people's lives, lifestyles and expectations in relation to what they would get or not get from the Government system.

Chairman: And we accept that but we also ... I ... are you accepting that there was no Department of Finance examination to back up the soft landing period that was evidence of its own?

Mr. Kevin Cardiff: Well, what I'm telling you, Deputy, is that I haven't-----

Chairman: Okay-----

Mr. Kevin Cardiff: -----done anything to establish that one way or the other.

Chairman: All right. Deputy Kieran O'Donnell.

Deputy Kieran O'Donnell: Thank you. Welcome, Mr. Cardiff. Can you describe the interaction and, in particular, provision of information from the Department of Finance to institutions like the IMF and OECD in the run up to ... running up to publications of IMF and OECD reports in Ireland?

Mr. Kevin Cardiff: I can describe them in general terms. For most of the years we are talking about, especially if you are talking about pre the time when I was Secretary General, I wouldn't have been the co-ordinator. But, basically what happens is an IMF team arrives, they spend a couple of weeks, they do an extensive consultation, they have generally done a very, very thorough desk analysis before they arrive and before they leave, they write up a document - 30 or 40 pages, I think - which is their assessment. They then come to the ... what they call the authorities ... but to the Department of Finance or to the Central Bank Governor or whoever. I think, in theory, both the Minister and the Governor are members of the IMF in some way or the other.

Deputy Kieran O'Donnell: Yes, yes.

Mr. Kevin Cardiff: They have an institutional role and they say, "Here's what we think. Are we wrong?" And the Governor will say, "Oh well, you know, this could be different or that could be different." The Department of Finance would probably be quite critical in that situation and they'd say, "Well, we don't see where you get that, we don't see where you get this. You know, you might have that wrong, you might have it right."

Deputy Kieran O'Donnell: Did they ever change ... did they ... did the OECD or the IMF ever change a report for the Department of Finance?

Mr. Kevin Cardiff: Well, I changed one word - not for Department of Finance ... after ... after discussion with the Department of Finance, oh yes. Yes, loads of words.

Deputy Kieran O'Donnell: But was ... was the import of what was in the reports changed?

Mr. Kevin Cardiff: It could be if they ... if there was a ... if the IMF team decided that they had misunderstood something or that they would have a different view, having consulted, but it was entirely their choice. But, yes, there was ... I mean finance Ministries all around the world when they get an IMF report will say, "We don't see it the same way you do."

Deputy Kieran O'Donnell: Okay. Can I move back to page 13 of your statement? And I just want to do a small bit of teasing out on the ... you were asked to produce a draft of the final announcement based on the banks' wording. What time of the night was that?

Mr. Kevin Cardiff: Well, I think ... I hope by now you have my transcript of the ... my own personal transcript of my own handwriting of that night which is a bit different to what I've got in the pack-----

Deputy Kieran O'Donnell: Yes, would you just give me a general outside of the time-----

Mr. Kevin Cardiff: So in that you'll see "00:41, banks back in". So about twenty to one in the morning the banks were brought back in and there was a further discussion with them-----

Deputy Kieran O'Donnell: Okay-----

Mr. Kevin Cardiff: -----so it must have been ... it must have been a good half an hour or more after that. So it must have been-----

Deputy Kieran O'Donnell: About two o'clock in the morning, roughly.

Mr. Kevin Cardiff: Yes, according to my phone records, my last phone call was at four o'clock. So somewhere between one and four. So two or two thirty or something like that, yes.

Deputy Kieran O'Donnell: And why was it based on the bank's wording? Did you ... had .. was there no wording within the Department itself on the guarantee?

Mr. Kevin Cardiff: No, because ... because the Department and the ... everybody else in the technical team had been off preparing a set of options, not a specific decision. The-----

Deputy Kieran O'Donnell: But the decision had been made at that point.

Mr. Kevin Cardiff: The decision had been made at that point. And the decision that had been made by the Ministers present to present their particular thing to Government was encapsulate ... in my understanding, was encapsulated in the discussion we had had.

Deputy Kieran O'Donnell: Okay.

Mr. Kevin Cardiff: Now, as I was going out the door, someone - it must have been someone senior or I wouldn't have been listening - says, "Kevin, that is to be drafted in line with what the banks have given us because they understand the market."

Deputy Kieran O'Donnell: Who would have been someone senior?

Mr. Kevin Cardiff: It would have to have been either the Attorney or the ... or the Taoiseach. I'm not sure if the Minister was still there at that stage. But anyway, it wasn't ...this was no-----

Deputy Kieran O'Donnell: I suppose, in the limited time, I just want ... there is a couple of points I just want to tease. The ... the bank guarantee-----

Mr. Kevin Cardiff: It wasn't that someone wanted us to follow the banks' line-----

Deputy Kieran O'Donnell: No, no. The line-----

Mr. Kevin Cardiff: They wanted it to be right and they thought it would be more right if-----

Deputy Kieran O'Donnell: The word-----

Mr. Kevin Cardiff: -----they used their draft.

Deputy Kieran O'Donnell: -----the wording ... the wording that came in - that you had from the banks - was effectively an open-ended guarantee in that the banks were looking for all loans, existing loans and all future loans, to be guaranteed for the full term of their loans, correct?

Mr. Kevin Cardiff: If ... if my recollection and I ... I've ... we've had our philosophical discussion about the ... the limits of memory but if my memory is correct then, yes.

Deputy Kieran O'Donnell: And how long would you have been discussing that document? Was there any due diligence done on that document? If you hadn't seen that ... that details when you were actually drafting up the note - the announcement - would it have been spotted ... what the ... what the banks had in their wording?

Mr. Kevin Cardiff: I imagine so because, you know, that ... that, as I said, there was a number of drafts of it so it would have gone through various iterations.

Deputy Kieran O'Donnell: But how long were you discussing that? When the banks came in, was there copies made of the document they'd provided?

Mr. Kevin Cardiff: Yes, I believe so.

Deputy Kieran O'Donnell: How many copies?

Mr. Kevin Cardiff: Well, I was ... I presume as many people as were in the room.

Deputy Kieran O'Donnell: So, therefore, there was a number ... so there ... that document ... and was that document a handwritten document or a typed document?

Mr. Kevin Cardiff: I honestly don't remember, Deputy. I don't remember. I have a picture in me mind of a typed document but, you know, I see so many so many documents, I don't-----

Deputy Kieran O'Donnell: And how ... and when you came back in-----

Mr. Kevin Cardiff: I think Mr. Gleeson said it was ... it was handwritten and-----

Deputy Kieran O'Donnell: But why wasn't it picked up in terms of the due diligence and discussions prior to you being handed this bank wording? Why wasn't it picked up?

Mr. Kevin Cardiff: Well, it ... because the ... let's be clear, the people in that room were not trying to ... were not discussing the banks' wording-----

Deputy Kieran O'Donnell: But you were given the banks' wording-----

Mr. Kevin Cardiff: Well, I just was saying it-----

Chairman: Give him time to respond, now, Deputy.

Mr. Kevin Cardiff: They weren't discussing the bank wording; they were discussing what kind of guarantee ... at this stage, what would be the terms of the guarantee. It probably looked to the people concerned that it was about the same as the bank drafting and so they said, "Okay, let's keep this right in market terms. Banks know what they ... how to communicate with the market, follow that." Now the banks were ... had no part in this. They were out in a room somewhere.

Deputy Kieran O'Donnell: But you were working up there wording, Mr. Cardiff-----

Mr. Kevin Cardiff: No, I was-----

Deputy Kieran O'Donnell: In the limited time I have, you were given their wording, which was the only document you were given to draft an announcement. In that wording, was effectively an open-ended guarantee to the banks for ... for all current-----

Chairman: Now, Deputy, that's leading now.

Deputy Kieran O'Donnell: Yes, yes. But the question, I suppose, I am posing is ... the National Treasury Management Agency, Brendan McDonagh, was below in a room. He was your special adviser, special banking advisers. Why wasn't he brought into the room to actually have a look at this document that was provided by the banks that formed the basis of an announcement?

Chairman: We might be moving into repetition here now as well, Deputy, because it may have been answered but I'll allow a bit of time for it.

Mr. Kevin Cardiff: Brendan was there. I'm sure he saw the drafts going back and forth.

Deputy Kieran O'Donnell: He says he's ... the only time ... in his evidence to us ... the only time he was in any way consulted was at the very end of the night to ask were subsidiaries of the banks to be included in the guarantee - the external subsidiaries to be included.

Mr. Kevin Cardiff: And I'm not sure how he would've commented on that without seeing the draft. So, I don't know, Deputy, is ... if Brendan did or didn't except that that ... it makes sense that he would have seen it at some stage. I know that he sent a message to ... to Merrill Lynch at about 1.30, which was saying "Looks like the Government has decided on a broad guarantee. Please give me a ... please tell me how we should handle this in the market tomorrow." So-----

Deputy Kieran O'Donnell: Okay-----

Mr. Kevin Cardiff: -----by then he knew. The drafting from the timeline you're putting together seems to have been later.

Deputy Kieran O'Donnell: Okay.

Mr. Kevin Cardiff: So, look, Deputy, honest people will have different recollections.

Deputy Kieran O'Donnell: Can I just move on? Why did you put forward that Anglo and Irish Nationwide should be nationalised on the night of the guarantee? What was your basis for that?

Mr. Kevin Cardiff: I thought they were shot. Not in solvency terms but in terms of their future business. If you think about it, they had a property-based business at a time when property seemed to be slumping. So who are they going to lend to? What was their business going to be in two years' time? What was their profit flow going to be? It seemed to me, and I was taking advice from Merrill Lynch and from NTMA, so it seemed to us-----

Deputy Kieran O'Donnell: And were both Merrill Lynch and NTMA advising that Anglo and Irish Nationwide should be nationalised?

Mr. Kevin Cardiff: Yes.

