

HOUSES OF THE OIREACHTAS

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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉI- REACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Déardaoin, 23 Iúil 2015

Thursday, 23 July 2015

The Committee met at 9.00 a.m.

MEMBERS PRESENT:

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

DEPUTY CIARÁN LYNCH IN THE CHAIR.

the policy position and the scrutiny that we applied was the right scrutiny and policy positions.

Deputy Kieran O'Donnell: And finally, Taoiseach-----

Chairman: Quickly now.

Deputy Kieran O'Donnell: In ... what assurance can you give to the public that the measures that have been brought in will ensure that a banking crisis doesn't happen again in Ireland and that we don't have a property bubble for the ordinary person-----

Chairman: You are moving in now to Minister Noonan's space when he's in before us in September, okay? And really, I want to put a stop to that there, okay. Thank you very much. I'm going to bring matters to a conclusion. I, in doing so, I would like to thank An Taoiseach, Enda Kenny, and Minister Richard Bruton, for their participation today with the inquiry and with their engagement with us. I now would like to, in doing so, formally excuse the witnesses and propose that we suspend - it's coming up to 12.25 p.m. - that we suspend until just after 12.45 p.m. if that's agreeable, okay?

Sitting suspended at 12.25 p.m. and resumed at 1.12 p.m.

Oireachtas - The Tánaiste and Minister for Social Protection, Deputy Joan Burton, and Deputy Pat Rabbitte

Chairman: I now call the committee back into public session; is that agreed? Agreed. We now proceed with our second hearing of today, that's the hearing with An Tánaiste, Joan Burton TD, and Mr. Pat Rabbitte TD. The Committee of Inquiry into the Banking Crisis is 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? Our next witnesses today are An Tánaiste, Joan Burton TD, and Mr. Pat Rabbitte TD. You're both very welcome before the inquiry and the committee this afternoon.

Today the inquiry is focusing upon the role of the Oireachtas and the effectiveness of the Oireachtas oversight of the Government in the build-up to the crisis and in responding to the crisis. In particular, our focus will be on three lines of inquiry: the effectiveness of the Oireachtas in scrutinising public policy on the banking sector and the economy, analysis of the key drivers for budget policy and the appropriateness of the relationships between Government, the Oireachtas, the banking sector and the property sector.

The Tánaiste and Deputy Rabbitte TD are, therefore, appearing before the inquiry today in the context of their respective roles as the Labour Party's spokesperson in finance while in opposition and as the leader of the Labour Party while in opposition.

In normal circumstances - excuse me - when a witness appears before here, they don't have privilege and privilege is extended to them by virtue of this committee's powers. In this regard, as both Members are current Members of the House, there is no requirement for me to extend privilege to the witnesses in that regard. However, I would state that the witnesses are directed that only evidence connected with the subjects of these matters to 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, these documents will be displayed on the screens to your left and right, and members of the public and journalists are reminded that these documents are confidential and they should not publish any of the documents so displayed.

The witness has, or the witnesses have 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, will be relied upon in questioning and form part of the evidence of the inquiry. And now can I ask the clerk to administer the oath to both witnesses, please?

The following witnesses were sworn in by the Clerk to the Committee:

The Tánaiste and Minister for Social Protection, Deputy Joan Burton.

Deputy Pat Rabbitte.

Chairman: So welcome again, Deputy Rabbitte and Tánaiste Burton. If I can invite you to make your opening remarks, and if I can begin with Deputy Rabbitte, please? Deputy Rabbitte.

Deputy Pat Rabbitte: Thank you very much, Mr. Chairman. Mr. Chairman, you have directed that I attend before the inquiry to give evidence on three specified themes in the context of my role as leader of the Labour Party from 2002 to 2007. I have made a written submission, as directed.

I'm bound to say, Chairman, at the outset that it is my view that whoever and whatever was responsible for the banking crisis, it was not the Opposition. As regards the effectiveness of the Oireachtas in scrutinising public policy on the banking sector, it is my view that the Oireachtas has been ill-equipped to scrutinise policy on the banking sector, that it has been the view for very many decades of Members of Dáil Éireann that scrutiny of the banking sector was safely reposed elsewhere, and that notwithstanding recent improvements, Dáil Éireann remains inadequately equipped to discharge this role, and few elected Members could perform such a role and, at the same time, perform their role as TDs as expected by the people. The Finance Committee ought to be better resourced, not to second-guess the regulator or attempt to do his job, but to satisfy themselves that the regulatory mechanism is doing its job and to competently engage with the Minister.

As regards the relationships to the property sector, this will always be a fraught area. It is neither possible nor desirable to close off communication with the property sector but it is necessary to regulate that relationship. That is why the enactment recently of legislation on the conduct of lobbying is welcome. Any modern, functioning economy must have a certain level of construction activity but not one remotely near what we experienced during the property bubble, but a construction sector that could be up to twice what it is at the moment. Public policy should seek to avoid developers using clandestine contacts to dictate policy.

It would appear that some powerful individuals in the financial sector had been lobbying for some time for a bank guarantee. The challenge is to know what's going on, and that if there are vested interests at stake, that they should be declared. Enactment of the Regulation of Lobbying Bill of 2015 will help in respect of the relationship between Government, the Oireachtas,

the banking sector and the property sector. The belief abroad is that developers and builders have, on occasion, exerted considerable formative influence on public policy. In addition to the lobbying Act of 2015, I believe that the package of reforms in the area of political funding will also have a positive impact. Political parties, and especially those generously funded by the construction sector in the past, will now be less reliant on that source of funding. There's nothing wrong with government learning from outside expertise. However, it is the task of government to distinguish the public interest from vested interest.

If Parliament is to be indicted for not adequately supervising the supervisors, then parliamentarians would have to be adequately resourced to do the job. The typical TD is not, in respect of the detail of regulation, in a position to forensically second guess the regulator, nor can the typical TD reasonably be expected to discharge his or her usual functions and, at the same time, competently probe the entrails of banking. Most TDs have believed that regulation of the banks was in competent, well-paid, safe hands and that the job of the Minister for Finance was to keep an eye on them. On both scores, that belief has taken something of a bashing. However, the challenge is not to abandon that model but to reinforce it.

In my written submission, I have drawn the attention of the inquiry to the ... firstly, the report of the DIRT inquiry, of which I was a member, and, secondly, to a report that I prepared in 2005 for the public accounts committee entitled, "Proposals for alterations in the way that Estimates for expenditure are considered by Dáil Éireann". Both reports, I think, are relevant when considering the effectiveness of Oireachtas oversight of the banking sector. Indeed, many of the changes introduced over recent years derived from the recommendations of the DIRT inquiry report, including the proposal for a stand-alone Oireachtas commission that enables parliamentarians themselves to take decisions concerning the effective conduct of parliament. The primary concern of parliament and government should be to ensure that there is in place a banking regulatory system in line with best practice. The tug of war between the two Government parties that gave birth to the hybrid regulatory structure in place at the time of the crisis did not help and has facilitated the buck-passing that we have seen at the inquiry. The Minister for Finance ought to be satisfied that the Department of Finance has the skillset to professionally interrogate the regulator and Dáil Éireann - especially the evolving network of parliamentary committees - should be equipped to engage professionally with the Minister and, where necessary, the Central Bank.

A great deal, Chairman, on your third theme, a great deal has been said and written about the causes of the worst crash that the State has ever experienced. At the end of the day, the cause of our downfall was mainly a property bubble fuelled by tax incentives and over-lending for land and property investment and, indeed, reckless lending in the case of commercial property. The Labour Party sought to address this issue over the years - that we were concerned with here - in a variety of ways. In our view, speculation in building land was the root cause of the explosion in house prices. Consequently, the party introduced the Planning and Development (Acquisition of Development Land) Bill of 2003 to combat speculation in building land. The Bill would cap the price of building land at existing unzoned use value plus 25%. At the time, the cost of the site could be 40% of the price of a home. The Bill also sought to enable local authorities to intervene to cause hoarded building land to come into use. The Bill went, in our view, to the heart of the problem. The Government voted down the Bill. Expert legal advice had assured us to the effect that the Labour Bill could be enacted within the existing constitutional framework. Our experience had been that pressuring the Government to deal with land speculation only resulted in the then Taoiseach kicking the issue into the All-Party Committee on the Constitution. No action was taken, although the All-Party Committee on the Constitution did, in

due course, report and endorsed our approach. That committee was advised by Gerard Hogan, senior counsel, at the time, and joint editor of Kelly's *The Irish Constitution*. He is now a judge of the Court of Appeal.

Labour consistently highlighted how the different property-based tax incentives and tax shelters hollowed out the tax base so that the average PAYE income taxpayer was required to pay the relevant rate but the wealthy or very high earners could mitigate their tax liability. Meanwhile, these property-based tax incentives and shelters were driving the property bubble. We travelled Labour policy wherever the opportunity arose, by way of parliamentary question, amendments to legislation, amendments to finance Bills, in particular, and in public discourse generally. We challenged the pattern of Government delay in tackling these issues, which consisted of reviews of these schemes that postponed action, allowed deadlines to be extended or referred possible solutions to the All-Party Committee on the Constitution, on whose recommendations no action was ever taken. Sometimes our efforts were merely to persuade Government to stick to their own measures, such as demanding the re-introduction of 60% rate of capital gains tax on the sale of hoarded building land to encourage builders to release land. This had been done, following the Bacon report, by the Government in 1998 but then dropped in a subsequent budget. Like most public representatives, Labour became more alarmed at the constantly rising house prices that were putting ... making homes ... that were making homes unaffordable even for two persons on reasonable income.

I am bound to say, however, Chairman, that I did not make the connection between our alarm and what was happening in the housing market and a risk to the financial system. I must admit that it never occurred to me that our banks might fail. That fear did not surface in main-line debate until the autumn of 2008, despite Morgan Kelly's article. There were no credible economic reports that I knew of suggesting that the banks might be at risk. In fact, there were national and international reports suggesting that the Irish financial system was sound. Even towards the end, the public commentary was mainly about a soft landing. The conviction was that those charged with regulating and supervising the banks were doing their job.

In summary then, and in conclusion, Chairman, it's not the job of a TD to regulate the financial system. It is the job of government to satisfy itself that the regulatory system is fit for purpose. It is the job of Dáil Éireann to hold the Government to account. What distinguishes the Irish collapse from the experience of most other countries was the property bubble. We live in a winner-takes-all, adversarial system of parliamentary democracy which has its defects but is probably better than the alternative. Thank you, Chairman.

Chairman: Thank you, Deputy Rabbitte. Tánaiste.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): Thank you, Mr. Chairman, and I want to thank you and the members of the committee for the invitation to be here today.

In my written statement, I've set out in detail my analysis of the causes of the banking crisis. In brief, I agree with the assessment in the Regling and Watson report that while the crisis, clearly, had an international dimension, this was very much, unfortunately, a homemade crisis in many respects. The economic crisis, of which the banking crisis was an integral part, I think, for the Irish people it can be viewed as a tragedy in three acts. In act 1, the key decisions which led to the crisis were made by the Government, the banks and the Financial Regulator. In act 2 came the unravelling of the solvency of the banking system. This was also the point at which the then Government made the fateful decision to provide the bank guarantee. This was the

most damaging and expensive decision in terms of the cost of dealing with the crisis, which unfolded in act 3.

The decision to provide a blanket guarantee was made with effect from 30 September 2008. It's a matter of record that at the end of the subsequent Dáil debate, the Labour Party was the only party to oppose the guarantee. We did so because we believed that the extent of the potential liability posed a real risk to the solvency of the State and I believe that this decision has been fully vindicated by subsequent events. The banking guarantee locked the country into a cycle which led to the bailout of 2010 and everything that flowed from that date. In looking at how the crisis arose, cheap credit became available in Ireland after the adoption of the euro. As Regling and Watson identified, much of this lending was concentrated on the property sector and comprised loans to a limited number of developers. This pattern of lending was reckless in the extreme and it should have prompted intervention by the Financial Regulator. However, no such intervention occurred. The practice of light-touch regulation prevailed and, with the benefit of hindsight, it's also clear - not least from the contributions made in this forum - that a measure of regulatory capture applied. Put simply, the regulator, the regulation system and structure was too close to the banks.

During the Dáil debate in 2003 on the Bill to establish the Irish Financial Regulator, I said, "The Bill does not refer to the necessity for parameters and ethical criteria for responsible lending. This is a major deficiency." Tax based incentives put in place by Government spurred on the reckless lending. I believe that tax-based incentives can play a legitimate and a very positive role in stimulating development in certain circumstances, such as to encourage necessary, social or economic development, particularly where the market has failed to do so. Any such incentive, though, has to be proportionate, targeted and temporary. However, by the time I became the finance spokesperson of the Labour Party, which was in late 2002, appointed by Deputy Rabbitte to the opposition and for some time before that, it was very clear many of these tax incentives had actually run their course. It was also clear that their continued use was stoking ... stoking a construction industry which was already overheated and a bubble in land prices which itself, the bubble, was aided and abetted by grossly irresponsible rezoning decisions in some parts of the country.

In my Second Stage speech on the Finance Bill in February 2003, I said: "The Minister for Finance is obviously a disciple of the Augustinian school. He always announces his steadfast determination to dismantle the bewildering edifices of tax shelters but [he] is never quite ready to do [so]". My prediction, I think, proved, you know, prescient, as year after year, the Minister constantly found reasons to delay their expiry. I repeatedly stressed my view that the incentives were being used as a tax shelter rather than as a development tool and they were being used by wealthy individuals to shelter income from Revenue. I pointed out in my 2006 reply to the budget, more than 1,000 of Ireland's wealthiest people paid ... these were people with incomes in excess of a million euros a year, paid an effective tax rate of between nought and 5%.

I believed that the Government of the day was, as I said at the time, addicted to tax shelters. No doubt, this was, in part, a matter of political judgment and prejudice, but I believed then, and I still believe, that the reliance of the principal Government party on financial contributions from developers also played a part. The culture of the Galway tent was unhealthy for politics and it contributed to pushing the building industry ultimately to disaster.

Also during this time, I pointed to what I considered to be abuses of the stamp duty regime to reduce the liability of wealthy individuals. Amongst those abuses was the practices of resting contracts, whereby the parties to a particular agreement delayed or avoided the execution

of a stampable document so as to reduce or to avoid or to postpone almost indefinitely liability. Another abuse was the use of contracts for difference, which I highlighted in 2006. The committee will be aware that a proposal for a modest duty - 1% - on such contracts was withdrawn by the Minister for Finance, Brian Cowen, following extensive lobbying from finance and other industry sources.

Contracts for difference were subsequently used by investors in Anglo Irish Bank, with disastrous consequences. Had the duty been in place, it might have given - the 1% ... it might have given some of those involved pause for thought.

The budget was in surplus in every year from '97 to 2007, with the exception of 2002. And, in fact, when the previous rainbow Government handed over, there was a very small surplus on the budget.

Contemporary estimates of the structural balance by the EU Commission, the IMF, and the OECD did not identify a problem. The large disparity between the apparently healthy headline figures and the underlying reality was accounted for by the over-reliance on construction related taxes that the committee members are well aware of - stamps, CAT, VAT, CGT, all elements of the bubble in tax revenues. This over-reliance on construction-related taxes was the root cause of the collapse in the national finances, which occurred in 2008, and subsequently. The problem was compounded by the fact that the budget policy was driven by the electoral cycle rather than by the needs of the economy. It's no coincidence that the peaks in public spending occurred immediately before the 2002 and the 2007 general elections.

I've been asked to comment specifically on the oversight role of the Oireachtas in the period under review and my colleague, Deputy Rabbitte, has dealt with it in detail. The primary role of the Opposition is to hold the Government to account. I believe that the Dáil and the Seanad have generally served us well but they're far from perfect. Our system is adversarial - Government proposes and Opposition usually opposes. One of the reasons behind the establishment of the committee system was to provide a less adversarial setting for debate. In recent years, it has become normal practice for independent regulators to be made accountable to the Oireachtas in the first instance and while this practice is right in principle, it's important that committees are sufficiently resourced to enable members to carry out their duties effectively. The accountability of the Financial Regulator is a case in point.

It seems that in the run-up to the banking crisis, everyone concerned, including the Taoiseach, Government Ministers, senior civil servants and the Oireachtas, presumed that the regulator was doing its job and that the assurances of banking stability did not warrant serious investigation. This assumption proved to be fatefully wrong and Deputy Rabbitte has traced the evolution of the committee system after the DIRT inquiry. The system now is better equipped to do its job than it was ten years ago. Nevertheless, it's still debatable if a better resource system of Oireachtas oversight would or could have pointed up the potential dangers facing the banking system before the crisis hit. Equally, I doubt if our current Oireachtas oversight could prevent a similar crisis happening again if those who are primarily responsible for preventing such crisis - the Government, the Central Bank, the Department of Finance - were blind to its very existence. You know, I'm very conscious of raising through questions, through statements, through contributions to committees and to the Dail a whole series of issues, some of which I've referenced to there, but, you know, I was doing that as an Opposition Deputy on behalf of the Labour Party.

So, better resourcing of the committee system is important if we're to empower the Oireach-

tas in its dealings with the Executive. And I would say, if your inquiry is minded to make such a recommendation, then I, as leader of the Labour Party, will give the recommendations, in that respect, very serious consideration. Thank you.

Chairman: Thank you very much Tánaiste. I now commence questioning and if I can invite in Deputy Michael McGrath. Deputy McGrath.

Deputy Michael McGrath: Yes. Thank you very much, Chair, and you're very welcome, Tánaiste and Deputy Rabbitte. Tánaiste, can I ask you, as the architect of the Labour Party's financial and economic policy leading into the 2007 general election, and if I can take you to the agreed budgetary platform with Fianna Gael, which will be put up on screen there now. And essentially, the Labour Party was proposing going into that election that over the following five years that current expenditure would increase by €17.4 billion, capital expenditure by about €3.5 billion. You were proposing a tax package of tax reductions of €2.4 billion. So, in total, a package of about €23 billion over the following five years. And it was based on an assumption of economic growth from the Department of Finance and ESRI of in the region of 4% and you were recommending that current expenditure would grow at double the rate of economic growth over that period. So, how can you claim - if you do claim - that the Labour Party's proposals going into that election were any less pro-cyclical than the outgoing Government at that time?

Deputy Joan Burton: Well, Deputy, for a number of reasons. First of all, the Labour Party manifesto was very much prepared in conjunction with other Labour Party colleagues, including, obviously, the then leader of the Labour Party, Deputy Rabbitte. But in the documents that you sent me, I just want to highlight two quotes from the ESRI reports which, when I read, just brought me back to the atmosphere of that period. In the ESRI report of December 2005, the ESRI actually spoke about the growing aura of invincibility about the Irish economy and then, in the very last paragraph, they introduced, as was common at the time, and the then Taoiseach of the time utilised it quite a lot, the notion of a "soft landing"; bit like a soft day in the west of Ireland; a little bit of rain, but it wouldn't do you any harm. That's the way it was set out. And, as late as May 2008, and I remember when I read this being really upset by it, the ESRI said there were difficulties but the Irish economy would rebound; it was resilient in face of adverse circumstances. And again, one of the famous quotes of the era: "The fundamentals are sound". Now, in that context, if you were to take the Labour Party manifesto of then, you would see that the Labour Party manifesto is, first of all, based on the growth estimates and figures provided by, and examined by, the Department of Finance, the ESRI figures-----

Deputy Michael McGrath: Yes, I said that in my question, Tánaiste.

Deputy Joan Burton: Sorry, sorry, I am answering your question.

Deputy Michael McGrath: We're three minutes in and you haven't even gone near answering the question.

Deputy Joan Burton: Actually, I have, Deputy.

Deputy Michael McGrath: You haven't. You're giving-----

Deputy Joan Burton: Sorry, Deputy, am I allowed to answer?

Deputy Michael McGrath: -----colour and context and background. Can you answer the question, please?

Chairman: I'll intervene if-----

Deputy Michael McGrath: Chair-----

Chairman: I will and-----

Deputy Michael McGrath: -----can I ask you to help me in this regard?

Chairman: I certainly will, yes.

Deputy Michael McGrath: There's over three minutes gone.

Chairman: Just stop the clock a second. It's just, kind of, coming back to where we were revisiting this morning. There's an issue here with specific numbers and to stand up the numbers over the policy platform. The Deputy's question is that there is a cyclical and pro-cyclical presentation in the figures here and how does ... over the lifetime of Government, that would be compounded and compounded. So, do you stand over that this was a pro-cyclical-----

Deputy Joan Burton: They were the figures, Deputy, available to us from eminent organisations, particularly the Department of Finance-----

Deputy Michael McGrath: On economic growth, Tánaiste, yes.

Deputy Joan Burton: -----and the ESRI.

Deputy Michael McGrath: On economic growth, but the figures here are the agreed Labour and Fine Gael figures-----

Deputy Joan Burton: Based on-----

Deputy Michael McGrath: -----on your spending plans.

Deputy Joan Burton: Based on-----

Deputy Michael McGrath: They're not from the ESRI or the Central Bank; let's be clear now.

Deputy Joan Burton: Based ... sorry, sorry, based on the figures that are indicated in relation to growth in the tables on page 78 of the documentation that you provided us with-----

Deputy Michael McGrath: Yes, on growth.

Deputy Joan Burton: -----and we set it out very clearly. But in the Labour Party's manifesto, we started the section dealing with the economy with, "Sound economic management is a fundamental requirement of good government" and we said that budgetary policy would be absolutely linked in terms of our commitments in the context of the various structures of the European Union. Not only that, we actually criticised, in that document as well, the vast waste of money which occurred, Deputy, in those years on a whole series of vanity-type projects. I don't know if you remember PPARS, e-voting, the Bertie Bowl, the big shed down in Punchestown, the M50 West Link-----

Deputy Michael McGrath: Can I distil it down to-----

Deputy Joan Burton: -----the decentralisation; we were-----

Deputy Michael McGrath: Can I distil it down to a very simple question: do you accept that the Labour Party, going into the 2007 general election, was advocating a continuation of pro-cyclical fiscal policy?

Deputy Joan Burton: No, the Labour Party was advocating changes in relation to the management of how the tax system dealt with, for example, the bubble that I've just described. There were tax breaks amounting to billions a year. The Labour Party also proposed to address the issue-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----of waste in public spending-----

Deputy Michael McGrath: So just-----

Deputy Joan Burton: -----and the Labour Party also-----

Deputy Michael McGrath: Just to clarify-----

Deputy Joan Burton: Yes.

Deputy Michael McGrath: -----you are denying that a tax and expenditure package of €23 billion over five years and a proposal to spend at twice the rate of the projected economic growth, you're denying that that's pro-cyclical?

Deputy Joan Burton: Sorry, you're trying to put words in my mouth.

Deputy Michael McGrath: No, I'm asking you a question.

Deputy Joan Burton: You're actually ... no, you're trying to put words in my mouth.

Deputy Michael McGrath: No, you did say it wasn't pro-cyclical so-----

Deputy Joan Burton: And what I'm saying-----

Deputy Michael McGrath: -----you know-----

Deputy Joan Burton: -----is that the proposals by the Labour Party and by Fine Gael were very, very carefully costed and they took into account as well the significant savings that would be made by policy changes-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----which would result in the tighter running-----

Deputy Michael McGrath: Was it-----

Deputy Joan Burton: -----of the public finances.

Deputy Michael McGrath: Was it pro-cyclical?

Deputy Joan Burton: In the context of the figures for growth that were provided by, as I said-----

Deputy Michael McGrath: Yes.

Deputy Joan Burton: -----the organisations I've referenced, growth at that point was still expected. You're talking about 2007. As Deputy Rabbitte has said, nobody, in 2007, actually anticipated the entire collapse of the entire banking and construction system. We knew that there were difficulties ahead and, in fact, our detailed manifesto sets out, in great detail, how the budgetary policy-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----would be driven by respect for the guidelines-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----in relation to spending-----

Deputy Michael McGrath: Is that-----

Deputy Joan Burton: -----from the European Union.

Deputy Michael McGrath: Tánaiste, is that a seven-minute way of saying "Yes"?

Deputy Joan Burton: Sorry, I just said to you that we were given information which was costed and which was verified by both the Department of Finance and by the ESRI and we proposed changes to stop the waste of spending, which had become notorious at that stage-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----in relation to various issues and we proposed as well significant changes and savings in relation to tax breaks, which were given to very wealthy people and which were driving a bubble in relation to speculation in building land, in particular.

Deputy Michael McGrath: Okay. Tánaiste, can I just take you to the events around the bank guarantee?

Deputy Joan Burton: Yes.

Deputy Michael McGrath: And you deal with this at length in your witness statement and you state that the Labour Party stood alone in opposing the bank guarantee. When the Bill was initially introduced in the Dáil on 30 September 2008, it passed Second Stage without a vote. The Labour Party didn't oppose it at that stage. The issues you put on the record in your Second Stage speech and by the then ... and by Deputy Gilmore, as leader, were narrow in nature about the publication of the guarantee scheme, about remuneration that the bankers would enjoy, about how lending practices were going to be regulated, going forward. You supported the Bill at Second Stage and opposed it, subsequently, but can you just outline to us how your alternative would have worked? What were you actually advocating at that time in the teeth of that crisis?

Deputy Joan Burton: Well, my principal criticism of Fianna Fáil and of the Finance Ministers and taoisigh was that there was a series of warning shots which were given in Ireland in relation to banking and banking regulation. And Northern Rock had happened a full year beforehand and, at that stage, Deputy, I had made it very clear to the then Minister for Finance, Mr. Cowen, that action should be taken in relation to bank regulation. And that Northern Rock needed to be taken very, very seriously.