Deputy Kieran O'Donnell: Okay.

Mr. Kevin Cardiff: To the best of my recollection yes, but maybe a different ... a slightly different nuances but basically yes. So it seemed to me that those institutions would have to be managed and managed down so that they would have a lesser balance sheet over time.

Deputy Kieran O'Donnell: She told me not to ask the first one. Sorry please yes. Sorry Chair.

Mr. Kevin Cardiff: You can ask anything ... well go ahead-----

Deputy Kieran O'Donnell: This is a very, very important point for me.

Mr. Kevin Cardiff: So, we said it. It's in one of the documents. The business model is seriously damaged, what are they going to do if they don't have this business model? And there was no sign, from the limited discussions that people had had with the management, that they saw that. So the thing to do was to wrap it into what we were calling nationalisation, protective custody. Grab this institution and manage it in a way that reflected that reality.

Chairman: Finish up now for supplementary-----

Deputy Kieran O'Donnell: Yes, fine. Apart from yourself and Minister Brian Lenihan, the late Minister, Brian Lenihan, was there anyone else in favour of the nationalisation of Anglo and Irish Nationwide on the night in the room?

Mr. Kevin Cardiff: Explicitly and absolutely in favour? Not even myself and Minister Lenihan because, remember, we had a list of options. There was pros and cons of everything, but in terms of nailing our colours to the mast, I think just myself and the Minister, and later on in the night, just me.

Deputy Kieran O'Donnell: Just you?

Mr. Kevin Cardiff: And I don't know that I was right, Deputy, just be clear. That ... this is about honesty here and openness and all the rest. I don't even now know if I was right, but that's what I was advocating at the end, yes.

Chairman: Thank you very much. Deputy John Paul Phelan.

Deputy John Paul Phelan: Thank you, Chairman. Good afternoon, Mr. Cardiff. In relation to the OECD reports, which Deputy O'Donnell just touched on, from 2006 to 2008, can you outline for the inquiry if there was a discussion within the Department on the findings of those reviews, in particular with regard to house price inflation and the financial health of the banks?

Mr. Kevin Cardiff: The answer is I don't remember. I do know ... I think I know, I do recall at least that there were notes, as there would be with any OECD report ... there would be notes prepared for the Minister and for the Government that would say what was in the reports, what our view of the reports, what our Department's view of the reports was and so forth.

Deputy John Paul Phelan: Can you recollect-----

Mr. Kevin Cardiff: And that, and that would presumably follow a discussion, at least among the team that was supposed to produce that note.

Deputy John Paul Phelan: Can you recollect any action being taken on foot of them?

Mr. Kevin Cardiff: Well, '06 wasn't necessary in another sense because I think the '06 report was, let's kill off those, apart from other things, let's kill off the, the, the property tax incentives and the like. So that was already happening. Also '06, there was a further ... some further suggestions on tax policy, including property tax, which frankly we didn't even bother, no chance at all, and there was some interim on interest reliefs, but I think we'd already done something on interest reliefs at the time so that probably was regarded as somewhat taken care of. And that was ... I mean in my side ... in my side of the house at the time would have been the tax, that was ... that's my recollection of that. In '08, although to be perfectly honest, Deputy, at this stage I don't even remember the '08 one; it's not in my head at all.

Deputy John Paul Phelan: Thank you. On page 3 of your opening statement you describe a crisis simulation exercise as being "carefully constructed". It involved the Department of Finance, Central Bank and the regulator, conducted in 2007 on a potential bank failure. I'd ask you to comment on that description and how it fits with the fact that the exercise lasted less than three hours. It was described by Governor Honohan as "excessively cumbersome" and it ... rather than featuring a failure of an institution, it merely featured difficulties for a single borrower rather than an institution or a ... the whole sector.

Mr. Kevin Cardiff: Well, the three hours I wouldn't worry about, Deputy, because if you think about it, the night of the guarantee was all over, bar the shouting, in six. So, I wouldn't have that ... it was carefully reconstructed, it took ... it was really well constructed in the sense of a lot of thought went into it over a period of weeks or months by the people concerned and there was a real attempt to make this a realistic thing that could happen, probably with the recent Northern Rock in mind. Why didn't ... why wasn't it a simulation of a system-wide meltdown? Well, that was never the intent of the exercise but also, frankly, a system-wide meltdown wasn't regarded as in prospect at the time.

Deputy John Paul Phelan: Okay.

Mr. Kevin Cardiff: I don't remember what Governor Honohan said about it being, oh yes, "cumbersome". One of the messages, lessons from the, the meeting was that look, if this notion of having different people in different places with their own teams doesn't work so let's, let's make sure that we don't have that happen the next time. And you could see some reflections of it in our first reaction to the Irish Nationwide. First, one message from the crisis simulation - don't run straight to a guarantee option, there's other options. So, in the INBS thing, our first response was to look for a private sector's approach. The second thing - don't have people in separate rooms. When INBS happened, our first reaction was get everybody in the one room and work in on this together.

Deputy John Paul Phelan: Okay.

Mr. Kevin Cardiff: Without, thankfully at this stage, without much ... like the central banks are always really jealous of information but once we got in the one room we didn't have that problem, so there were reflections of that and the thinking that came out of that. It wasn't a nugatory exercise, it was useful, it taught us some lessons but it didn't teach us to deal with the major meltdown because, quite honestly, at ... in December '07, we were expecting to prepare for a bank or two in trouble on foot of, you know, changes in the general situation.

Deputy John Paul Phelan: Okay. I just want to turn to INBS and refer to page 4 again of your opening statement where you say “in the first half of September 2008, when it was clear that INBS was in ... difficulty, I told the staff in the [regulator] that [Bank of Ireland] ...and ... AIB ... would have to be called in to assist in a resolution for [Irish Nationwide]”. What did you mean by the term “resolution”?

Mr. Kevin Cardiff: Well, I think I said, either in my statement or in my report - the long statement as the ... as, as it’s now being called - that it was always in prospect. After that crisis simulation, the sense was that now this rush to the guarantee arose because we hadn’t thought about a private sector solution and a private sector solution in Ireland meant the two big banks, and what you would look for in a resolution situation was that, you know, two larger banks would be basically handed the keys and said, you know, there that’s yours now, you have to pay something for whatever value is in it but, basically, one or other of you, or both or you, subsume-----

Deputy John Paul Phelan: Okay.

Mr. Kevin Cardiff: -----that institution. I was a little bit worried, retrospectively, years on, worried to see that some of the minute of that meeting was more about giving them liquidity protection. Well, that would be part of it but that wouldn’t be what I would have had in mind.

Deputy John Paul Phelan: Okay.

Mr. Kevin Cardiff: I wanted Irish Nationwide taken over by the two big banks, if that could be arranged.

Deputy John Paul Phelan: Okay. Can you understand then that if you felt that that resolution had to be reached, that, you know, people watching might have difficulty in accepting that, you know, the guarantee subsequently, which you were part of the decision to take, included guaranteeing Irish Nationwide? That if you felt in, in those comments in early September 2008 that a resolution had to be reached, reached for Nationwide, why was the guarantee ... why did it include Nationwide?

Mr. Kevin Cardiff: Okay. The guarantee was a ... no. What you’re really asking ... without ... so if I, if I avoid going into a big long explanation of why guarantees and that, what you’re really asking was why didn’t ... why did we think INBS was sustainable enough to guarantee it?

Deputy John Paul Phelan: Yes.

Mr. Kevin Cardiff: Well, the answer is that by then, we had further information from Goldman Sachs who were saying, “Look, these guys are going to take a hit to capital but they’re not going to eat through it.” And I think they were even saying that actually, “Things are not as bad in there as we had expected to find.” So there was an expectation that INBS, over time, would lose capital. I think, even in my notes there are ... I couldn’t bring all the notes that I took, but, in those notes, there’s even suggestions that they don’t even run out of regulatory capital for a year and a half or two years on some assumptions. So, it wouldn’t have been untoward to rope them in. Now, the question was were they big enough, the other question is were they big enough to be systemic? In other words, were they so important that, if we just let them fail, that would have knock-on implications for the rest of the financial system.

Deputy John Paul Phelan: Okay.

Mr. Kevin Cardiff: And, that's ... that is a borderline call, probably, in normal times. For example, INBS, in terms of Irish GDP, was probably about the equivalent of Washington Mutual in terms of US GDP, and in Washington Mutual, they let it fail. But a lot of people afterwards, including Tim Geithner, thought that was a mistake. So, was it big enough? I don't know. But in normal times, you might let it go, but when everything else is very "febrile", to use Brian Lenihan's word, that he used a lot when everything else is very fragile you might decide that it's not worth the saving to protect it.

Deputy John Paul Phelan: Okay. My time is running out, I'm sorry, I'm not trying to cut you short but, again, on page 12 of your statement, you pointed out ... and that on the night on the guarantee in the room "...once guaranteed they could not in any circumstance be allowed to fail – and so any capital or cash shortfall would have to be addressed". At that point in time, did you believe that there was going to be a cash shortfall in the banks, and that the taxpayers would have to address that shortfall? And, on the night in question, and prior to it, immediately prior to it, were the banks themselves asked specifically did they believe that there was going to be a cash shortfall? The reason I ask this, and I'm not going to get back in again, we've had evidence from Mr. Goggin, and from other people, that two weeks after the guarantee, Bank of Ireland knew that they needed to be bailed out by the taxpayer. And, would it not, on the night in question, have been appropriate for somebody, and not just yourself, to have asked them whether that bailout was on the horizon?

Mr. Kevin Cardiff: Well, if they knew that two weeks later then they're "bowsies", because they didn't tell us that. They told us that later, and even then they made us negotiate with them, like, "We're giving you a big favour."

Deputy John Paul Phelan: They said, and I'm not just trying to interrupt you ... they said, and Mr. Goggin's evidence was that, because the budget was approaching, that they decided not to approach the Government at the time, but on 13 October, they were exploring the option of capital investment from the Government and, therefore, from the taxpayer.