Deputy Michael McGrath: Okay.

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Deputy Joan Burton: Subsequently, all over the following year, I became increasingly, I have to say, alarmed by the information which was coming in respect-----

Deputy Michael McGrath: Okay.

Deputy Joan Burton: -----of Anglo Irish Bank. I came, as is the responsibility of any Opposition Deputy, to the various fora that exist in this House - the Finance Committee; on occasion, in relation to spending in particular, the public accounts committee - and-----

Deputy Michael McGrath: But can you clarify-----

Deputy Joan Burton: -----I set out-----

Deputy Michael McGrath: -----what you were advocating-----

Deputy Joan Burton: -----and I set out-----

Deputy Michael McGrath: -----at the end of September?

Deputy Joan Burton: -----I set out my concerns. My ... I advocated-----

Deputy Michael McGrath: What were you advocating?

Deputy Joan Burton: -----the ending of tax breaks, I advocated-----

Deputy Michael McGrath: No, on the immediate and severe banking crisis at the end of September 2008-----

Deputy Joan Burton: Oh, in relation to that-----

Deputy Michael McGrath: -----what were you advocating?

Deputy Joan Burton: -----our concerns was around the blanket nature of the guarantee. We set that out very specifically, very clearly - the blanket nature of the guarantee. The uncertainty about the amount of responsibility and liability that the guarantee was going to put-----

Deputy Michael McGrath: Yes.

Deputy Joan Burton: -----on the very frail shoulders of the Irish taxpayer.

Deputy Michael McGrath: And your proposal was?

Deputy Joan Burton: And on the fact of the treatment-----

Deputy Michael McGrath: Tánaiste?

Deputy Joan Burton: -----of certain classes of bondholders. On all of those, we were extremely concerned.

Deputy Michael McGrath: And your proposal was?

Deputy Joan Burton: And the proposal was that the blanket bank guarantee was inappropriate because it was putting too great a burden of debt-----

Deputy Michael McGrath: And instead-----

NEXUS PHASE

Deputy Joan Burton: -----onto the shoulders of the ... and, by the way, at that point, Deputy, as you probably remember, because you were one of the advocates for what you described at the time as ... and others-----

Chairman: Tánaiste I-----

Deputy Joan Burton: -----as wearing the green jersey.

Chairman: -----I need you to focus upon-----

Deputy Joan Burton: Yes.

Chairman: -----your own behaviour, at that time-----

Deputy Joan Burton: Yes.

Chairman: -----to answer the question with regard to what was the thinking-----

Deputy Joan Burton: The-----

Chairman: -----and what was the alternative to doing-----

Deputy Joan Burton: -----the-----

Chairman: -----what actually happened.

Deputy Joan Burton: -----the proposal was in relation to the level of debt that was going to be put on the shoulders of Irish taxpayers. I would also say to you, Chairman, that we had limited information. In fact, a lot of the information that could be gleaned was picked up not just from the limited parliamentary information that was available but from commentary in terms of economic commentators-----

Deputy Michael McGrath: Chairman, can you stop the clock please. I am utterly frustrated. I am dealing with a very senior and experienced politician who knows this game inside out. The questions are not being answered. They're not being answered-----

Chairman: Okay.

Deputy Michael McGrath: -----and I'm sick of it.

Chairman: I'm going to just ... the proposition here is very, very clear. Is that the ... when the guarantee was in real time ... over the couple of days that actually happened, the ... a position was taken on that by Government and by the Labour Party and other parties. The proposition is ... has two aspects to it, certainly, why were there concerns with not supporting it at that particular time and the second part of the proposition is what was being proposed as an alternative to the proposed route that was before the House? Is that a fair reflection of the question, Deputy, before I restart the clock?

Deputy Michael McGrath: The question is, what was the Labour Party alternative?

Chairman: Okay. Exactly. Okay.

Deputy Joan Burton: Sorry, just to be very clear, Deputy-----

Chairman: Tánaiste, please, I need to get that answered now.

Deputy Joan Burton: -----our concern, just to spell it out to you-----

Deputy Michael McGrath: You've given a detailed critique.

Deputy Joan Burton: -----was that the nature of the guarantee was, at that point, indefinable. We didn't know what the extent of it ... except that it was the State taking on an enormous liability which was subsequently quantified as being in the region of €440 billion. And what-----

Deputy Michael McGrath: €375 billion, Tánaiste, but, yes, we won't-----

Deputy Joan Burton: -----I said-----

Deputy Michael McGrath: ----- won't argue over that.

Deputy Joan Burton: -----at the time was quantified as being in the order of €440 billion. If there were refinements of the figure later on, they were later refinements. I'm talking about what information was available. Remember, the guarantee-----

Deputy Michael McGrath: Chairman, I'm wasting my time here.

Deputy Joan Burton: Well-----

Deputy Michael McGrath: Like, I'm not getting any answer to the question I'm putting.

Deputy Joan Burton: Well-----

Deputy Michael McGrath: And I'm asking you to-----

Deputy Joan Burton: What the-----

Deputy Michael McGrath: -----defend my right to ask a question and have it answered.

Chairman: And I've asked the Tánaiste ... and I'll repeat it again. The ... there's two ... and I will say that there's two propositions to the question. There is: why was the position taken and what was the alternative that was being put forward?

Deputy Joan Burton: Okay, the alternative that was possible was, for instance, to actually have the banks which were the most exposed, in fact, either fail or be nationalised. Now, when you look at it - and if I go back to that period of time, and you can check this - my concern was, if you like, in relation to two items. First of all, the banks which had caused the difficulty were two, in particular - Anglo and Irish Nationwide. One was a boutique developers' bank, serving a relatively small number of developers who had very large presence in the Irish market-----

Chairman: Tánaiste, I will have to press this now.

Deputy Joan Burton: The second-----

Chairman: No, I will-----

Deputy Michael McGrath: We're back to commentary.

Chairman: I will really, really have to press this.

Deputy Michael McGrath: We're back to commentary now.

Chairman: Is-----

Deputy Joan Burton: But I'm explaining my approach. I thought that's what you asked me.

Deputy Michael McGrath: Well, can I say to you, Tánaiste, and I've read your Second Stage speech on the guarantee Bill-----

Deputy Joan Burton: Yes.

Deputy Michael McGrath: -----you didn't mention Anglo. It's not mentioned.

Deputy Joan Burton: There were no actual institutions mentioned-----

Deputy Michael McGrath: So-----

Deputy Joan Burton: -----I believe by anybody, including yourselves, in the course of those conclusions.

Deputy Michael McGrath: Yes, but you now claim to have had huge concern about Anglo-----

Deputy Joan Burton: Yes.

Deputy Michael McGrath: -----and when the stakes-----

Deputy Joan Burton: And I expressed that-----

Deputy Michael McGrath: -----when the stakes-----

Deputy Joan Burton: -----when I visited the Department of Finance. We were invited in, just before the debate, and I expressed that to the officials in Finance. They actually told me that the Anglo and the Irish Nationwide model were actually very clever models, which I didn't understand.

Deputy Michael McGrath: Okay, but you didn't express it on the floor of the Dáil-----

Deputy Joan Burton: I chose to disagree-----

Deputy Michael McGrath: -----when the Bill was being debated-----

Deputy Joan Burton: -----because my concern ... my concern-----

Deputy Michael McGrath: -----at the time.

Deputy Joan Burton: Well, sorry, if you look at the records of those times, there was a general advice not to actually mention institutions for fear that it would come .. cause damage to institutions which might, in fact, be in a stronger position than others-----

Deputy Michael McGrath: Okay, so under-----

Deputy Joan Burton: -----and I took that responsibility and that advice and that, if you like, request, which came from the now ... the former Minister for Finance, Brian Lenihan. I took that very seriously and, as far as possible, I abided by it because I saw it as being in the interest of those institutions which might survive, if they could survive.

Deputy Michael McGrath: Okay.

Chairman: I will accommodate you more time, Deputy, okay.

Deputy Michael McGrath: Thank you. In terms of the rescue of the banking system, Tánaiste, and you have been consistently very critical of the approach that was taken at the time and you've spoken there about an alternative to the guarantee which would have involved possibly nationalising or allowing-----

Deputy Joan Burton: Yes.

Deputy Michael McGrath: -----some banks to fail. But can I ask you, ultimately, how money would have been saved under your alternative? Money would be saved if somebody didn't get repaid. So who wouldn't have got repaid under your alternative? Is it depositors, is it senior bondholders were going to be burned at that time? Can you just explain, in practical terms, how money would have been saved in the alternative model of rescuing the banking system?

Deputy Joan Burton: Well, in the earlier period of Northern Rock and in the period around the bank guarantee, I advocated, and it's on the public record, that there would be very significant deposits, there would be very significant guarantees for depositors in the banks because my view was that ordinary depositors in the banks needed a high level of guarantee - not just to protect them but also to prevent a run on the banks which, as the events of the guarantee unfolded ... and, by the way, it was presented by your Government at the time as being a cost-free exercise. I think we're all wiser now that we know that when banks fail, the cost is very significant. However, if the crisis which was evolving in relation to the two institutions that I was concerned about ... and, by the way, I was a member then of the finance committee and we had the various banking companies' representatives in on several occasions and the ... in the course of questioning, it was always to probe how they were actually dealing with, in effect, the bubble. So if the actions had been taken ... my greatest regret about Brian Cowen, who is, you know, is somebody-----

Deputy Michael McGrath: My greatest regret at the moment is that you're not answering the question-----

Chairman: I'm going to make an intervention here, Tánaiste-----

Deputy Michael McGrath: -----that's my regret.

Chairman: -----I don't want-----

Deputy Joan Burton: No, no-----

Deputy Michael McGrath: And my question-----

Deputy Joan Burton: I am answering-----

Deputy Michael McGrath: You're not, you're not-----

Deputy Joan Burton: But sorry this-----

Deputy Michael McGrath: You're not-----

Chairman: Sorry-----

Deputy Joan Burton: Well-----

Deputy Michael McGrath: You're not answering at all.

Chairman: Excuse me, please. I don't want to raise the gavel for the second time for the entirety of this ... hearings. The ... I would ask witnesses to refrain from the behaviour of other witnesses that can be cited here in the general context of things. And, likewise, I've done this with other witnesses and I want to remain consistent. The question that has been put is: was there an opportunity for potential savings in an alternative reproach that was being put forward?

Deputy Joan Burton: Yes, and the opportunity for the savings, Mr. Chairman, was to have taken action an awful lot earlier, particularly given the warning that Northern Rock constituted one full year in advance. One full year in advance. But, at the time of the guarantee, for example, the Government ... the then Government, had no resolution legislation in place and the guarantee was sprung overnight. There was a, you know, a midnight ... through-the-night meetings in which the decision was made. We woke up the next morning to be told about it and it was a *fait accompli*. So what Deputy McGrath is actually asking is: did I agree with the bank guarantee? No, I didn't. Could it have been done better-----

Deputy Michael McGrath: No, I can say what I'm asking, Tánaiste-----

Deputy Joan Burton: -----could it have been done-----

Deputy Michael McGrath: I don't need you to rephrase my question-----

Deputy Joan Burton: -----could it have been done better-----

Deputy Michael McGrath: My question is-----

Deputy Joan Burton: -----and at less cost?

Deputy Michael McGrath: And, even subsequent to the guarantee, you know, you're making the point that there was a better way of dealing with the banking crisis, let's say even at the guarantee and subsequently. And my question is, that you only save money in terms of rescuing the banks if somebody doesn't get repaid.

Deputy Joan Burton: Well-----

Deputy Michael McGrath: So who wouldn't have got repaid under the Labour Party model of rescuing the banking system?

Deputy Joan Burton: Well-----

Deputy Michael McGrath: That's my question.

Deputy Joan Burton: Well, for one, the sub debt ... because this was debt which had been taken out as these banks were getting into trouble at very high rates and that was a very risky sub-debt investment. That was one of them. But can I just say this, Deputy McGrath, I think there's, if I may so ... in terms of the question you're asking, if a sovereign state takes an action, which offers guarantees, once that is done, Deputy McGrath, you have to take the fact that that is there on board. I would not have approached the guarantee in the way the Government did. I think it could have been done-----

Deputy Michael McGrath: But I'm giving you the opportunity to outline what you would

have done instead of the guarantee-----

Deputy Joan Burton: Yes, I suggested to you-----

Deputy Michael McGrath: -----and how you would have saved money.

Deputy Joan Burton: I suggested to you that it could have been approached either by nationalisation-----

Deputy Michael McGrath: And how would that save money?

Deputy Joan Burton: -----or by closing down the institutions which were the biggest destabilising risk to the whole Irish system.

Deputy Michael McGrath: And who wouldn't have been repaid and, as a result, you would have achieved savings?

Deputy Joan Burton: Well, that would have depended at what point in time, Deputy, that that was done. Had that been done a year previously when that Government was put on notice and the banking system and the regulation system was put on notice in relation to Northern Rock that there were difficulties in relation to banking, well, then, while all bank failures are costly, I do not believe, myself, that the level of costs that would ... that was incurred would have been incurred.

Deputy Michael McGrath: Okay.

Deputy Joan Burton: I can't give you a precise figure-----

Deputy Michael McGrath: I'm not asking for a figure.

Deputy Joan Burton: -----but it would have been significantly lower.

Deputy Michael McGrath: I'm not asking for a figure, but the only specific-----

Deputy Joan Burton: It would have been-----

Deputy Michael McGrath: -----you have offered is subordinated debt and, as you know, there were liability management exercises of about €15 billion in respect of subordinated debt. There was a total of €1.4 billion of sub debt repaid during the guarantee because it was guaranteed. So you've offered that specific, but you haven't offered anything beyond that.

Deputy Joan Burton: The ... but the guarantee in its major purpose, which was to get deposits to flow back into the Irish banks and stop a run on the banks, did not succeed in that purpose, Deputy. So the guarantee was a disaster for the Irish people because, in effect, what happened with the guarantee was the Irish taxpayer took sole responsibility for the debts of the banks when, in fact, in my view, the effort to save the banks should have been concentrated on the high street banks, the banks with which ordinary business, commercial, depositor life in Ireland is dependent.

Deputy Michael McGrath: Okay. I feel I must bring in Deputy Rabbitte. And I want to just raise one issue with Deputy Rabbitte and that is the use of the platform that an Opposition party has through all the various mechanisms in the Oireachtas - the Private Members', Leader's Questions, ministerial questions. And I have examined the record of Fine Gael and Labour during a number of years in Opposition - 2005, 2006, 2007. And during that period, for ex-

ample, 2005, '06, '07, Labour had 24 Private Members' motions and they dealt with a range of issues, all important, from bin charges to class sizes a number of times, civil union legislation, public transport in Dublin, Coroners Bill, health spending, etc., and I ... the Leader's Questions are similar and more. Why is it that the key issues, when we look back now, of the regulation of the banking system, the growth in lending to construction and property, for example, and pro-cyclical fiscal policy didn't feature strongly enough during that period? And does it go back to what you said in your witness statement, "In our adversarial system of parliamentary democracy, governments always want to do good things and oppositions always want government to do more good things"? Does that characterise the Labour Party's approach in Opposition?

Deputy Pat Rabbitte: I think it characterises the nature of adversarial politics. That's the normal democratic impulse. The implication, I think, behind your question, Deputy, is that before 7 o'clock on the fateful morning that the Labour Party somehow had known that this was going to happen.

Deputy Michael McGrath: No, it's not.

Deputy Pat Rabbitte: We didn't know. We didn't know. You know, questioning my colleague about whether we had a refined alternative is ridiculous. The thing was sprung on us.

Deputy Michael McGrath: That's even now, Deputy.

Deputy Pat Rabbitte: The thing was sprung on us, shock and awe. It was the most extraordinary story in my lifetime that I woke up to that morning. So, no, we didn't have a refined alternative. We had to, there and then, react to the proposals being brought forward and all I can say to you is that I think - and it's very easy to be wise in hindsight - I think that if I had been walking through the streets of Dublin and we had Irish citizens on the streets trying to withdraw their money from Northern Rock, I think I would have gone back to the Department and said, "What in the name of God is going on here? Shouldn't we have a look under the bonnet of the other banks?" And that was 11 months, almost 12 months, earlier. So we might have had a refined alternative because I heard Mr. Cardiff say to you that there were prominent figures in the financial sector making representations about a guarantee and so on. So I think you know very well, whether it's a good practice or not, Deputy McGrath, that Leader's Questions tend to be prompted by the issue of the day. However, on construction, we did raise it, and we did raise it consistently in all of the particular instruments that were open to us from the Private Members' Bill in terms of trying to cap the price of development land----

Deputy Michael McGrath: It's 2003, yes.

Deputy Pat Rabbitte: Yes, that's right. Right up to ... and you will ... I think we're agreed, the rot had started by 2003 and, you know, price of houses had risen by three times that time. So from thereon in, we pursued the property issue consistently and by all methods open to us.

Deputy Michael McGrath: Thank you. Thank you, Chairman.

Chairman: Deputy ... Senator Michael D'Arcy.

Senator Michael D'Arcy: Thank you, Chairman. Tánaiste and Mr. Rabbitte, you're welcome. It's a question for both and I'm going to start with yourself, Tánaiste, please. During the period of '02 to '07, what concerns did you have about the rate of growth of the domestic Irish banks? In evidence we've received to date, AIB, Bank of Ireland and Anglo from '01 to '08, the period in question, grew in the region of 30% compound per annum.

Deputy Joan Burton: Sorry, I thought you were continuing. I would say that I became the finance spokesperson for the Labour Party in late-2003, just before ... in late-2002, just before the budget for 2003 - I think the week before the budget of 2003, which was in early December 2003 - and between then and 2007, I used my opportunities as finance spokesperson for the Labour Party to lay out a series of issues that I had around, in particular, the bubble that was developing in relation to land speculation and in relation to construction in Ireland. Now, in any kind of examination of banking, one thing that bankers and those that regulate banks should always be on the lookout for, because it happens in banking all the time, is the development of bubbles. I represent the constituency of Dublin West. I had, like Deputy Rabbitte, and, indeed, Deputy Gilmore, who was, subsequently, leader of the Labour Party, been a member of the old Dublin County Council-----

Chairman: Sorry, just one intervention. I'm trying to, kind of, balance the time and the questions with the time to the responses-----

Deputy Joan Burton: Yes.

Chairman: -----so that members can come in-----

Deputy Joan Burton: Yes.

Chairman: -----and try to equalise the engagement.

Deputy Joan Burton: Okay.

Chairman: So I would ask you to be conscious from here on out in terms of that balance please, okay.

Deputy Joan Burton: So I became very concerned about the speculation in building land and the speculation ... the development of very speculative rezoning, because in the old Dublin County Council it was an area where tens of thousands of homes were going to be built for families and individuals and that was right and proper, but the level of zoning and, subsequently then, the level of lending by banks in competition with each other to lend money to developers for rezoned land became a major concern of mine, which I reflected in parliamentary questions and contributions in the Dáil. Secondly, then, as I've referenced in my statement, I became very concerned, as time went on, at the build-up of the bubble in relation to stamp duty where companies could rest contracts and not actually pay the stamp duty. The one that I drew attention to particularly was a particular development at the Irish Glass Bottle site and the tax break incentives which underpinned the development of the bubble. There were ... in successive budgets in those years, both Minister McCreevy and Minister Cowen brought forward a whole series of tax breaks for private hospitals, for private nursing homes, for a whole series of different activities, sports injury clinics. There's a long list of them and that again certainly caused extreme apprehension to me that what was happening was a bit of a runaway train and I advocated that that should be brought to an end.

Chairman: Senator.

Senator Michael D'Arcy: Deputy Rabbitte, to follow on from that question can I ask if you or the Tánaiste had any knowledge of the commercial real estate sector? Putting it into context, on the night of the bank guarantee in question, Anglo Irish Bank, purely a monoline bank, 82% commercial real estate, 1% residential and while all the conversation to date has been upon residential, and then the remaining 17% was corporate lending attached to com-

mercial real estate. Mr. Rabbitte, had you knowledge of the commercial real estate sector and where it had gone to? Try and exclude the portion that the Tánaiste has discussed to date. Had you information about the over-exuberance of the commercial real estate sector?

Deputy Pat Rabbitte: I knew broadly the type of client that Anglo Irish had. I didn't know it was as clustered as the figures subsequently bore out but I knew the type of client it had, I knew of the complaints of other banks that some of their high net worth individuals and corporates were complaining that they weren't getting a similar yield to what Anglo Irish was providing. But I didn't know it was concentrated to the extent that we now know.

Senator Michael D'Arcy: Tánaiste.

Deputy Joan Burton: I became aware that for instance-----

Senator Michael D'Arcy: Try and be concise if you could please, my time is running out.

Deputy Joan Burton: Yes. I became aware that for instance, developments like, say, multi-storey car parks were becoming vehicles not simply for development but they were becoming vehicles for tax avoidance by high net worth individuals and in this, there was just a very significant build-up of what I felt was activity, not for the purposes of the genuine development which the country needed, but development of activity for acquiring tax breaks and, therefore, shielding wealth from taxation. And that contrasted, you know, very sharply with say, small businesses, or, indeed, individuals who couldn't have utilised those kind of breaks. And in every budget there was a series of additional tax breaks built in, which were essentially designed to stimulate activity but became even more so a tax avoidance mechanism. I actually campaigned around tax justice, that allowing somebody with a €1 million income to pay tax of 0% to 5% was actually wrong and economically not proper. And as time went by in the period 2002-2007, partly because, for instance, of ads in the paper, you saw that high net worth individuals were invited by various organisations to participate and invest into opportunities that were available. And, Deputy, almost all of those opportunities were construction-related. And, you know, that was my concern.

Senator Michael D'Arcy: Okay. If I could move on, please. The '07 Labour manifesto proposed a 2% cut in the basic rate of income tax. One of the criticisms here had been the narrowing of the tax base. Would the 2% on the basic rate ... would have cost a lot of money, I don't have a figure, but the fact that it was on the basic rate, it would have been billions. Would this commitment not have further eroded the tax base? And what policy did Labour Party have to broaden the tax base to provide more stable revenues for Government? And that's for both please, I'll start with Mr. Rabbitte.

Deputy Pat Rabbitte: Well, with respect, Deputy ... with respect, Senator, I don't think that that was a narrowing of the tax base issue. I mean, the narrowing of the tax base issue in Irish politics has been a question of to whom the tax law applies and the fact that it was very narrowly focused on PAYE workers and income that could be cut-----

Senator Michael D'Arcy: Sorry, could I ... If I could just come in now-----

Deputy Pat Rabbitte: It was a reduction of the tax rate, not a narrowing of the tax base.

Senator Michael D'Arcy: But, sorry, those ... If I could just very quickly. I'll just clarify. From '97 to '07 the higher rate reduced from 48% back to 41%. The basic rate reduced in a similar amount as well. What I'm saying is, those moneys lost, foregone to the Exchequer,

were replaced with the transactional taxes.

Deputy Pat Rabbitte: Yes.

Senator Michael D'Arcy: And that's the issue. The Labour manifesto in '07 subsequently was to reduce the rates at '07 by a further 2%. So that was a continuation of the same policy of the previous Government.

Deputy Pat Rabbitte: Well, I mean, I don't think that you can draw the conclusion from a single modest proposal that was designed to address people on modest incomes getting some kind of a break prompted by the fact that very high earners had all of the reliefs that we have just been speaking about since we started. They could minimise their tax liability or mitigate it. The small person trapped in PAYE and so on could not. So, you know, it was a measure that, I think, in terms of trying to analyse what caused the banking crash, it might not, in your view, have been good fiscal policy but it was of piddling insignificance in terms of what caused the crash.

Senator Michael D'Arcy: The point I'm making, Mr. Rabbitte, and perhaps, Tánaiste, if you could take it up, is that to reduce the tax base of the basic rate by 2% would cost the Exchequer billions. It had to be replaced with something else. And the question is: did the Labour Party have plans in place to broaden the tax base or, subsequent to what Deputy Rabbitte has said, would that plan have had to be ignored if you had gone into government at that stage?

Deputy Joan Burton: Well, what I proposed in many of the debates and discussions ... and, in fact, ultimately, Brian Lenihan actually adopted an element of my proposals because we had many conversation, particularly when things went wrong for the country and, you know, he was concerned to try and do his best to salvage the wreckage. First of all, I spoke at length about the notion of a minimum effective tax rate. In other words, no matter how many allowances are available to an individual, particularly a high-income individual, we would ensure, or the State would ensure, that that person had to pay a minimum effective rate of tax. The second proposal was that some of the allowances I've spoken about should be capped and that in some cases they should be discontinued. I also proposed, Deputy, that there would be a standing committee on taxation, having previously proposed a study, which ultimately Deputy Cowen did actually carry out but didn't implement the recommendations, a study of the actual cost of tax expenditures. And I proposed that there be a standing commission committee on taxation which would continuously look at the costs of tax arrangements which had built up in the system because I believed that if there was more information available that it would have been possible to make better judgments and better decisions about how to manage the national finances responsibly.

In relation to the proposal about reducing-----

Chairman: Tánaiste, quickly please.