Mr. Kevin Cardiff: Well, I didn't see that, and it's downright outrageous. If they really thought that at the time, then they should have bloody said so. We were managing a crisis, we weren't in the ... in a situation of having to play games, pussyfooting with ... with feck acting like that. If that's their view, they should have said so, but they didn't. But, let's be clear, we had that Pricewaterhouse analysis done. It said they need capital, but not because that they had a big capital hole, but because the general capital expectation was going up and the numbers that were being said for them, even for three or four months later, were not huge numbers, it was ... it was €2 billion of State capital plus €1 billion of additional "underwrited", so €3 billion.

Chairman: Deputy-----

Mr. Kevin Cardiff: So, what I mean, really, if they thought at that point that they had a ... an issue that was going to require assistance from the State, well, I'm a bit surprised, even in retrospect.

Chairman: Okay, be mindful there, because we don't have, actually, a specific reference to the transcript there either. I just need to come back to one matter that needed to be picked up there. It's ... and it's on a different vein altogether.

Deputy John Paul Phelan: I asked-----

Chairman: Yes. Yes, I know that, but I ... we could get ... very much ... and the guarantee is important, but there are other matters here that have to be carried ... dealt with, other than the guarantee. So, if I can come back-----

Deputy John Paul Phelan: I asked a whole load of different questions.

Chairman: Yes. If the situation ... there is a crisis stimulation exercise in the Department ... Department of Finance and the Central Bank and the Financial Regulator. This was conducted in 2007 on a bank failure. You modelled it out, yes? Do you recall that?

Mr. Kevin Cardiff: Oh yes, we just discussed it.

Chairman: Yes, yes, okay. The ... just, where ... was ... was that model-----

Mr. Kevin Cardiff: Banking crisis simulation incidentally, not stimulation, we were trying to ... not to stimulate-----

Chairman: Yes, sorry, excuse me, I know ... I make that ... or in Sweden at the moment, with the stimulator, trying to put things together. Was the model, ultimately ... how would you ... how would you describe it ... seen as being inappropriate and not required for the type of crisis that was gonna come down the line?

Mr. Kevin Cardiff: The simulation?

Chairman: Yes.

Mr. Kevin Cardiff: No, it was useful, but within particular limits.

Chairman: All right, okay. Thank you. We'll move on. Senator Sean Barrett.

Senator Sean D. Barrett: Thank you, Chairman, and welcome, Mr. Cardiff. You say in your statement: "...one should not jump too quickly for a guarantee approach, and should insist on a broader consideration of options". How many options, ideally, should there have been before the group that met on 29 September? The guarantee, nationalisation, consolidation, liquidation, how many were there, can you recall?

Mr. Kevin Cardiff: Okay. Well. they weren't necessarily all alternatives, but the document that was produced on 26 September 2008 by Merrill Lynch had a ... I'm just trying to look through my statement now, if you don't mind ... had a ... I'll put it aside ... had a lengthy set of options, things to be considered, including some things that could be done immediately and some things that couldn't. For the things that could be done immediately, what had we ready on the night? Nationalisation, we had ELA, and that's-----

Senator Sean D. Barrett: Sorry, E-----?

Mr. Kevin Cardiff: ELA, emergency liquidity assistance. It actually takes some preparation; you can't just do it, you know, it takes some preparation. We had the possibility of giving very extensive loans from both the Central Bank and the Exchequer's own resources, which had been prepared for, and we'd actually built a cash pile, or the NTMA had built a cash pile for this purpose. We had the option of giving loans from the NPRF in various forms, with paperwork already tested out during the ... during the previous months. We had the option of setting up a CLS or an SLS, a liquidity swap arrangement along the lines of ... that had been used in the UK for several months at that stage, which would have converted bank assets into Government assets to ... so that they would get cash from the ECB. In other words, a way to get back-door financing of the banks from the ECB. I think there were other things too. But that was the sort of list of things that we could do pretty much on immediate notice that night.

Senator Sean D. Barrett: So, there's five there, probably more. Now, you were answering to Deputy McGrath. Were these costed?

Mr. Kevin Cardiff: Well-----

Senator Sean D. Barrett: Those five options.

Mr. Kevin Cardiff: They can't be costed because you don't ... because they don't ... they ... each of them costs zero unless something goes wrong. And there is no way of assessing the probability ... no realistic way, that night, of assessing the probability of things going wrong. But there were some concerns about some of them, reasonable concerns. The first was ... if you think about the idea of a direct loan, from the Exchequer resources, for example. Well, we had the cash, we had a lot put aside, but, you know, in terms of capital, in terms of the Exchequer, €20 billion is a lot of money. In terms of the overall size of the banking system, €20 billion might get you only a couple weeks down the line, if you'd a real out and out run at wholesale and retail level. And then you'd be the Exchequer that had no cash. You know, only your day-to-day cash, but not much. So there were pros and cons of everything, and there ... the liquidity swap arrangement was at a very advanced level. In fact, the final documentation on that was ... it was finalised at 4 o'clock that morning, so it was ready to go, whoever ... whatever bright spark was still working at that stage. So, that was ready to go, and it was ... it had quite a lot of positives, but it had some of the same negatives as the guarantee, which was that this worked by putting the Exchequer's credit behind the banks, so if there was a loss in the banks, there could be a loss on that. It was ... it would have been more collateralised than a guarantee, but still.

Senator Sean D. Barrett: So, that's a much more scientific presentation than, sort of, what the people have read about ... you know, 4 o'clock in the morning, lobbyists around the place, and all the documents gone afterwards. Now, I'm ... so, the ... what you said is ... is interesting in that regard, yes.

Mr. Kevin Cardiff: Yes. Well, to be honest, Senator, I mean, I could think of a dozen things I wish I'd done differently, but it wasn't that we turned up on that night and no ... there was no preparation. There was a huge amount of preparation. We might have prepared other things, we might have prepared for worse. That ... that's the big failing. But we didn't just turn up ill-equipped or unequipped for that night. It would have been nicer ... better to have the discussion, maybe, the two or three days previously, and have a full weekend over it, but a lot of work had been done.

Senator Sean D. Barrett: I think we'll note that because we have to take account of measures to prevent any recurrences and so on, so the reforms you've have been talking about are important and commissioning of the Wright report. You say on page 36, in the case of the Financial Regulator, he was not in a position to give the DOF a clear insight into the depth of the problems of the loan books of the individual institutions and it was necessary to engage outside advisers. In fact, we've found that, I think, Anglo and Bank of Ireland were both regulated, I think, by three people. Should it not have been the situation that we should have had warnings about concentration in property, reliance on wholesale market and too much borrowing at too high a loan-to-value ratio and that these things should have been flagged and the Financial Regulator should have been able to tell you that some of the individual institutions were in serious trouble?

Mr. Kevin Cardiff: I think that's right, Senator. When we set up the new structure in 2010, I slipped in with the permission of the Minister a provision and the provision is that every three or four years the Central Bank structure, the supervisory structure, must be reviewed externally. But, in fact, even in 2006, it had been reviewed externally and got a pretty solid report so there was something wrong not just with the Irish regulator, frankly, but with people's perception of what a good regulator would look like in that period.

Senator Sean D. Barrett: You also say on page 26 the most difficult relationship was with the ECB. Should a lot of those issues not have been sorted out when we joined the single currency, that we could have assumed that the single currency would be the lender of last resort instead of the fatuous relationship that you describe on page 26? We should have had a working relationship because it was part of the European currency and it's only late in the day that Mr. Trichet says no Irish bank should fail and there's even doubts as to whether he issued that in any documents. Was it not a normal part of being in the single currency to have all those issues resolved?

Mr. Kevin Cardiff: Okay. To be clear, I would bet an awful lot that there was ... that Mr. Trichet had issued that in no document and that it was only said informally but it was said deliberately, I am sure, but informally, and that was the feedback I got second hand through the Governor of the Central Bank. So in that sense you shouldn't try to pin Mr. Trichet on things that he didn't do or say and, indeed, in some ways, Mr. Trichet was a good friend to Ireland. My ... you're talking about tensions there. My problem with the Central Bank at times or the ECB was that it was doing all this wonderful stuff for us to be supportive, but it wasn't supporting us in the market. So, you know, they weren't out there saying, "This is what we're doing and this is what we will keep doing", so people were always concerned that they might pull back. Sorry, I have now lost the track of the question. What-----

Senator Sean D. Barrett: Being in the single currency, all those issues have been supported in 1999 and not in 2008 in the middle of the night.

Mr. Kevin Cardiff: Yes, well, that's true. Even within the Irish system and in every other system where things started to go wrong there was, if you read the UK reports as well, there is a tension between central banks and regulators, and between central banks and regulators and finance Ministries. The tension is always about who does what and whose job it is, and that was magnified at the European level so at the European level for the first two years of the crisis, the ECB was always saying, "Okay we're doing this but we don't want to. We think that governments should be doing more", and the governments were always saying, "Well, look if only the ECB would...". So this stand-off, you know, it wasn't a full stand-off but there was this sort of sense of a stand-off that got in the way and, of course, it would be nice if that was dealt with in 1999.

Senator Sean D. Barrett: Sorry, I'm running out of time, the last one... Lehman Brothers. Isn't the signal not to bemoan Lehman Brothers going bankrupt; it was a signal wholesale reliance on funding for banks has a much higher risk?

Mr. Kevin Cardiff: Yes, it is. Remember, we were talking about the new globalised financial market in which everyone was fishing for liquidity in this enormous big liquidity pool. It turned out that the liquidity, the globalisation was just on the surface and as soon as that little bit of surface money was taken out, everything was in much more restricted pools, like the tide going out. It looks like it's global but when the tide goes out, you find there's little rock pools. And the Irish rock pool in terms of liquidity for the Irish system was much smaller than it might have appeared. Similarly for other countries and worse. Those other countries and ourselves started saying, "Well, look we better look after ourselves first so, Ireland needs money but we are not giving it to them because we have to look after France or Germany or, you know...". I don't have evidence this happened, but a strong suspicion. Certainly, in Ireland we were trying to say, "Look after each other."