Deputy Joan Burton: Yes. In relation to the proposal about reducing the lower rate of tax, remember, as you've just said, the upper rate of tax had come down by some seven points over the period and we were concerned that ordinary, you know, working families, people on modest incomes, particularly young people going into employment, that they, for instance, would enter the tax situation at a lower point. Now it was a very modest proposal and all of our proposals were subject, obviously, to the budgetary process of when the resources would be available to do that. But it was in the ... you see, there was the comparison that, I think, was in, particularly in Deputy Rabbitte's mind, was there had been this enormous reduction in taxes for people who

had been very, very well ... who were very well ... who were very wealthy-----

Chairman: It's past time and I do need to bring the Senator in, please.

Deputy Joan Burton: -----compared to people on modest incomes facing a 20% rate as their starter rate, and that was very-----

Senator Michael D'Arcy: But you could have increased the band.

Deputy Joan Burton: What?

Senator Michael D'Arcy: You could have increased the band and left the rate at the same amount.

Deputy Joan Burton: And the other alternative was to increase the bands and to increase the credits, and they were alternatives to doing it, but, effectively, the Labour Party was interested in seeing ... and, you know, again, the situation of people going into work, of work paying and tax not being excessive.

Senator Michael D'Arcy: Could I put it to you, and I'm going to ask you your view upon it ... of the statement that I make, and I'm not trying to lead the witness, Chairman, was it just auction politics?

Deputy Joan Burton: No, because we had a very detailed analysis of where the tax system strongly favoured very wealthy people who ended up paying nought to 5% of income tax, whereas a young man or woman just commencing work on a modest salary could actually enter into the tax net at an initial rate of 20%, where as those who entered into the higher rate had, in the proceeding years, actually gained a reduction of seven percentage points.

Senator Michael D'Arcy: Mr. Rabbitte, was it auction politics?

Deputy Pat Rabbitte: No, I think it was a question of equity, as has been said, I mean ... high earners had enjoyed considerable benefits over the period of the boom, and yet people on very modest incomes were subject to tax without a similar level of alleviation. I mean, it is true that the environment for that election was immensely competitive. You'll recall the address that the then Taoiseach gave to his ards fheis, where he spelled out a range of issues, I have the list, but I don't want to put it on the record if it provokes anyone to unreasonable response. But it included the measure that you're talking about as well as cutting 1% off the marginal rate, and halving PRSI.

Senator Michael D'Arcy: Can I ask, Mr. Rabbitte, during your time in opposition did you actively seek views and opinions from banks, property developers, or their trade bodies in order to develop your policy strategy?

Deputy Pat Rabbitte: Well, I certainly had some engagement with them, I don't know did I actively seek it, as often as not they actively sought us. Yes, we had engagement with them and, you know, we would take into account whatever they said, but what weight we would give to it was a matter of judgment of the people deciding the policy platform.

Senator Michael D'Arcy: And how did you ensure that those policies that were developed, were developed in a way that balanced the needs between all stakeholders?

Deputy Pat Rabbitte: Well, I mean you can only bring your political compass to bear on

that in terms of in terms of the circumstances at the time. I mean , you know, it wasn't any secret, every party was in possession of information about the property issue at that time and you know it got to such a stage ... I recall making a speech to the Association of European Journalists - I made a number of them at the time. That was on 11 January 2007, or it's reported in *The Irish Times* on 11 January 2007, where I drew attention to the fact that our exports were beginning to dim in circumstances where more and more of our revenues were dependent on transactions related to the construction sector. And it was attacked at the time, as I have it here, "Rabbitte talks down the economy" and, you know, some of the usual criticism. The climate was not very receptive. That was on 11 January 2007. I gave a few interviews at the time to that affect. Arguably, I should have the courage of my convictions and stayed with it, but it was not a winner.

Chairman: On the issue of winner, that's going to be the key point. Deputy Rabbitte, as was referred to by Senator D'Arcy, the issue of the 2% cut to the basic rate of income tax was announced by you at the party conference just prior to the general election in 2007 when you announced it during the leader's speech that night. Can I put it to you, that would ... I put the proposition to you that this was a tactical and deliberate decision to brand the Labour Party as a low income tax party in order to curry electoral support, and was a clear example of populist politics.

Deputy Pat Rabbitte: I don't accept that, Chairman, if you mean that I ought to have gone to the last conference before a general election and announced things that would be manifestly unpopular with the electorate. I wasn't minded to do that. But in this particular one, as the speech shows I said very clearly, that if resources permitted, this is what we propose to do. And we proposed to do it because we felt there was an inequity in terms of the cohort of people who got benefit each year, over the best part of ten years, from the tax system, disproportionately so, because they were high earners, and people on modest incomes didn't. And, you know, it was designed to be a small contribution to alleviate the burden on people on modest incomes.

Chairman: Okay. Tánaiste, the ... as the finance spokesperson for the Labour Party, I would assume that you would have met with Department of Finance officials on an ongoing basis and you would have access to the general secretary of that Department, as would other opposition TDs with the line general secretary. That would be the case, yes?

Deputy Joan Burton: No. I wasn't ever invited-----

Chairman: But would you have sought access?

Deputy Joan Burton: -----to have an audience with the secretary of the Department of Finance, but I did meet with the chief executive officer of the NTMA from time to time. In fact, myself and Deputy Rabbitte did, but not with the secretary of the Department of Finance, other than when the crisis was upon the country. I met on one occasion with Mr. Cardiff; I never met with his predecessor.

Chairman: Did you seek meetings with the general secretary of the Department of Finance during your time as finance spokesperson in opposition .. Labour Party?

Deputy Joan Burton: I was available to meet but they were not inclined to meet-----

Chairman: Did you request-----

Deputy Joan Burton: -----lowly opposition people. Our research person in the Labour

Party met with Finance officials and the arrangements they made was that they gave answers to specific questions that we put in a budgetary context.

Chairman: A general assumption that could be made of that period of time was the soft landing theory. And the soft landing theory has ... seemed to have influenced a lot of political strategy, a lot of political thinking, a lot of political manifestos and so forth. This committee has asked previous finance Ministers and Taoiseachs and general secretaries ... sorry ... the senior civil servants in the Department of Finance and so forth, as to ... was there an internal document in the Department of Finance that was evidentially designed and put together by them to support that. Now, that will continue to be a work in progress. Did you at any time ever contact the Department of Finance to seek documentation, or were you ever provided with information that was belonging to the Department of Finance that actually supported a soft landing theory.

Deputy Joan Burton: The Department of Finance published documentation. They didn't make any specific documentation available to the Labour Party other than through the head of research who was himself an economist but I did actually, from time to time, meet with officials from the NTMA and from the Central Bank and they gave opinions. And in relation to the Central Bank, I raised specifically with the then Governor of the Central Bank - and did request to meet him - my concerns about subprime lending over a number of years.

Chairman: I can get into the issue of the NTMA and the other issues, and I just want to go for a break after this, I just need to answered, so I can. Was there at any time an engagement by you or representatives of your office to ... operating on your behalf, as finance spokesperson of the Labour Party, to seek evidence that there was a soft landing, that ... in the Department of Finance, not in any other Departments, Central Bank or anywhere else, but in the Department of Finance?

Deputy Joan Burton: There were contacts between the head of the Labour Party's research and principal adviser to the then party leader, with the Department of Finance on occasion and where we wanted figures verified, on occasion the Department of Finance was willing to do that, but the second-----

Chairman: Tánaiste, I am going to push the question. I'm asking specifically with regard to the soft landing theory, not to talk about kind of macro-forecasts and all the rest of it. Can you give us documentation that shows us that there is something supporting a soft landing?

Deputy Joan Burton: I can't give you that documentation but when ... as a member of the committee, the senior officials of the Department of Finance attended various committees and were questioned by members of the committee, including myself, as were senior officials of the other key publically ... public financial institutions like the Central Bank. My contact with the Department of Finance was in those interactions.

Chairman: I just need to very simply ask Tánaiste is ... was there a deliberate and strategic position taken that we need to examine this soft landing theory? The Department of Finance are actually saying it. Do they have something in there that actually supports it? I just need to get that answer, and I don't believe in "Yes" and "No", but I just need to get that pinned down.

Deputy Joan Burton: No, we did ... and I think everybody fervently hoped there might be a soft landing, but we were very sceptical and I certainly went, in particular, to the Central Bank and to the NTMA. But the Department of Finance, if I may say, made their presence available to Members of the Oireachtas via committees. They were not, to my knowledge, available on

other occasions, other than when they came in and they briefed the Opposition in relation to legislation - for example, annually on the Finance Bill.

Chairman: Okay. I'm just going to propose ... there's a request for a very short comfort break for five minutes. I propose that we will adjourn temporarily and to return and 14.35. Just to let the witnesses know that they are still under oath during that time and they-----

Deputy Joan Burton: Three minutes?

Chairman: A five-minute break.

Sitting suspended at 2.32 p.m. and resumed at 2.43 p.m.

Chairman: We are back in public session, with a full house. In doing so, I now wish to resume questioning. Is that agreed? Agreed. In doing so, I now invite Senator Susan O'Keeffe. Senator Susan O'Keeffe.

Senator Susan O'Keeffe: Thanks, Chair. Mr. Rabbitte, in your opening statement you say you were:

bound to say ... [you] did not make the connection between our alarm at what was happening in the housing market and the risk to the banking system. I must admit ... it never occurred to me that our banks might fail.

Why do you think it never occurred to ... and I think you mean "you" meaning all of you, or do you mean you yourself?

Deputy Pat Rabbitte: No, I'm only speaking for myself.

Senator Susan O'Keeffe: Well, and given that Northern Rock had had the difficulties, and various other, you know, the American banks were beginning to really struggle, and Bear Stearns and so on, was it ... what gave rise to you not making the connection, do you think?

Deputy Pat Rabbitte: Well, the statement doesn't relate to what happened during the course of 2008. I'm talking about the property bubble, as it emerged and when it emerged and as it "grewed and grewed", like Topsy, and I'm saying that, no, frankly, I didn't, I regret, make the connection between the property bubble and the risk to the banking system. I suppose partly because we were getting all these bouquets about the quality of our banks. Anglo Irish won a competition somewhere, in Davos, as the best bank in the world, I think. Bank of Ireland Private similarly, had some award, from memory, and we were being assured by the authorities, whose task it was to regulate the banks and make decisions about credit expansion and so on, that we had a very sound and robust banking system, and I bought it.

Senator Susan O'Keeffe: Tánaiste, we've heard in evidence that since November 2007, you know, we've heard all about scoping documents and crisis simulation exercises and contingency and secret teams and documents briefing Department of Finance, Department of Taoiseach, all kinds of documents, talking about problems with liquidity, talking about the banks' share prices falling, talking about the decreasing situation in relation to the economy. Were any of those documents, was any of that information, made available to you in your capacity as spokesperson or, indeed, perhaps, to Mr. Rabbitte, as leader ... or had you ...yes, or, indeed, to Mr. Gilmore as leader as it ... so would either of you ever have had access to those kind of documents?

Deputy Joan Burton: No, Senator, they weren't made available. In fact, any reference I've seen to those indicate that they were carried out in considerable secrecy because there was also a desire at the time, and, in fact, people often talked, particularly from the Government parties, talked about people wearing green jerseys. There was also as there is now, but more so then, a great deal of inhibition in terms of Oireachtas rules of specific institutions being named. There was one initiative which was undertaken by the Finance Committee partly at my suggestion. The Finance Committee in those days made a visit to the United States every two years or so and it was due to be in the autumn of 2008, and I suggested to the Chair and to the members that with what was evolving, that perhaps we should try and go to the United States and see could we get some level of briefing and so on. We did that, if I recall, in the week after Easter of 2008, and I have to say, I came back from that visit full of a certain amount of foreboding. But, I want to reiterate again, my fears were very concentrated around the way Anglo Irish had developed, and Irish Nationwide, as a small building society. There was an awful lot more information and commentary, and Deputy Rabbitte has referenced one significant piece of commentary, the Morgan Kelly articles in *The Irish Times*, which were suggesting increasingly that the Irish situation was fragile and at risk. But as against that, I mean, the Department of Finance was very remote from mere Opposition Deputies, was very, it was entirely, if you like, related to in my experience, to the Government and the Government parties.

Senator Susan O'Keeffe: Can I interrupt, Tánaiste, because, in fact, when Mr. Cowen was giving evidence here he said - this is on page 92 - when he left ... he meant when he left his job as Minister for Finance to move on to being the Taoiseach, he said: "There wasn't a crisis at that point." That would have been late April, early May.

Deputy Joan Burton: I have to say I was very, very concerned. There was a lot of, if you like, commentary of a brief kind in the media. There was a lot of conversations, journalists were asking questions. I was also using my position as an Opposition spokesperson to, as I said, talk about, for instance, reining in the tax-driven speculation in land because ... people often talk about the huge rise in construction prices but, Deputy Rabbitte referred to it earlier, the real rise in costs was actually in land costs. Construction prices did rise, but it was the land values that rose, so that, say someone on a modest income who might have bought a house for €250,000 or €300,000, that kind of house was becoming priced at €450,000 to €500,000, and it was going out of the reach even of people who had employment in the public service. It was all of those kind of happenings that were very concerning to anybody who was following what was happening in finance.