Chairman: Thank you. Deputy, or sorry, Senator Michael D'Arcy, please. Senator.

Senator Michael D'Arcy: Mr. Cardiff, you are very welcome. In terms of liquidity, Mr. Cardiff, on page 9, you use a line: "A worrying situation had become a desperate situation in just a few short days." Could you explain the factors that led up to that?

Mr. Kevin Cardiff: Sorry, let me just check.

Senator Michael D'Arcy: Page 9 of your opening statement.

Mr. Kevin Cardiff: My opening statement.

Senator Michael D'Arcy: Fourth paragraph, last sentence.

Mr. Kevin Cardiff: Sorry, I can't find ... but, basically, what was happening was that post-Lehman's, it wasn't just Lehman's but there were other things happening, but Lehman's was the ... a trigger event for a lot. If you look at in the US commercial paper market ... I've looked since at graphs of what was happening in that market and, suddenly, in a week - and most of the money is one week plus money so it couldn't happen much faster - but in a week, there is a huge shift in the amount of funds being lent in that market. At the same time, in the UK inter-bank market, there is a significant shift in how much money is available between banks. There are ... and this is a global phenomenon, the willingness of banks to lend to each other changed quite literally overnight. And our banks were more, as the Senator was just saying, were more exposed to this kind of wholesale funding than many other people and, indeed, more exposed to the US than others because, you know, English speaking and we know the language and we know the place, so they tended to fish in that pool. So when that market closed down and other interbank lending starts to get much more restricted and, suddenly, people were saying, "Well, you know, we'll lend you overnight or whatever", and then, on the night itself, the bank people - and they brought with them market knowledge which was useful - they were saying actually some solid lenders, some people who had regularly been their clients and their lenders were saying, "No quote for Ireland", not just no quote for Anglo or INBS but nothing for Ireland. So, in that sense, things that had been on a, sort of, gradual tightening path over a long time, that gradualness just evaporated and suddenly you'd a fall off a cliff in a very short time. Now someone else we have to give you the numbers for all those, but that was the sense of it. That was what we felt what was happening.

Senator Michael D'Arcy: In evidence from other people, other witnesses, Mr. Cardiff, we've been told that you can't bring down a bank overnight. Why did we allow the emergency start on Monday morning and we concluded on Monday evening? 29 September was a Monday. You had all day Saturday, all day Sunday knowing that Anglo Irish Bank were in a deep hole on the Tuesday.

Mr. Kevin Cardiff: Overstating it a bit, Senator, if you don't mind me ... but only a bit.

Senator Michael D'Arcy: Okay, please.

Mr. Kevin Cardiff: Yes, we knew they were in deep trouble and the Central Bank's assessment on the Sunday was that actually most likely they can last a week or so based on the information they were getting and there was some advantage to play for the week for the reasons that now people are saying, retrospectively, that, maybe, there will be some additional move from the ECB, some additional news, positive, in the meanwhile. So, basically, the Governor and the Minister sitting on the now famous 7th floor of the Central Bank that day, sort of, discussed it. I was there. I did not disagree. I was uneasy but I thought, on balance, if we had a week, it would be better. The decision was, well let's ... since it looks like they can last till next weekend, let's take an extra week for preparation. In particular, I think the Minister had it in mind to prepare the Government because neither he nor anybody else wanted a Government meeting in the middle of the night.

Senator Michael D'Arcy: Okay. Well, can I just ask in relation to ... there was Merrill Lynch, the NTMA, the Minister for Finance-----

Mr. Kevin Cardiff: Yes.

Senator Michael D'Arcy: -----and yourself who were broadly in agreement that Anglo should have been nationalised. Is that correct?

Mr. Kevin Cardiff: Well, there weren't that ... it wasn't a wide circle of people.

Senator Michael D'Arcy: Okay.

Mr. Kevin Cardiff: There may have been others in the general market, but the two banks also would have-----

Senator Michael D'Arcy: I'm talking about ... I'm talking about the night in question.

Mr. Kevin Cardiff: Yes, but-----

Senator Michael D'Arcy: And the two banks?

Mr. Kevin Cardiff: And the two banks.

Senator Michael D'Arcy: Okay. They're on one side of the conversation; who was on the other side of the conversation that ... who was left in the room when the conversation was being held?

Mr. Kevin Cardiff: Well, representing that one side, there was mostly me, and then the banks, they were there, they had their view.

Senator Michael D'Arcy: Yes.

Mr. Kevin Cardiff: But, to be honest, you have to discount their view as-----

Senator Michael D'Arcy: No, I understand that.

Mr. Kevin Cardiff: -----they also had their agenda, so they were being a little bit discounted. It's not ... don't think that they were-----

Senator Michael D'Arcy: Those who were ... those who were objective, who-----

Mr. Kevin Cardiff: So ... well, both the regulator ... both the chief executive ... like, to get personal, both the chief executive and the chairman of the regulator and the Governor of the

Central Bank-----

Senator Michael D'Arcy: All right.

Mr. Kevin Cardiff: -----and I don't know for sure but, I presume, Mr. Grimes, the director general of the Central Bank, who was there, but I can't recall a specific comment from him and it's not in my notes, I have notes but it's not in my notes for that, would have been in favour of the guarantee without nationalisation. The Taoiseach was in favour of the guarantee without nationalisation. The attorney, in fairness to him, was the legal adviser so wasn't pressed, I suspect, for a market decision and the secretary to the Government, I don't remember him giving a view but it wouldn't really have been his role. I think Eugene McCague of Arthur Cox Solicitors was also there but, again, that wouldn't have been his role, to give a view.

Senator Michael D'Arcy: Okay.

Mr. Kevin Cardiff: So, of the institutions, Department of Finance, Minister for Finance in one place; Taoiseach in another; and the Central Bank-Financial Regulator in a different place.

Senator Michael D'Arcy: Would it be fair or unfair to say that you were the last man standing in relation to the nationalisation of Anglo?

Mr. Kevin Cardiff: No, it'd be entirely fair but also, as I keep repeating, there were no certainties. There were pros and cons of everything.

Senator Michael D'Arcy: Okay. And eventually when the decision ... when it came to a conclusion, were you overruled, or did you------

Chairman: I need to make a clarification here, okay? And this goes right back to the earlier days of the inquiry, but I'll just stop the clock there, just to make this very clear because it's important, as we engage in the process of public servants and politicians. Public servants are responsible for providing advices, for giving the widest context, for giving information and for ensuring that Ministers are as widely informed as possibly they can be. The civil servant is not responsible for the decision made. The responsibility for the decision made is held by the politicians. So, I can let you continue your questioning but just be mindful of those two separations, Senator, okay?

Senator Michael D'Arcy: Yes. I just want to be clear as well though, Chairman, I think this is important.

Chairman: I'll put the clock back on again now in a second, yes.

Senator Michael D'Arcy: No, just ... just hold off the clock for a second.

Chairman: Okay, go on.

Senator Michael D'Arcy: And, Mr. Cardiff, perhaps-----

Chairman: Are you going back into questioning? If you're talking to me now, I'll stop the clock.

Senator Michael D'Arcy: No, no, I'm talking to you now.

Chairman: If you're talking to Mr. Cardiff, we'll restart the clock.

Senator Michael D'Arcy: But I think it's important that we have a clear understanding of the room on the night in question.

Chairman: Oh, sure.

Senator Michael D'Arcy: And I suppose what I'm trying to say is while there were people in charge, I'm trying to get a feel for the room. Was ... were people talking as equals while some were offering advice to others?

Chairman: But just to be very, very clear with you, it's not a situation that a politician-----

Senator Michael D'Arcy: No, I understand that, I know that.

Chairman: -----is in a sort of symbiotic relationship with a public servant and ... or a line management situation and overrules-----

Senator Michael D'Arcy: No, I understand, yes.

Chairman: The decision is political, the advice is the public servant; okay?

Senator Michael D'Arcy: I'm aware of that, yes.

Chairman: Start the clock. Thank you.

Mr. Kevin Cardiff: Well, I think ... I suppose the answer to that is that in the circumstances that it was, with so much at stake, I was giving my personal advice. I wasn't trying to be the Department of Finance, I was just trying to be the person who could say what he thought. And my advice was different, but I don't know that I was right.

Senator Michael D'Arcy: Okay. And, no, you've been very upfront on that. Can I ask you, Mr. Cardiff, subsequently there was an interview by Mr. Sean FitzPatrick on "The Marian Finucane Show" and it was Dermot Gleeson, in evidence, stated that he was very annoyed with what was said. Did you hear that evidence ... or that interview with Marian Finucane by Sean FitzPatrick?

Mr. Kevin Cardiff: No.

Senator Michael D'Arcy: You didn't?

Mr. Kevin Cardiff: I hardly ever listen to Marian Finucane, I'm afraid.

Senator Michael D'Arcy: Okay. Did you-----

Mr. Kevin Cardiff: She tends to have people on criticising the Department of Finance and it's not-----

Chairman: And you wouldn't have been informed of this and it's not in the core documents either, Mr. Cardiff, even though it's a very big core document.

Mr. Kevin Cardiff: I do remember it being talked about but I don't ... I didn't-----

Chairman: Okay. Move on, please, Senator, if you can, okay?

Senator Michael D'Arcy: You just killed a line of questioning there on me, Mr. Cardiff. Yes, just to wrap up, Mr. Cardiff, the funding cliff in your documents, Vol. 2 ... KCA, Vol. 2, page 137, there's a letter from Mr. Alan Gray.

Mr. Kevin Cardiff: Page 137?

Senator Michael D'Arcy: 137, yes.

Mr. Kevin Cardiff: Yes.

Senator Michael D'Arcy: And in the first paragraph, he goes straight to it, "However, as I know you are aware [this is a letter from Mr. Alan Gray to you] the day we give a time limited guarantee is the day we need to plan for exiting." Was there sufficient conversation about the exiting? And I suppose the angle I'm coming from, Mr. Cardiff, was you've said in evidence that it was the subsequent two years to the guarantee, but there was a funding cliff created by the guarantee. Was there sufficient conversation about the funding cliff that may occur in the future? And I note, Chairman, that the ... I'm asking beyond the guarantee but-----

Chairman: Well, once you remain in 2008, you're fine-----

Senator Michael D'Arcy: Yes.

Chairman: -----and I can understand where you're starting from, but the end of this question-----

Senator Michael D'Arcy: I know that too.

Chairman: -----will be dealt with next week.

Senator Michael D'Arcy: But I think, on the night of the guarantee, my concern ... I'm trying to scope is ... was there sufficient conversation held for when the State ran out of the guarantee?

Mr. Kevin Cardiff: Well, there didn't need to be a lot that day, so in a sense, in that sense, yes, sufficient. The funding cliff was in our minds from early on. Two issues arose later, I don't know if I may go into them, about the funding cliff. One was that we change the nature of the guarantee so as to address ... to allow the funding cliff to be addressed, so within limits, within fairly tight limits, not on everything, we allowed longer term debt to be issued from, well, as soon as we had the legislation so ... and the Commission approval, so probably from 2009 onwards, which was addressing the funding cliff. The other thing was that we started the process with the European Commission of getting renewals in place for the end of the guarantee. We started that process months and months ahead and, for whatever reason, it was a long, drawn out discussion. I suppose they didn't like the guarantee, and others that would be advising them didn't, so it was only finally ... the extension was only really, finally, formally agreed a week or two before the end of the period and that made dealing with the funding cliff more difficult; it made it harder to handle. So, answer is it wasn't dealt with on the night, but certainly there were strategies in place and work going on early enough to address it but, as it turned out, the situation had moved on so much that even if they could issue securities at that stage no one wanted-----

Senator Michael D'Arcy: Just-----

Chairman: This is the last supplementary. Very briefly now, because I do need to wrap up.

Senator Michael D'Arcy: Yes. Just on that, Mr. Cardiff, if it wasn't dealt with on the night, Mr. Alan Gray clearly raises it immediately. The funding cliff ... I suppose the question I'm asking you is, did the guarantee create the funding cliff and did that propel-----

Chairman: We're getting into next week's session there now, I think.

Senator Michael D'Arcy: Well, sorry, Chairman, I think it has to be questioned did that propel the State into a bailout?

Mr. Kevin Cardiff: Ah no, no. Look, the ... frankly, the funding cliff was a small number of tens of billions.

Senator Michael D'Arcy: That's a lot of money.

Mr. Kevin Cardiff: Well, it is in some terms, but in bank liquidity terms, on a balance sheet of €400 billion or €500 billion, it's a residual piece.

Senator Michael D'Arcy: Our national ... our national debt wasn't much smaller than that-----

Mr. Kevin Cardiff: But remember-----

Senator Michael D'Arcy: -----at that time.

Mr. Kevin Cardiff: Well, yes, but that's not relevant. Remember what's relevant is how much funding you have. And actually, at the point of the bailout, there was a sufficient funding from the ECB to allow us to continue. It wasn't that piece, it was the direction-----

Chairman: Right, Mr. Cardiff-----

Mr. Kevin Cardiff: ----it was the direction of travel that was the problem.

Chairman: Mr. Cardiff, I'm very mindful that you're coming back in to us next week. I'm very mindful also that we have two more witnesses that we need to get through this afternoon, so I'm going to conclude that there and I'm going to bring in Senator MacSharry. We'll move towards the end of this morning's session with you or now it's this afternoon's. Senator Marc MacSharry.

Senator Marc MacSharry: Thanks very much and thanks, Mr. Cardiff, for your extensive briefing in advance, which was very much appreciated. In terms of insolvency, you mentioned that the regulator on the night of the guarantee was very much of the opinion that all the banks were solvent, if not without difficulties. Can you describe how, if at all, you and, indeed, your colleagues in the Department of Finance tested that assessment? Did you, for example, seek any analysis of the distribution of the largest debtors?

Mr. Kevin Cardiff: Well, we tested that analysis by insisting that the regulator would have external assessors brought in, that they would do a ... like a quick and dirty job initially and then a more extensive job later. And they did so, especially on Anglo and INBS. And I think I've described-----

Senator Marc MacSharry: No, you did. You mentioned that, actually you said-----

Mr. Kevin Cardiff: So-----

Senator Marc MacSharry: -----that there-----

Mr. Kevin Cardiff: But, but if you're saying did we get a separate document from the regulator which paralleled that work? No. But we, we certainly made it clear.

Senator Marc MacSharry: That was after the event, I mean wasn't that right?

Mr. Kevin Cardiff: No, no. We started on that before the event, but, obviously, the full analysis couldn't come until later. But there was work done in the weeks before the ... in the two or three weeks before the guarantee, to make a first assessment. And that was ... and you've seen in the documents this controversial piece about who said what on the 18th, so that was-----

Senator Marc MacSharry: Yes.

Mr. Kevin Cardiff: -----that was based on work that was already being done by the advisers, who were sort of putting figures around and so forth. I suspect that, not just my notes, but probably other people have some notes on that. Maybe ... I don't know if you're following them but maybe the PwC people, for example, will be able to talk you through the numbers that were being disclosed at the time-----

Senator Marc MacSharry: Yes, but you said yourself that in advance of the guarantee really, that wasn't kind of detailed. We established that when-----

Mr. Kevin Cardiff: No, no.

Senator Marc MacSharry: -----Deputy McGrath was asking-----

Mr. Kevin Cardiff: Lets just be clear, and I said it was a failing not to have it ... have a much more extensive job-----

Senator Marc MacSharry: In advance.

Mr. Kevin Cardiff: But there was some information and that was what was informing the discussion-----

Senator Marc MacSharry: Okay. Can I ask-----

Mr. Kevin Cardiff: -----as well, as well as the regulator's knowledge of the books, as well as the stress test they had done in previous years and so forth.

Senator Marc MacSharry: Yes. Can I ask that if, with the benefit of hindsight, you had the full detail of what was beneath the bonnet, to use my colleague's phrase, would it have made any difference in the consideration of the options available in terms of the guarantee? Would it have prevented the guarantee? Would it have pushed you in the direction of other solutions as those you've outlined to Senator Barrett?

Mr. Kevin Cardiff: I don't know. I don't know. There's a bit of me thinks we would have done all the same things faster.

Senator Marc MacSharry: Okay. So is-----

Mr. Kevin Cardiff: We just went through the whole process there-----

Senator Marc MacSharry: Is it fair to say-----

Mr. Kevin Cardiff: -----that the guarantee-----

Senator Marc MacSharry: -----that in real terms-----

Mr. Kevin Cardiff: -----the capital, the NAMA, we'd have ... we'd have just done all that much faster.

Senator Marc MacSharry: Yes. So, so in real terms, if we had all this analysis in advance and, on the one hand, it showed the asset quality was pristine or, on the other hand, the asset quality was as it is, it ... would it have made a difference to the options being considered?

Mr. Kevin Cardiff: Well, it would have made a difference to the consideration but not necessarily to the outcome.

Senator Marc MacSharry: Okay. So the outcome-----

Mr. Kevin Cardiff: Certainly-----

Senator Marc MacSharry: -----being a decision to guarantee-----

Mr. Kevin Cardiff: Well-----

Senator Marc MacSharry: -----may just have likely have been arrived at-----

Chairman: I'll allow Mr. Cardiff to come back in here now.

Senator Marc MacSharry: I know that, but sometimes, Chairman, I need to explain the context, okay?

Chairman: Okay.

Senator Marc MacSharry: Yes. Sorry, Mr. Cardiff.

Mr. Kevin Cardiff: Okay. The real question at that stage, Deputy, even in hindsight, the question is not if you could roll out the future and know what was going to happen, and know that there was, you know, X billion of losses in the system. The real question ... the one ... the question that has been troubling us all along, all of us, and the public and everybody else, is not just how much loss there was, but if you knew how much loss there was, it would be how do you share it out? Now if you knew the extremity of the losses, you would look much harder than we did that night for ways to share it out, ways to pass it on. But you might still have found that there wasn't a good way to share it out and that you would end up bearing something like the same losses, because remember if our system ... if we had taken choices, for example, burning bondholders and all the rest, that would have had a negative impact on other systems. Those other systems were the ones we relied on two years later to rescue us.

Senator Marc MacSharry: Okay-----

Mr. Kevin Cardiff: So I mean it's very hard to say. I think, for sure, if we had a perfect foresight of what was going to happen, we would have reacted faster, differently, much more aggressively. But you won't ... you wouldn't have avoided all the cost. You might have avoided very non-trivial amounts, like you know, €10 billion to €15 billion, depending on how you might be able to do it. But you wouldn't have avail ... have avoided the whole thing.

Senator Marc MacSharry: Okay. You mentioned the existence and readiness of legislation for the guarantee or nationalisation on the night. Was there any special resolution legislation for the orderly wind-down of a bank, guarantee depositors, burn bondholders on that night?

Was that within the suite of legislation that was in a state of readiness?

Mr. Kevin Cardiff: No.

Senator Marc MacSharry: Why not?