Senator Susan O'Keeffe: Can I say, finally, when the financial stability report of 2007 was being discussed at the finance committee in January '08, you said: "The economic clouds are gathering but Ireland can ride out this storm if the Government takes action without delay." What were you thinking that action should or could be, given that we didn't see, if you like, any action until 30 September in a way and that was an emergency or a crisis driven action? What were you suggesting, do you think, there?

Deputy Joan Burton: My biggest concern at that time was in relation to Anglo Irish Bank because this ... I can't just stress ... this was a small specialist bank for developers who are a certain percentage of the activity in a country. There were other customers of the bank-----

Senator Susan O'Keeffe: Well, others have given evidence that, in fact-----

Deputy Joan Burton: -----and it had become-----

Senator Susan O’Keeffe: -----it was a systemic bank.

Deputy Joan Burton: Historically, it had become-----

Chairman: I’ll just bring Senator O’Keeffe in. I’ll just bring Senator O’Keeffe in, please.

Deputy Joan Burton: Historically, it had become in the stats bigger than either the Bank of Ireland or the Allied Irish Bank.

Chairman: We’ve had that testimony already from you. Senator.

Senator Susan O’Keeffe: Yes, I was just saying, others have said that actually Anglo became ... it may not have been, on the face of it, a monoline or a developers’ bank but it became systemic and, therefore, that was the reason. But, I was asking you specifically, what were you thinking the Government ought to do when you said it should take action without delay. That was January 2008, long before action was taken.

Deputy Joan Burton: And I had said that as well in the previous September when the Northern Rock crisis broke in the United Kingdom-----

Senator Susan O’Keeffe: What did you want the Government to do?

Deputy Joan Burton: I wanted the Government to have a much stronger system of regulation and oversight and I wanted the tax breaks and so on that I referred to, which I believed were driving the bubble in credit and lending to the commercial sector. I wanted that addressed and I felt that if they were taken down, well then, there was a better possibility of what was described as the soft landing. Also, from 2007-----

Chairman: The question-----

Senator Susan O’Keeffe: The question is made. I mean, finally, I wanted to ask whether or not in those final months whether any bankers, developers, individuals came to ask either you, Mr. Gilmore, Mr. Rabbitte, you know, for help, for advice, whether they could ... you could lobby or intercede on their part. Because we’ve heard of lots of meetings going on, or not.

Deputy Joan Burton: The only person who really asked for my advice was Brian Lenihan, the late Brian Lenihan, who was a constituency colleague of mine.

Senator Susan O’Keeffe: Just before you talk about him, though, I’m asking about developers or bankers, particularly, outside.

Deputy Joan Burton: No.

Senator Susan O’Keeffe: They never came to talk to you.

Deputy Joan Burton: Because they basically had an approach that anyone who was, in any way, critical of what was happening, even in broad general terms ... there was this language around the green jersey and supporting the narrative. And also, I have to say on my own part, I was extremely cautious about any statements which, in any way, would cause more damage. So, I think on the part of almost everybody in the Oireachtas at the time, there was a great deal of concern and caution but that was interleaved with the various witnesses who came into the committees and like Mr. Neary, the chief executive of the regulator, who repeatedly said the fundamentals are sound, the banks are well-capitalised. So, why-----

Chairman: Senator, I need you to ask one supplementary because I need to move on, thank you.

Senator Susan O’Keeffe: Why would Mr. Lenihan in that case, given what you said about the green jersey agenda ... why would Mr. Lenihan, above all people, if you like, as the Minister for Finance in the Government, ask for your advice?

Deputy Joan Burton: I think Mr. Lenihan spoke to many Members of the Dáil and Seanad on a frequent basis. We were also constituency colleagues and we attended quite a number of functions where, in fact, we spent time together.

Senator Susan O’Keeffe: What did you say to him when he asked?

Deputy Joan Burton: I said he needed to get very good advice and expertise and I advised him strongly to look for expert advice in relation to the difficulties that seemed to be, if you like ... you know, it was a period of considerable financial uncertainty and more and more information was coming out in relation to specific problems in Ireland and I felt that if he had more expert advice, he might, in fact, be able to respond more rapidly. I was very disappointed when that Government went off in June or July of 2008 and then did not come back until September, when, obviously, the crisis literally exploded.

Chairman: Senator Marc MacSharry.

Deputy Pat Rabbitte: May I-----

Chairman: Sorry, just a second.

Deputy Pat Rabbitte: -----just say, Chairman, I think the question was addressed to me as well. May I just say that I get the impression that the inquiry, as a result of hearing testimony to the fact that there were some big players in the financial sector advocating a guarantee and there were some senior officials considering the options and so on, I think it’s important to say that the political system didn’t know this at the time. You know, we didn’t go to bed on the night of 28 September knowing that the world would have changed on 29 September. We didn’t know. I mean, this information in terms of did bankers approach us, did developers approach us ... I mean ... this information was being kept under wraps prior to 28 September and after 28 September, the bankers felt they had got an insurance policy that insulated them. So ... and in terms of the question about making the connection between the property bubble and the risk to the financial system, I think the record of the House will show for that night that two Deputies, Deputy Michael Noonan and myself, raised the question of solvency. And as Deputy Burton has said, there was a great deal of caution around. Banks weren’t named by name and all the rest. But we put in separate interventions, whether we were dealing purely with a liquidity crisis. Now, the Minister for Finance of the day, the late Brian Lenihan, did not answer. I wouldn’t have expected him to answer. I don’t think the Minister for Finance could stand up and say, “Yes, I’m afraid, Deputy, it’s wider than liquidity. There is a solvency issue.” I don’t think the Minister for Finance could say that. But that’s the first time and the record of the House will show it that question was raised.

Chairman: Okay. Thank you. Senator Marc MacSharry.

Senator Marc MacSharry: Thanks very much, Chairman, and welcome Tánaiste and Deputy. Tánaiste, I’ve no questions for you until the end. So I just have very brief ones at the end for you. So they’ll all be for Deputy Rabbitte. Deputy, you have a reputation for calling it

like it is, if I might say. And can I ask you to identify-----

Deputy Pat Rabbitte: Well, I certainly got the Connacht final right anyway, Deputy.

Senator Marc MacSharry: Indeed. You might have underestimated it, maybe. The ... so as somebody who calls it like it is, could you say to me and just identify which pre-budget or post-budget ... sorry, pre-budget proposals the Labour Party proposed gross reductions in expenditure and net increases in taxation? Or were there any?

Deputy Pat Rabbitte: Well, I think the substance of the budget is reflected in the Finance Bill and it is in the amendments travelled to the Finance Bill that is the evidence of that and our main evidence in that regard would be attempting to take on the incentives and the reliefs that were there.

Senator Marc MacSharry: Okay. Is the short answer, “None”?

Deputy Pat Rabbitte: No, it’s not at all. There is a book of amendments travelled in those years to the Finance Bill.

Senator Marc MacSharry: No. I just want to be specific and time is very short and I we don’t want to do the Tánaiste on it.

Deputy Pat Rabbitte: But I am being specific.

Senator Marc MacSharry: Can you tell us was there ever a pre-budget proposal from the Labour Party which all lumped in together, so all the voted and non-voted expenditure and capital-----

Deputy Joan Burton: Yes.

Senator Marc MacSharry: -----which ... sorry, I was ... Tánaiste, if I wanted to ask you, I’d have asked you. I’m asking Deputy Rabbitte, who was the leader at the time. Can you say was there any set of proposals when added together which said, “We are looking for gross reductions in expenditure and net increases in taxation.”? “Yes” or “No”?

Deputy Pat Rabbitte: Yes. We fought a number of the spending decisions of that time. For example, I was very prominent myself, almost alone in the Dáil, in terms of the Bertie bowl-----

Senator Marc MacSharry: Yes, so, that’s one issue now.

Deputy Pat Rabbitte: -----which was a huge expenditure issue.

Senator Marc MacSharry: Chairman ... just ... you know where I’m coming from on this.

Chairman: I’ll afford you a bit time, Senator, I’ll afford you a bit of time.

Senator Marc MacSharry: It’s the overall thing-----

Chairman: I’ll afford you a bit of time.

Senator Marc MacSharry: -----as opposed to the individual calamities.

Deputy Pat Rabbitte: Sorry?

Senator Marc MacSharry: Apart from the Bertie bowl, could you tell me was it budget

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'05, '04, '03, '06, where the Labour Party were proposing X net reduction in expenditure and Y net increases in taxation?

Deputy Pat Rabbitte: Well, an enormous amount-----

Senator Marc MacSharry: What year was that? Could you tell us?

Deputy Pat Rabbitte: I don't remember the years, Senator.

Senator Marc MacSharry: So, is there a year, if that was the case?

Deputy Pat Rabbitte: There were several years successively-----

Senator Marc MacSharry: Which one?

Deputy Pat Rabbitte: And a very ... from about 2001, in particular.

Senator Marc MacSharry: From about 2001. I mean, which specific ones because the only ones-----

Chairman: I need to be-----

Senator Marc MacSharry: -----having done an analysis of it ... that I can see ... are ones that look for increases in expenditure and decreases in taxation-----

Deputy Pat Rabbitte: From about 2001 to-----

Senator Marc MacSharry: -----from a gross and net perspective.

Deputy Pat Rabbitte: From about 2001-----

Chairman: I need to allow some time for Deputy Rabbitte to respond now please.

Deputy Pat Rabbitte: From about 2001 to 2007, we would have argued for constraints in terms of the moneys lost to the Exchequer in respect of the various tax incentives and tax shelters and tax reliefs that were there. We would have opposed some of the vanity projects like e-voting and the Bertie bowl and PPARS and those ... and you know, we were careful in terms of the budget proposals that we advanced that they were costed by the Department of Finance and that they were in sync. And earlier questions about us providing for twice the growth rate in spending is, of course, not true. I mean the figures were compiled on the basis-----

Senator Marc MacSharry: Sorry, I didn't ask that question now. That's somebody else's question from earlier-----

Chairman: I will afford a bit of time-----

(Interruptions).

Senator Marc MacSharry: That's a question-----

Chairman: No, I'll afford you plenty of time----

Deputy Pat Rabbitte: It's very relevant to this question. The five-year construction of our plan was based on 4.5% growth per annum, which from memory, would have produced ad-

ditional revenues to the Exchequer of in excess of €11 billion. So if you take the growth rate, provide for inflation, take the add on of what, 2%, it would be at least half that again. So they were the revenues that we thought, based on the expert advice from agencies like the ESRI and the Department of Finance that were available to us. There's always a reason to spend money. I think we would have tried to spend it more wisely than what actually happened.

Senator Marc MacSharry: Yes, I need to move on.

Deputy Pat Rabbitte: In some cases.

Senator Marc MacSharry: Yes. I'm going to move on because I've asked it three times, I'm still not getting the answer, okay.

Deputy Pat Rabbitte: But you did get the answer.

Senator Marc MacSharry: No, I didn't.

Deputy Pat Rabbitte: You mightn't have got the answer you wanted but-----

Senator Marc MacSharry: I didn't get the answer-----

Deputy Pat Rabbitte: -----don't confuse that with not getting the answer.

Senator Marc MacSharry: I am not confusing the answer at all.

Deputy Pat Rabbitte: Okay-----

Senator Marc MacSharry: I'm not confusing the answer at all. I mean-----

Chairman: Next question, Senator.

Senator Marc MacSharry: Do you feel ... you had commented in a more modern era but about the practice, so I'm going to put the question about in pre-election periods that in terms of promising, you said on "Prime Time", "Well, that's what one tends to do" I think was the precise quote. Can I ask, in your preparation for the 2007 general election, did the Labour Party cow down to the lower tax, high expenditure policies of Fine Gael in order to win that general election or were you happy to go with low taxation, high expenditure all by your own?

Deputy Pat Rabbitte: Well firstly, Deputy, that's a misrepresentation of what I said and what some of my colleagues take great pleasure in misrepresenting. That was an exchange with-----

Senator Marc MacSharry: I suppose the important part of the question - did the Labour Party cow down-----

Chairman: The question has two parts to it-----

Deputy Pat Rabbitte: No, you've-----

Chairman: -----and two parts of it to be answered.

Deputy Pat Rabbitte: No, you've put it on the record here now-----

Senator Marc MacSharry: Yes-----

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Deputy Pat Rabbitte: -----please permit me to answer it. That was an exchange with Sean O'Rourke about a particular advertisement. I was seeking to explain the issue of child benefit and why we pledged to hold it at what it was and why, in the circumstances, we had to make a modest cut in it. And he said, "You didn't explain any of that at the time, you just kept it simple", and I said, "Yes, isn't that what you tend to do at election time?". Especially if it's an ad, you have to keep it simple. So, that's the first bit.

Senator Marc MacSharry: So the main part of the question then.

Chairman: Sorry, now. I have allowed loads of time you, Senator. I won't cut your time short.