Mr. Kevin Cardiff: Well, for very specific reasons. It was considered earlier in the year. It was considered that it couldn't be ... that something like that couldn't be assembled in the kind of timeframe that we might be talking about, a few months. And it was considered also there ... do you remember, that there were really significant legal difficulties that might not be capable of being overcome, because remember, what is a resolution mechanism? The core of what you and I are talking about is: you take control of the institution, you manage it out, you share the burden of the losses. Now, how is that different from nationalisation? In a nationalisation, you take control of the institution, you manage it out and you consider what's to be done with sharing the burden of the losses. But the reason, even in January 2009 when we did nationalise Anglo, we started thinking, as we would have done had we nationalised it September, how do we share the burden of the losses? And at that point even, even with the knowledge that things had moved on and that things were looking worse than they were in September, even at that point there were significant legal obstacles to a little plan we had to force a few losses onto the subordinated bondholders-----

Senator Marc MacSharry: Okay, we're going into the next week. It's just, I get the message-----

Mr. Kevin Cardiff: But remember we-----

Senator Marc MacSharry: ----- we didn't have the stuff ready that night and there's-----

Mr. Kevin Cardiff: No, no, not at all, no. Let-----

Senator Marc MacSharry: Its just I'm very short on time. We do-----

Chairman: I'll allow you a minute or two there just to discuss with Mr. Cardiff-----

Mr. Kevin Cardiff: We had a lot ready that night-----

Senator Marc MacSharry: Don't stop the clock like you did for Joe, you know.

Mr. Kevin Cardiff: -----and the difference between ... for the things that are important to us, in this conversation, the difference between the nationalisation and what it could do for us and the resolution was principally this question of whether you could burn bondholders or not, or depositors, but no one frankly, talked about depositors much. But if you wanted to burn bondholders, then, especially senior bondholders, then you have to talk about major constitutional issues that we didn't see a way around in, sort of, June 2008 and even in January 2009, even for subordinated bondholders, there were obstacles, both market and legal. So, you know, this idea that there was a magic solution in the SRR system, it, it's not fully tenable. It might have been a useful set of tools, but remember what SRR legislation does, usually, is it produces a set of tools. What we had on the night was a set of tools, many of them the same kind of things. The big difference is in how you share the burden. And that's really important but it wasn't a decision that was coalesced on that night. Those decisions coalesced over time. It wasn't even the most urgent of decisions that night, because some of the issues about burden-sharing were addressed later and, you know, were capable of being addressed later.

Senator Marc MacSharry: Okay. I've two questions still, if that's okay.

Mr. Kevin Cardiff: The Chairman will give out to you for using the phone there, Deputy.

Senator Marc MacSharry: No, he won't. He won't because I'm going to quote something from it.

Mr. Kevin Cardiff: Very good.

Senator Marc MacSharry: These devices can be used for a lot of things, as I know you're aware. Can I just ... this ... the very end of that question, and then the question which I need my phone for here. If you had got your way, and you've pointed out that you didn't know whether you were right on the night but this was your view in terms of nationalising Anglo and presumably INBS and a guarantee for the others, in that event, who did you envisage wouldn't be paid? So, what saving would there have been to the State?

Mr. Kevin Cardiff: Ah no, look. It wasn't at that stage envisaging somebody wouldn't be paid that would be paid under the guarantee. It was saying, let's grab control of this entity. Let's get in there ourselves and run it ourselves. Let's have the State run it and run it with the view to minimising whatever damage it would do and also run it with a view to reducing its scale of business because it didn't seem to have a set of customers who were going make ... keep it profitable over time. And that was the thing. And, having done that, we could have, as we did in January 2009, assess whether and to what extent it was possible to share losses with the subordinated bondholders. And I don't think at that stage that I had ever thought we would get to the point where we would be dealing with the senior bondholders but that could have been dealt with under a nationalised system.

Senator Marc MacSharry: But there would have no ... have been-----

Chairman: This is your final question, Senator.

Senator Marc MacSharry: This is just a follow-on from that one. I have a final one though.

Chairman: Okay. Okay.

Senator Marc MacSharry: So there would have been no saving then to that decision being made on that night?

Mr. Kevin Cardiff: The saving would only have come if you could have imposed losses on other people other than the State.

Senator Marc MacSharry: Perfect. Last question. You mentioned earlier on about Governor Hurley bringing back the message, as it were, that no bank should fail. Just to confirm, in his evidence, he confirmed that it was 29 September 2008. You'll know that we had an unusual event where Mr. Trichet attended. When asked by my colleague, Senator O'Keeffe - and I'm quoting through my phone - "[Mr. Trichet,] just to clarify ... you or the ECB never gave any message to Ireland in September 2008 that no bank should be allowed to fail." Mr. Trichet responds, "No message to Brian, no message to the Government of Ireland." What is your view as to the accuracy of Mr. Trichet's account?

Mr. Kevin Cardiff: So, you have two conflicting accounts. One is from Mr. Trichet himself and one is my recollection of what the Governor of the Central Bank told us and my recollection is backed up in writing by a note taken on the day we heard.

Senator Marc MacSharry: By yourself?

Mr. Kevin Cardiff: Yes.

Chairman: Deputy ... Senator, I have to wrap you up.

Senator Marc MacSharry: I'm just finished. I'm just finished.

Chairman: I have given-----

Senator Marc MacSharry: In guaranteeing the banks that night, have you a view that Ireland saved the euro?

Mr. Kevin Cardiff: Absolutely, Deputy, and in the same week the Belgians were saving the euro and the Germans were saving the euro and a week later the Brits were saving the system ... the general system. Yes, but it wasn't just us.

Senator Marc MacSharry: Thanks.

Chairman: Thank you very much. I just want to move things to a wrap-up so with yourself, Mr. Cardiff. I'll invite the two leads in after that. And I just want to revert back to the Merrill Lynch advice and to ask you did Merrill Lynch change their views on the guarantee issue between 26 September '08 and 29 September '08? In that three to four-day window, was Merrill Lynch's view adapted, changed or reconstructed?

Mr. Kevin Cardiff: No, I don't think so. I think the views that they expressed in meetings on the 26th were ... probably became more concrete in ... in ... over those three days but I don't think their view changed very much, from recollection.

Chairman: So they were consistent with one another, you would say, yes?

Mr. Kevin Cardiff: Yes.

Chairman: Okay. All right. If I could maybe ask you to outline who took the decision to commission external advisers and on what basis were the particular advisers chosen? And this is in particular reference to decisions to commission Goldman Sachs, PwC, Morgan Stanley, Merrill Lynch International and so forth.

Mr. Kevin Cardiff: PwC and Goldman Sachs were formally the decision of the Financial Regulator-----

Chairman: Okay.

Mr. Kevin Cardiff: -----with a little bit of pushing. The-----

Chairman: Morgan Stanley and Merrill Lynch?

Mr. Kevin Cardiff: Morgan Stanley ... basically, myself, Brendan McDonagh, John Corrigan decided that we needed this kind of advice and between us we decided that I should approach, and I did approach, Morgan Stanley. Morgan Stanley pulled out. They did really good work for two days and then pulled out for potential conflict of interest reasons and then the NTMA, Dr. Somers, decided to have ... to approach the chairman then of Merrill Lynch - I think his name was McDonagh - and he ... he arranged for Merrill Lynch to be brought on board.

So there was a general view that we needed advice. There was my initiative, followed by Dr. Somers's initiative, followed by a team. And then, at that stage, it was all sort of formalised in an email from me on behalf of the Minister directing them to give us advice and to take on external advisers and feed back in.

Chairman: I just want to make reference there to page 35 of your statement, Mr. Cardiff, and to, kind of, put the question to you as to how did it become clear and what analysis highlighted that there was not a sufficient understanding available from the Central Bank and regulator of the internal workings of the banks, which were apparently in difficulty, as referenced on the page I mention? And, I think, the last line probably best succinctly captures that where it goes ... I think it's about the fourth line up, just coming in from the left, it says ... or the right, "Irish banks - in effect, they were in a vicious cycle: their inability to raise funds made them less creditworthy, which in turn made fundraising more difficult, and the credit rating downgrade would accelerate the downward cycle."

Mr. Kevin Cardiff: Sorry, it's not coming up here, so can you tell me again the page?

Chairman: It's page 35 of your statement.

Mr. Kevin Cardiff: Of my statement.

Chairman: Yes, it's the ... at the very last paragraph there and it's half way down through the paragraph. You say, "That afternoon, Matt Pass, one of the Merrill Lynch team informed us that Standard and Poor's, an important credit rating agency was likely to issue ...". It's actually on the screen in front of you there probably at the moment, I'd say.

Mr. Kevin Cardiff: But what I don't know is what date that was. I'm just trying to-----

Chairman: Okay. You've a footnote, No. 10, I think, actually under that.

Mr. Kevin Cardiff: Yes, that was in around the time we ... not long after Merrill Lynch were coming in, so it was probably around the 24th, 25th, 26th. Well, the credit rating thing was ... was clear. But what you asked me about initially was when we formed the view that the ... regulator's view ... understanding wasn't sufficient.

Chairman: Yes. It seemed to have been a perfect storm for the banks. I mean that every conceivable difficulty, credit rating ... and compounding then into how credit would be ... would be acquired and a whole cycle. So the question I'm-----

Mr. Kevin Cardiff: To be honest, Deputy, this was only the start of it.

Chairman: Yes.

Mr. Kevin Cardiff: In the months that followed, I suppose, if you want to see wisdom in the guarantee, the wisdom of the guarantee was this: that it wasn't just that they couldn't get money, you know, in terms of straight lending. Other people started to rely on the guarantee as their only ... as the ... too ... like, if there wasn't a guarantee, they wouldn't have got their auditors to clear them. And if they couldn't get their auditors to clear them, they were sunk. If they hadn't had the guarantee, they wouldn't have ... their ... the guarantees that trading companies relied on from the Irish banks wouldn't have been recognised. If they hadn't had the guarantee, maybe the people who handle credit card transactions internationally would have pulled out.

Chairman: Okay.