Senator Marc MacSharry: Okay, thanks.

Chairman: Okay, Senator, or Deputy Rabbitte.

Deputy Pat Rabbitte: No, it was not our approach to go for the cut taxes and cut public spending. I mean, the revenues on the basis of the expert advice available to us suggested that we would have a cake that was large enough to do certain things that we wanted to do. And we didn't resile, in any way, in the discussions with Fine Gael in respect of the things that we wanted to do, for example, in relation to pensions and property and other reliefs that were available. We didn't resile from any of that.

Senator Marc MacSharry: Yes. Can I ask, do you think it's credible for you to say to the people of Ireland that the previous Government overspent and under-taxed when the sum of the Fine Gael and Labour manifestos, if implemented, would have made the landing even harder than it was?

Deputy Pat Rabbitte: Well, first of all, I don't believe that's the case and, secondly, you are putting words in my mouth that I never said.

Senator Marc MacSharry: I'm only asking a question.

Deputy Pat Rabbitte: My-----

Senator Marc MacSharry: I only asked a question-----

Chairman: He's just been asked-----

Deputy Pat Rabbitte: Yes but I'm telling you that the premise of your question is wrong.

Senator Marc MacSharry: No, but-----

Deputy Pat Rabbitte: What I have said-----

Senator Marc MacSharry: It's not about the premise; it's about answering the question-----

Chairman: Okay-----

Senator Marc MacSharry: You know, we are not having a political debate. I'm asking a question, you answer it.

Chairman: Please, okay-----

Senator Marc MacSharry: It's not about your judgmental attitude towards the premise of my question.

Chairman: Sorry, I need to take-----

Senator Marc MacSharry: Is it correct or is it not to say that if your policies-----

Chairman: Senator, I just need to make an intervention here-----

Senator Marc MacSharry: -----were implemented that you would have led to a-----

Chairman: Senator-----

Senator Marc MacSharry: -----harder landing in the economy? That's the question.

Chairman: I need to make an intervention here. The member is entitled to answer the question and can structure it up in the legal framework of this inquiry and whatever it is such ... the witness before the inquiry can shape the question as to how they wish to respond, within the terms of reference of the inquiry as well. Deputy Rabbitte.

Deputy Pat Rabbitte: Thanks, Chairman. What I said, Chairman, in the ... in my opening remarks ... what I said is that, in my view, the main cause of the disaster that befell our country was the out of control property bubble based ... spurred on by tax incentives and expansion real estate. That was the cause of it and that was the specific thing I put in my statement. Mr. ... Senator MacSharry is putting a different point to me and I am explaining to him why I don't agree with his characterisation of what I said.

Chairman: Senator MacSharry.

Senator Marc MacSharry: Yes, you didn't answer the question. You made a statement.

Chairman: It's the Senator-----

Senator Marc MacSharry: So I am going to move on, time is short-----

Chairman: The question is answered and I can't have people commenting-----

Senator Marc MacSharry: An answer was given to the question-----

Chairman: -----or commentary on the evidence that's given here. The commentary-----

Senator Marc MacSharry: Can I ask, I still have three-----

Chairman: Senator, I-----

Senator Marc MacSharry: I still have three questions. I need to get on with it-----

Chairman: Yes, I'm going to give you as much time as you like-----

Senator Marc MacSharry: Thanks a million-----

Chairman: But it is not just standard practice, but it is a requirement of this inquiry that evidence given before it over its entire duration is not to be commented upon publicly by members of this inquiry, either in media engagements they may have later today or at other times, or even in real time.

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Senator Marc MacSharry: What's that got to do with it?

Chairman: I'm just explaining this to all members now. The judgment upon evidence provided to this inquiry will be dealt with when we move on to the committee ... onto the report design stage of this. I'm just saying that.

Senator Marc MacSharry: Of course.

Chairman: So commentary upon anybody's evidence today-----

Senator Marc MacSharry: Yes-----

Chairman: -----publicly out loud is actually difficult, because it could be a breach of the terms of reference.

Senator Marc MacSharry: And what's that got to do with what I'm doing now?

Chairman: Well, I ... the issue I am just putting it out there as a warning with regard to-----

Senator Marc MacSharry: To who?

Chairman: -----and a response to-----

Senator Marc MacSharry: For everybody?

Chairman: Yes. For any answers-----

Senator Marc MacSharry: But can you keep the warnings 'til I'm finished asking my questions because it's nothing to do with what I am doing?

Chairman: Okay, I'm-----

Senator Marc MacSharry: Do you share Enda Kenny's criticisms of benchmarking?

Deputy Pat Rabbitte: No, I would be more nuanced in my reaction to it. If it were an appropriate benchmarking, I think it had a role to play at the time. But, unfortunately, it became as so many things at that time a vehicle to dish out substantial amounts of money without discernment or discrimination. But the notion of benchmarking in the public service or in the public sector is not a bad one at all. It's the methodology and its implementation and all the rest, that matters.

Senator Marc MacSharry: Finally two questions and I'll put them both at once and they are ... the first one is to both of you and the last one is just for the Tánaiste. Were either of you any of the beneficiaries of hospitality from developers, including, as per questioning earlier, transportation or lifts or flights or helicopters or anything like that? And if it emerged that other Opposition leaders, for example, were, would that concern you? That's the first question. So, have you been a beneficiary and would it concern you if others were?

Chairman: Second question, please.

Senator Marc MacSharry: The second question then is, Tánaiste, had you a hand in altering the configuration of this committee? Did you support it and why was it so important for the Government to have a majority on this inquiry? Thank you.

Chairman: Quickly, please, Deputy Rabbitte.

Deputy Pat Rabbitte: The hospitality issue is an issue of transport, is it? I mean if I got a pint at some stage from a developer, is that included in the rubric of your question?

Senator Marc MacSharry: But you must judge these things. I can only ask the question. Are you ... were you a recipient of hospitality from the developers in all its known guises, including transportation, because we specifically honed in on that with other witnesses, and it's a matter for your judgment as to how you answer that?

Deputy Pat Rabbitte: Not my-----

Senator Marc MacSharry: I'm not going to put words in your mouth.

Deputy Pat Rabbitte: Not that I recall, Senator. I recall travelling to view a business park in Bristol when I was chairman of the county council, or when I was a member of Dublin County Council when we were designing what has now become Citywest Business Park, probably the most prestigious park in the country, and I presume it wasn't Dublin County Council who paid for us to travel. I presume it were the developers who brought over six or eight or ten of us to view the park that we replicated at Citywest. But I would regard that as part of my job and part of my duty rather than hospitality. Yes, I've travelled to matches. One friend of mine, in particular, is a small builder or maybe more appropriately, to be truthful, I don't know how good he is at it, his father was the small builder, and I notice sometimes, Senator, that talent skips a generation.

Senator Marc MacSharry: That's good actually, that's good. So your opinion then of anybody else who might have been recipients of hospitality? Are you going to tell me?

Deputy Pat Rabbitte: Am I going to tell you?

Senator Marc MacSharry: -----your opinion of the leader of Fianna Fáil or the leader of Fine Gael or the leader of Sinn Féin or whoever?

Deputy Pat Rabbitte: Well, I don't think I'm here to pass judgment on my colleagues in other parties. I mean, I don't know, I don't know.

Senator Marc MacSharry: Do you think it would be appropriate?

Deputy Pat Rabbitte: I don't think it would be appropriate for me to do that, and I don't intend to comment on-----

Chairman: And the legal advice I have in my ear is telling me that the Deputy has answered the question as best as he can.

Senator Marc MacSharry: Oh, yes, okay. Now, Tánaiste, over to yourself.

Deputy Joan Burton: Could I ask ... just, sorry, Senator-----

Senator Marc MacSharry: Do you think talent skips a generation as well, by the way, just so we can have that on the record?

Deputy Joan Burton: Well, didn't somebody say a long-legged thing called a son?

Senator Marc MacSharry: Ah yes.

Deputy Joan Burton: You know.

NEXUS PHASE

Senator Marc MacSharry: So now we've all got it out of our systems, can we get down to the answering of the questions?

Deputy Joan Burton: Sorry, Deputy, could I ... or Chairperson?

Chairman: Yes?

Deputy Joan Burton: Could I ask the Deputy to repeat which part of which question he's asking me to answer? I've got a bit lost ... Deputy.

Chairman: Okay, all right. Senator MacSharry?

Senator Marc MacSharry: Have you, first of all, been the recipient of any hospitality, in all its guises, including transportation to and from matches with good or bad builders or where talent skips a generation or not, as Deputy Rabbitte so eloquently put it?

Deputy Joan Burton: No.

Senator Marc MacSharry: Never?

Deputy Joan Burton: No, not to my knowledge.

Senator Marc MacSharry: And to the best of - I got the answer, yes - so to the best of your knowledge then, can you tell us if other party leaders were involved in this kind of thing? What is your view of that? Would that concern you? Do you think it's appropriate? If it was a coalition partner, for example, would that concern you at all?

Chairman: We could be speculating on something here now that you haven't-----

Senator Marc MacSharry: I'm speculating on nothing.

Chairman: No, I'm saying the witness-----

Senator Marc MacSharry: I'm speculating on nothing.

Chairman: No, I said the witness may be speculating.

Senator Marc MacSharry: No, I've asked for a view.

Chairman: Yes, go ahead.

Senator Marc MacSharry: If this were the case, what's the situation?

Deputy Joan Burton: Well, I came here in the context of the banking inquiry.

Senator Marc MacSharry: Yes?

Deputy Joan Burton: And it might be helpful to me, Deputy, if you could just explain-----

Senator Marc MacSharry: As I said-----

Deputy Joan Burton: -----how I can assist you in the context-----

Senator Marc MacSharry: Yes, as I said to previous-----

Deputy Joan Burton: -----of the banking inquiry?

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Senator Marc MacSharry: As I said to previous witnesses, we've been consistent for over a year now in asking the full range of questions to all people, regardless of background, whether they were in politics, banking, anything else, and you're no exception. So we're asking you the same questions. So can I ask you if you think it's appropriate if a political colleague, party leader, coalition partner or anybody else was a recipient of corporate hospitality in all its guises, including transportation, from a developer, do you think that's appropriate?

Deputy Joan Burton: Well, I'm not in a position, Deputy, to be aware of what you may be implying?

Senator Marc MacSharry: I'm not implying anything.

Deputy Joan Burton: Because I think if you-----

Senator Marc MacSharry: I'm not implying anything.

Chairman: Without interruption, please.

Senator Marc MacSharry: Chairman, you have to direct the witness here.

Deputy Joan Burton: Well, if you have a specific example-----

Senator Marc MacSharry: I don't.

Deputy Joan Burton: -----that I might be aware of?

Senator Marc MacSharry: I don't.

Deputy Joan Burton: But I'm not aware of.

Senator Marc MacSharry: I don't, but it's in the context-----

Deputy Joan Burton: I'm not in a-----

Chairman: The witness has answered the question as best she can.

Senator Marc MacSharry: No, she answered the question.

Deputy Joan Burton: Yes, I'll answer the-----

Senator Marc MacSharry: Now, in fairness, a lot of these things are to do with Galway tents and all that stuff that's very important to this inquiry, and ought to be brought up and discussed. So you're no exception. Everybody got asked about it, so I'm asking you.

Chairman: Yes, but the witness can only account-----

Senator Marc MacSharry: What is your view of this?

Chairman: The witness can only account for themselves.

Deputy Joan Burton: In public-----

Chairman: In public, yes.

Deputy Joan Burton: -----on many occasions I disapproved of the Galway tent, and I advocated strongly for the reform of disclosure requirements by people involved in politics at all

NEXUS PHASE

levels in relation to contributions, donations of any kind, and in that so did the Labour Party-----

Senator Marc MacSharry: Transportation? Would that be included?

Deputy Joan Burton: -----as a party.

Senator Marc MacSharry: Would transportation be included in that, would it?

Deputy Joan Burton: Well, we now have a reformed system where receipts of benefits-in-kind, or, indeed, of funding had to be disclosed-----

Senator Marc MacSharry: Yes, no, but in the period up to 2007 it was different, I think.

Chairman: Senator, I've really, really accommodated this, but we're out of time and-----

Senator Marc MacSharry: But the very last one, because I did ask it. She wants to know ... she asked me to explain the two questions. The other one is: did you have a hand in altering the make-up of this inquiry? Did you agree with the altering of it? Why, if you did? And why was it so important for the Government to have a majority on this inquiry?

Chairman: Now that is outside the terms of reference of this inquiry.

Senator Marc MacSharry: Now I asked it of the Taoiseach-----

Chairman: It was asked, I-----

Senator Marc MacSharry: I asked it of the Taoiseach and it was allowed and answered.

Chairman: Yes.

Senator Marc MacSharry: So I think it's only fair to his coalition partner to afford-----

Chairman: And the witness can choose to answer that or not.

Senator Marc MacSharry: -----the same opportunity.