Mr. Kevin Cardiff: I mean, I was abroad one day and I couldn't get money out of the bank machine and I thought, "Oh my God, is this".... you know, maybe with a little bit more inside information ... we were at that level of risk for a long time and the guarantee held those things together for the best part of a year, notwithstanding that no one ... none of us like it, but for a year it allowed us time to get ready, prepare. It allowed the ECB to get used to the idea that Irish banks would need support. It did allow things to happen, but, yes, the storm was even more perfect than it seems here. It got worse and worse and was masked somewhat by the guarantee.

Chairman: And one final question there, kind of, it begins where we started this morning when I asked you about the nationalisation of Anglo and so forth and, kind of, relates to questioning that came from Deputy McGrath as well. If, maybe, you could elaborate further on the ... what you mentioned earlier as the major constitutional issue surrounding special ... special resolution legislation identified earlier in 2008 and the difficulties that you outline in that and that might indicate that there was a constitutional problem here?

Mr. Kevin Cardiff: I saw in the paper you'll have the Attorney ... I'm sure he'll describe it differently and better than me. But, basically, unless you know ... unless you actually know that a bank has big losses, forcing losses onto people who have property rights is a real difficulty. And they're entitled, not just to object, but they're probably entitled to injunct the actions you're taking and all the rest. So it's that sense of ... because, remember, you're taking ... when you do a special resolution regime-type arrangement, you're saying ... you're taking value from bondholders, explicitly ... if the bank has value left in it, you're wrenching that value from out of the hands of the bondholders and you're handing it to the depositors - some of it. And that's a difficult thing in Irish constitutional law, as I understand it, and I'm not the lawyer. We were getting advice. But there are also more practical ... sort of more micro-level legal challenges as well. But that's it basically. You have this *pari passu* principle ... that the ... I don't even know what it means, but the ... the creditors are the creditors-----

Chairman: I've got a different discourse here. I'm from Cork myself, I even don't understand myself at times, you might explain what *pari passu* actually means, Mr. Cardiff.

Mr. Kevin Cardiff: Well, it means that people have equal treatment.

Chairman: It means which?

Mr. Kevin Cardiff: It means they're entitled to equal treatment. So, I always thought there was a lot of Latin in Cork, to be honest, Deputy.

Chairman: No, we consider-----

Mr. Kevin Cardiff: You're on the spot, Chairman. So, as I understood it and as I still understand it, there were potential constitutional issues. Another very significant issue is that most of the deposits are in Irish law but most of the bonds are in English law. So, you don't just have to ... you can't just change Irish legislation, it has to be legislation that can pass internationally.

Chairman: And in that regard, how did you distinguish between resolution and nationalisation, then, with regard to the bond?

Mr. Kevin Cardiff: Excuse me?

Chairman: In that regard, how do you distinguish between nationalisation and special resolution legislation in regard to the property rights as you've outlined? Do you think ... are you presenting a position that the property rights of the bondholders and depositors are the same whether its resolution or nationalisation?

Mr. Kevin Cardiff: Well, I'm ... I'm not presenting any position. This is what I understood at the time was the law. But, remember, later on we were able to share burdens but later on it became clear - more and more clear - that there were real loesses there which under ... which would've undermined the bondholders' entitlement to ... to sue. So, what you could do in 2009 and 2010 you might not ... you might not have been able to do in ... in ...in 2008. And remember, too, we did bring in SSR legislation later but, as I recall it - maybe I'm recalling wrongly - but I think that was even at that stage constitutionally controversial enough that it was referred to the Council of State - I don't think it was ... it was signed by the President straightaway. And remember, too, that the new SSR legislation is, you know, I imagine has a different ... situation because it's perspective. So, a bondholder buys a bond now knows he does so in the context of legislation that's already there. So, how can he claim later that we're interfering with his property rights? Whereas if the legislation comes after the bond is bought, I think that is probably different. But, almost certainly, the Attorney will either tell me I'm wrong or tell you I'm wrong or have a very different and better way of explaining it. The former Attorney.

Chairman: And, as you're aware, the former Attorney General will be coming before the inquiry.

Mr. Kevin Cardiff: I saw that in the paper, yes.

Chairman: Okay, so I'm now going to wrap up. Senator O'Keefe, you have five minutes, and then Deputy Doherty.

Senator Susan O'Keeffe: Thanks, Chair, I've a couple of ... a few short ... very short and then a couple of longer ones. Apart from the AIB-Bank of Ireland so-called draft guarantee, were there any other external draft guarantees on the table that night, from anybody else?

Mr. Kevin Cardiff: No, not that I recall but I did see recently ... and I don't recall seeing it at the time, but I did see recently as ... doing research that it seems that someone in the Central Bank may have prepared a draft earlier that day. But I didn't see it on the night. I don't recall it being presented. I don't believe it was and I think it was just contingency work. I don't think it was ... I don't think it was their proposition. I think it was just a contingency.

Senator Susan O'Keeffe: Were you directed by anybody or did you yourself call anybody for advice ... external advice? And I don't mean, you know, just, "Bring me a document or bring me a cup of tea", but for advice?

Mr. Kevin Cardiff: I made a few phone calls that evening. So far as I can track them down they were, the bulk of them were to ... I could double-check but they seem to have been things like, Brendan McDonagh, so obviously to get him in-----

Senator Susan O'Keeffe: Yes, I'm talking about substantial phone calls here.

Mr. Kevin Cardiff: I don't recall talking to anybody ... external and asking them for advice and if I did, they wouldn't be external to the official ...to the authorities. They would be ... part of the team and ... I did mention one exception to that earlier on, I rang Merrill Lynch's for advice.

Senator Susan O'Keeffe: Okay. Did either the Taoiseah or the Minister for Finance indicate that they'd sought advice from anybody external to the officials and your wider team?

Mr. Kevin Cardiff: Not on the night.

Senator Susan O'Keeffe: Not on the night.

Mr. Kevin Cardiff: I believe that Alan Gray has said since that he and the Taoiseach spoke briefly. But, no, not that I know of. So I'm just unsure.

Senator Susan O'Keeffe: On page 36 of your own long statement, you said about Anglo, "...next day they could expect to be another two billion or so in the red, perhaps 8 or 10 billion within a short few days, and trapped in a downward cycle with no exit." Where were Anglo on the night? Why were they not in that room saying, "This is how bad things are"?

Mr. Kevin Cardiff: Well they weren't in the room because no one invited them.

Senator Susan O'Keeffe: Because?

Mr. Kevin Cardiff: I presume because the ... remember the other ... the other two banks were there not because ... as far as I recall they were ... attending the main meeting but because they had separately asked to meet the Taoiseach. So why weren't they ... why weren't Anglo brought in? Well, what would they have brought to the table? The ... they had been consulted during the course of the day, and the previous days, by both the Central Bank and the regulator about their ... their ... the Central Bank and the regulator, I'm sure, but also the ... PwC about their figures ... if their figures were available. I think that's the only reason.

Senator Susan O'Keeffe: Okay. When Mr. McDonagh was here, on page 56 of his evidence, he says, "[I am sure]", sorry, that we ..."we were very sceptical about the operating models of those two institutions." He was talking there about Anglo and Nationwide. And, on page 51, he says, "I don't think the were solvent" - meaning all the banks, "I don't think they were solvent [on the night of the guarantee]." Given his scepticism about the operating model of those two and his view of the banks not being solvent, is that the reason why Mr. McDonagh was not invited in to be part of those meetings on the night?

Chairman: That's a bit leading.

Senator Susan O'Keeffe: Or not?

Chairman: Still leading.

Mr. Kevin Cardiff: To be clear, I don't believe that there was any such agenda anywhere. What your saying is: was there an agenda to keep bad news out of the room? I don't think so. I didn't see anything that would make me think that. There may have been an agenda to keep the meeting room from overflowing and there may have been a view that Mr. McDonagh was not required, but having him outside was useful. There may even have been a view that we understood what the general perspective of both NTMA and Merrill's were. But I didn't see anything that would lead me to think that he was kept out of the room for any reason of that sort.

Senator Susan O'Keeffe: And, finally, did you ever advocate yourself, with Minister Lenihan, before that night that there should have been an intervention with Anglo or with INBS or ILP and who directed the subordinated debts and existing long-term bonds be included in the guarantee? Thank you.

Mr. Kevin Cardiff: Okay. Did I ever advocate an intervention before then?

Senator Susan O'Keeffe: You know, earlier, before that sort of cliff that arrived the 29th, 30th. Had you said much earlier, in July or August or September, "Things are really bad, let's get in now"?

Mr. Kevin Cardiff: No.

Senator Susan O'Keeffe: No. Okay. And then, finally, who directed that the subordinated bonds and the existing long-term bonds be included in the guarantee?

Mr. Kevin Cardiff: I think I gave a fairly detailed description of that which would take me a good while to go back through. But the decision was taken in the room and the people who were making the decisions that night were the Taoiseah and the Minister.

Chairman: And that was the general understanding, as you already explained, as to the context of it

Senator Susan O'Keeffe: I'm just checking.

Chairman: Yes, indeed. Deputy Doherty.

Deputy Pearse Doherty: Go raibh maith agat, a Chathaoirligh. Long day. Can I just ask you ... you outlined some of the people that you were aware of had lobbied or suggested a guarantee. Can I ask you, in relation to reports in relation to other individuals who may have not lobbied for a guarantee but may have made their views known to the Department or others in relation to the broad issues that were happening, and that is J. P. Mc Manus and Denis O'Brien. To your awareness, to your knowledge, was there ever any interaction either with the Department or with the Governor in relation ... from those two individuals?

Mr. Kevin Cardiff: Okay. To be clear, Deputy, when I mentioned names I did so only where I had a specific record that says, "This was discussed" - whether it be a record of a conversation I had meself or a record I had of a conversation that others had with those people. I have no record whatsoever that would talk about those names nor any recollection whatsoever about those names.

Deputy Pearse Doherty: So, no record and no recollection-----

Mr. Kevin Cardiff: But, Deputy, I mean, if you started throwing 60 names at me-----

Chairman: And I don't want a situation where there will be either six names or 60 names thrown.

Deputy Pearse Doherty: No, no. The only reason I'm saying this is that these names have appeared in prominent national newspapers and the suggestion was made that there was contact with the Department of Finance. But if you're saying that, to your knowledge-----

Mr. Kevin Cardiff: Well, I hate to admit that I wasn't part of the golden circle - if there was a golden circle - but if there was, I wasn't.

Deputy Pearse Doherty: All right. You've never heard a suggestion of that sort within the Department.

Mr. Kevin Cardiff: No.

Deputy Pearse Doherty: Okay, appreciate that. Your Minister - former Taoiseach - at the time of 17 March, Mr. Cowen, Minister Cowen, had a phone call with Seanie FitzPatrick. On 24 April he had a private meeting with the board and executives of Anglo Irish Bank and on 28 July he had the event at the Druids Glen golf club or social club. In any of those three events, did he report back to you or did he report back to the Department as to what was being said?

Mr. Kevin Cardiff: I don't have specific recollections of that. I know that around that time he spoke to us. I know that around that time he spoke to the Governor. But, I mean, I suppose what people are worried about in the general public is, was there some sort of inappropriate collusion or that kind of thing, and I never saw anything that would lead me to that view. You know, Ministers meet banks, they meet all sorts ... it's normal. I don't ... didn't do much of it myself. But it's part of the job, like-----

Deputy Pearse Doherty: I agree-----

Mr. Kevin Cardiff: -----I probably should've done more, meeting many banks, than I did.

Deputy Pearse Doherty: No, I agree. It is ... it's part of the job to interact with the industry-----

Mr. Kevin Cardiff: So I didn't see anything that would lead me to worry about the integrity of the process. But, you know, no one liked Anglo in other banks, everyone was talking them down. So there was a sort of a natural sense of gun smoke about them, that people were a little bit wary of them and so forth, so maybe when he met them, others started talking that into more than it was. But I wasn't there-----

Deputy Pearse Doherty: My question-----

Mr. Kevin Cardiff: -----so I can't say anymore.

Deputy Pearse Doherty: My question-----

Chairman: Mr. Cowen can answer that in full detail, and not in that third party basis, when he comes.

Deputy Pearse Doherty: Yes. My question was directly as to whether he informed you of the outcome of the meeting. If we take, for example, 24 July, the board meeting with Anglo Irish Bank and the executives - you've given evidence that Seanie FitzPatrick was requesting a broad guarantee at the end of-----

Mr. Kevin Cardiff: 24 of-----

Deputy Pearse Doherty: -----April in 2008. You gave evidence already that Seanie FitzPatrick was looking for a broad guarantee in the end of the April, is what you've said. You mentioned that a D. Doyle was also about-----

Mr. Kevin Cardiff: No-----

Deputy Pearse Doherty: -----a week later looking for a broad guarantee.

Mr. Kevin Cardiff: Let's be clear-----

Chairman: I would just be mindful now of-----

Deputy Pearse Doherty: DD, sorry. DD.

Chairman: Yes, I would just be mindful of looking at second-hand evidence.

Mr. Kevin Cardiff: Stick with the sequence. End of March-----

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: -----for the Sean FitzPatrick point. And early in April for the DD.

Deputy Pearse Doherty: DD. Okay.

Mr. Kevin Cardiff: Okay. And I know now, you know, there'll be a list of people with name DD in the newspapers tomorrow. It's pointless to be going down that route. If the journalists want to listen to my advice, it's not the point. The point is people understood that there was a growing problem and, of course, people would talk to Ministers and others. And I have given you a list, as far as I can, of the people I can document. But I'm not saying for a moment that any of them was doing anything other than either their civic duty, as they saw it, or their business duty, or whatever. So, I didn't see anything that would lead me to believe that there was badness about, Deputy, other than the ordinary business badness that people get-----

Deputy Pearse Doherty: Okay. I'm going to go to my last question here. And just to make this clear, I ... that wasn't the question I asked you, that was there any badness or inappropriateness or not or anything. What the question I asked you was, did the Minister of Finance report back to you or the Department in relation to the meeting?

Mr. Kevin Cardiff: Well, I think I've said, I don't recall-----

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: If he was going to report back, it might've been to Mr. Doyle.

Deputy Pearse Doherty: Okay.

Mr. Kevin Cardiff: He certainly told us in advance that he was going because I think we gave him a note on banking issues at the ... before we went.

Deputy Pearse Doherty: Okay. Can you clarify this issue for me in relation to when was the point of no return for the State in terms of guaranteeing the liabilities of the bank? And I ask that question ... you mentioned in your opening statement about the fragility of the guarantee and the potential challenge. Now we know from your statement that the legislation was passed within days of the guarantee being announced and then the scheme was passed in the Dáil about two weeks later, that banks were invited on 22 October to enter the scheme and the order was signed on the 24th. Can you inform us, when was the point where the Government ... where we had moved from a moral obligation to do what the Government announced on the night, to we were legally bound to guarantee Anglo, Nationwide and all of the other banks?

Mr. Kevin Cardiff: You might do better with the former attorney, but I would imagine that the extent of legal obligation grew over time and was finalised at the guarantee acceptance deeds that the banks signed, I think, three weeks or so after the guarantee itself.

Deputy Pearse Doherty: But on the night, the original piece of legislation, did the Minister have the power to guarantee the banks at that stage or did he have to wait for the scheme to be approved?

Mr. Kevin Cardiff: On the night?

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: No. No, he explicitly did not.

Deputy Pearse Doherty: Once he had the scheme approved, that conferred on him then the power to do that?

Mr. Kevin Cardiff: Well, you needed first the legislation.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: And the legislation provided for a scheme, and the scheme provided for these guarantee acceptance deeds. So it was a ladder, if you like.

Deputy Pearse Doherty: Yes.

Mr. Kevin Cardiff: Now, I don't know why ... I'd have to go off and do some research to tell you exactly-----

Deputy Pearse Doherty: Okay. And the question then I have, and finally, in this here, in those 24 days between 1 October to 24 October, where the order was signed, was there any discussion within the Department? Because bearing in mind, you know, the markets were attacking the share prices of these banks. The, you know, journalists and experts were screaming out, saying that this was wrong decisions, in terms of property exposures, rating agencies and so on-----

Chairman: Question, Deputy.

Deputy Pearse Doherty: ------all had their own views. In those four weeks, was there any discussion as to, "Well, maybe we should actually hold off on this, maybe we should not sign the dotted line in terms of the order and reconsider at least some of the institutions?"

Mr. Kevin Cardiff: I don't recall a formal discussion. I don't recall ... well, it was settled policy ... and the Government's policy, not the Department's at that stage. But, what we were also seeing in those 24 days, Deputy, was this perfect storm issue that I've been talking about. It actually became very clear, that without the guarantee, an awful lot of things could happen that would be even worse than what we had at the time and the idea that you would pull it ... remember, a lot of new money came in on foot of the guarantee but it didn't come in four weeks later. It started coming in immediately. So, that you would pull out of the guarantee with hundreds of millions, billions and millions of deposits, based explicitly on it, would've created a ... would've created ... I don't know. It would've been extraordinarily risky. But, no, I don't recall - to answer your ... to actually answer your question - I don't recall a discussion about pulling out at that stage. I think we'd gone beyond that point. In practical terms, we were beyond the no return point.

Deputy Pearse Doherty: Okay, thank you.

Chairman: Right. Look, with that said, I want to bring matters to a conclusion for now. As we are aware, Mr. Cardiff is with us again for another session next week. Maybe at that stage, I can maybe ask you to make your closing remarks in that context, but if you have anything to say for right now, Mr. Cardiff, I'll give you a bit of space.

Mr. Kevin Cardiff: No, thanks Chairman. It's like a job interview, you usually want to get out as fast as you can.

Chairman: Okay. With that said, I would like to thank Mr. Cardiff for his participation today and his engagement with the inquiry. The witness is now excused until we have our next meeting with you next week where you will appear before the inquiry again. I am now proposing that we suspend until 3.15 p.m. when we will hear further from witnesses for the Department of Finance. With that said, I just need one minute of a private session to deal with schedule notifications and we can then get to lunch. Thank you.

The joint committee went into private session at 2.28 p.m.

Sitting suspended at 2.30 p.m. and resumed in public session at 3.25 p.m.

Department of Finance - Mr. John Moran

Chairman: I now bring the meeting back into private ... sorry, public session, is that agreed? Agreed. All right. We're now moving on this afternoon to session 2, which is a public hearing with Mr. John Moran, former Secretary General to the Department of Finance. The Committee of Inquiry into the Banking Crisis now resuming in public session and can I ask members and those in the public Gallery to ensure that their mobile devices are switched off? Today, we continue our hearings with the senior officials in the Department of Finance who had key roles during the finance crisis period. At our first session this afternoon, we will hear from Mr. John Moran, former Secretary General, Department of Finance. John Moran was Secretary General in the Department of Finance from March 2012 to May 2014. Prior to that appointment, he served as a second Secretary General in the Department of Finance where he was head of the banking division. He had previously worked as head of wholesale banking supervision in the Central Bank of Ireland and as CEO and board member of Zurich Capital Markets. Mr. Moran, you're very welcome before the inquiry this afternoon.

Before hearing from the witness, I wish to advise the witness that by 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. The utmost caution should then be taken not to prejudice those proceedings. 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 Gallery, these documents will be displayed on the screens to your left and right. 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 the meeting of the Joint Committee of Inquiry into the Banking Crisis. You have been furnished with booklets of core documents. These are before the committee and will be relied upon now in evidence and form part of the evidence of inquiry. If I can now ask the clerk to administer the oath to Mr. Moran, please.