Deputy Joan Burton: I wasn't the leader of the Labour Party at the time when the committee was being established, Deputy, as you possibly are aware.

Senator Marc MacSharry: Okay, so I'm asking your political opinion?

Deputy Joan Burton: So I, therefore-----

Chairman: Please, Senator.

Deputy Joan Burton: ----- wasn't involved in discussion-----

Senator Marc MacSharry: So as your-----

Chairman: Without interruption, please, Senator.

Deputy Joan Burton: -----in relation to the make-up of the committee. I'm just very pleased that all of the parties are represented-----

Senator Marc MacSharry: Yes, can I ask for your view, please?

Deputy Joan Burton: -----and that people like yourself are working so hard-----

Senator Marc MacSharry: Do you think that was appropriate?

Deputy Joan Burton: -----and working themselves up so hard on the matter.

Senator Marc MacSharry: Do you think it was appropriate?

Chairman: The witness is being-----

Senator Marc MacSharry: It's "Yes" or "No". I mean, is it appropriate?

Chairman: No, no, no, no, please, please.

Deputy Eoghan Murphy: Chair, we've treated no other witnesses like this.

Chairman: Indeed.

Senator Marc MacSharry: Have we not?

Deputy Eoghan Murphy: We have not.

Senator Marc MacSharry: All right.

Deputy Eoghan Murphy: We haven't had this lack of discipline in questioning or timing.

Senator Marc MacSharry: Do you think that's appropriate? "Yes" or "No"?

Chairman: Can I please make an intervention please, Mr. MacSharry?

Senator Marc MacSharry: Was it appropriate to alter the-----

Chairman: Senator MacSharry, if the witness-----

Senator Marc MacSharry: -----the committee?

Chairman: Senator MacSharry, please.

Senator Marc MacSharry: But sure she doesn't want to answer it, clearly.

Chairman: Senator MacSharry, please-----

Senator Marc MacSharry: You know what I mean, she doesn't want to answer it.

Chairman: -----because I don't want to be in a situation where somebody is in breach.

Senator Marc MacSharry: I mean, I don't know. I don't know, I mean-----

Chairman: The ... Senator MacSharry-----

Senator Marc MacSharry: Make it up as we go along?

Chairman: Please. The witness, if they feel satisfied that they have answered the question, the question is answered, because it's very much outside the terms of reference. Are you satisfied you have answered the question, Tánaiste? Yes, yes?

Deputy Joan Burton: My answer is ... and I wasn't involved in any discussions in relation to this committee. I wasn't the leader of the Labour Party at that time. You'd have to ask my predecessor about that.

NEXUS PHASE

Senator Marc MacSharry: And, Chairman, as you know, the question was in three parts. The first one was: were you involved? She says “No” to that. The second one is: do you support it?

Chairman: Yes.

Senator Marc MacSharry: And the third one was: why do you think the Government felt it necessary to have a majority on this inquiry? It’s a very reasonable question.

Chairman: Are you satisfied you’ve just answered-----

Senator Marc MacSharry: You’re the second most powerful political person in the country.

Chairman: Are you satisfied she’s answered the question or do want any more time? Do you want-----

Senator Marc MacSharry: I’m sure I could answer ... you could answer the question if you wanted to.

Chairman: Do you want to add any more to it, Tánaiste?

Deputy Joan Burton: No, I’ve given my answers.

Chairman: Okay, all right now, all right, thank you. Deputy Pearse ... or sorry, Deputy Eoghan Murphy.

Deputy Eoghan Murphy: Thank you, Chair, and thank you to both witnesses. I want to address, if I may, the role of Opposition and the ability, more actually, the ability of Opposition to hold the Government to account when it comes to big decisions like the guarantee. So, Tánaiste, when the guarantee was put on the table and put before the Dáil, did you consult with Richard Bruton as to whether or not the Labour Party or Labour and Fine Gael would support the guarantee decision?

Deputy Joan Burton: There were not inter-party discussions, Deputy, about the decisions to be made by the different parties, for the reason that the guarantee happened overnight and during the night. And I think people woke up to hear it being announced on RTE on the morning and there was considerable astonishment, shock, dismay. I think all of the parties, and certainly in the Labour Party, we were invited to meet representatives of the Department of Finance, who were going to brief us, and that happened at intervals immediately after the guarantee on the day, and in several days afterwards. I have to say, Deputy, that in the briefings that I received I asked a couple of questions in relation to two institutions, Anglo Irish-----

Deputy Eoghan Murphy: I just-----

Deputy Joan Burton: Yes?

Deputy Eoghan Murphy: I beg your pardon, Tánaiste, it’s just that question about whether or not you consulted with Richard Bruton in those following days-----

Deputy Joan Burton: Not, not formally-----

Deputy Eoghan Murphy: -----as to what position the Opposition would take?

Deputy Joan Burton: -----not formally. But there were very long periods in the House when there were conversations between Deputies from all sides of the House, because people were, obviously, extremely worried and exercised by what had befallen the country. Now, at that time in terms of Fianna Fáil and in terms of the Government's presentation, it was to be the cheapest bank guarantee in the world.

Deputy Eoghan Murphy: Tánaiste, again I am just trying to look at the mechanics of opposition and how the Opposition might hold the Government to account. So Deputy Rabbitte, if I may, did you ever attempt to approach Enda Kenny and Fine Gael to see if the Opposition would take a united position on whether or not to support or vote against the guarantee decision?

Deputy Pat Rabbitte: Again, I think the actual context in which this happened is important. I happened purely by accident to meet my colleague Eamon Gilmore very early that morning and, you know, my mouth was open at the news I had just heard. And I briefly discussed it with him. Somebody had already been on to him about dated subordinated debt and he said that he had already decided that we should oppose it because he felt we were mortgaging the deeds of the country and there was no time to discuss with anybody else. I mean, he got a phone call from Brian Lenihan at whatever time that morning and really everything happened very quickly.

Deputy Eoghan Murphy: Were you surprised then at the position that they took and did you seek to change that?

Deputy Pat Rabbitte: I could see the circumstances where - if you get a phone call at half-six in the morning from the Minister for Finance, who has been struggling most of the night with an issue as big as this one where the financial system was at risk, I could see that a party like Fine Gael, whose core existence would be supporting the institutions of the State would say "well if the financial system is at risk and you are telling me that we will take your word on it and let's see how the legislation evolves."

Deputy Eoghan Murphy: But did you know something that Fine Gael or the Government didn't, that enabled you to take the position that you took? You mentioned that Eamon Gilmore had already gotten phone calls about subordinated debt, so what did you know that others didn't that allowed you to vote against the guarantee decision?

Deputy Pat Rabbitte: I wouldn't like to claim knowledge that we didn't have. This was just such an enormous insurance bet that we were wagering - literally the deeds of the country - on it never being called in and that was a pretty scary place to be. Now I had advocated personally the nationalisation of Anglo privately and ... a date around this time, it's on the record of the House, an intervention I made to that effect, following which the late Brian Lenihan came to me to say that I had a letter that morning published in *The Irish Times* concerning nationalisation of Anglo and concerning the fact that I read into what the Minister told the House that he too is in favour of nationalising Anglo. He came to me to say that they had a two-hour meeting in the Department about replying to the letter that they decided in the event not to do so and that nationalising Anglo was not the way out that I might have thought it was.

Deputy Eoghan Murphy: But given the fears that you had about the future of the country, which, you know, transpired to be, you know, appropriate fears, why not try and get the senior Opposition party in line with your thinking to try and oppose this so that the Dáil could hold the Government to account responsibly in that regard?

Deputy Pat Rabbitte: Well, I wasn't the leader of the party. I had stepped down a few months earlier as leader of the party. Somebody in those circumstances does not intrude. I mean, I never opened my mouth at a meeting of the parliamentary party for a year and a half. I was not going to intrude onto the territory of the new leadership.

Deputy Eoghan Murphy: Okay. Well, if I might just take you back in a final question to when you were leader. You spoke about it earlier, at the beginning of January 2007, prior to the election, talking about going out with some warning signs about the economy and you said you weren't onto a winner. So did you deliberately decide not to campaign on fiscal ... prudent fiscal responsibility or to sound those warnings during the campaign in 2007?

Deputy Pat Rabbitte: I think I was influenced by a number of people who brought the weight of official reports to bear on my argument and said these are the authorities that matter and they say the system is robust. In the environment in which we function, political party making its own forecasts has unfortunately little credibility. You tend to fall back on the agencies, national and international, and they were all saying that the system was sound and the system was robust.

Deputy Eoghan Murphy: How do you go from a position where in January 2007, you have these concerns, that you air them publicly, to a manifesto for the election which is not raising any warning bells about the banking sector or about financial regulation, on which almost every page is a commitment to increase spending? How do you make that transition?

Deputy Pat Rabbitte: I think the main thrust of what I was saying related to the property bubble and the construction sector and we didn't, as I said to Senator MacSharry, we didn't resile from our position on the measures that needed to be taken to rein in the property bubble. We didn't resile from that in any way.

Deputy Eoghan Murphy: And did you ever think that you were not putting enough resources into the area of financial stability when you were leader of the Labour Party or using the resources of the Oireachtas in that way, to have a proper understanding of the stability issues?

Chairman: We need to wrap up now shortly Deputy please.

Deputy Pat Rabbitte: I have to truthfully ... I have to honestly say that no, I didn't think that way Deputy. In hindsight I probably should have but it just did not occur to me that in the context of almost 15 years of growth, an economy that wasn't shaken off course for very long by the dotcom bubble, that had bounced back that had a huge deficit in infrastructure and that was now able to access cheap money to build up that infrastructure, it didn't occur to me that it posed a risk to the financial system itself and maybe it should.

Chairman: Okay thank you. Deputy Pearse Doherty.

Deputy Pearse Doherty: Go raibh maith agat a Chathaoirligh agus fáilte roimh an Tánaiste agus an Teachta chuig an coiste. Mr. Rabbitte can I start with yourself? From the Opposition viewpoint, how open to scrutiny was the Government decision-making process in your view?

Deputy Pat Rabbitte: In this particular respect?

Deputy Pearse Doherty: Yes. I am not just talking about the guarantee, we know that the guarantee was one night, but in relation to issues around finances and the banking crisis.

Deputy Pat Rabbitte: Well, I don't think that the theatre of the Dáil Chamber is particu-

larly effective in terms of Opposition holding Government to account. If you take the Leaders' Questions moment, which was introduced only latterly, you know, the Opposition take up the issue of the day, whatever party is in opposition, they take up ... whatever is the issue *du jour* is the issue that they run with, with an eye to the six o'clock news and the Government does its best to bat it back. I don't think that is very effective in terms of accountability. I think the evolution of the network of parliamentary committees offers an opportunity for the kind of minute accountability that you are referring to that is not provided for in the Dáil Chamber so I think the answer to your question is, "not very good".

Deputy Pearse Doherty: Okay. And in your view in relation to, again this period and the financial crisis, do you believe that the Oireachtas ... was the Oireachtas sufficiently aware of the stakeholders with whom Government Ministers consulted in the pre-legislative stage of legislation around this period and how was that information made available, if it was?

Deputy Pat Rabbitte: Well, I think it is very important. I would disagree with the Chairman if his question to Deputy Burton implies that he believes there would have been close contact between the leadership of an Opposition party and, say, the senior officials in the Department of Finance. That did not happen in my experience. Yes, I personally had interaction with senior officials in the Department of Finance after the crash but I mean, the system operates on the basis that the senior officials serve Government and they are very wary and overly secretive about the Opposition and I think as well that this democracy business was never intended for the same people to be in government for 14 years. When you look at it, it is not just the same party, it is almost the same people and I think that there is a danger in those circumstances, that there are some senior civil servants, if they don't become leveraged onto the side of what seems to be the permanent political Government, they at least are not as robust as they might be in advising Government that they have qualms about the direction of policy.

Deputy Pearse Doherty: Okay. It takes me on to the next question. In your opinion, were the Opposition parties, including your own party, adequately consulted, in particular, on issues that ... which may have been deemed ... as national importance? And I'm not looking to-----

Deputy Pat Rabbitte: I ... the only area-----

Deputy Pearse Doherty: -----refer to civil servants here, or officials. I'm talking about Government Ministers.

Deputy Pat Rabbitte: Yes. The only area that I think it operated on very carefully, and in a structured way and in a careful way, was in ... with respect to Northern Ireland. There certainly was regular contact there. And on particular pieces of legislation, there would be that kind of contact. But, in terms of ... you know, Government - whatever Government - tends to keep its cards very close to its chest and it doesn't say in the House, you know, "There's a weak link here, and let's hope that Pearse Doherty doesn't hear about it". You know, I mean, there is a ... there is a very clear-----

Deputy Pearse Doherty: Is that ever going to change? Like, given the fact, you know, we know from this inquiry ... we've found evidence that guarantee legislation was being discussed at a very early stage in the spring of that year, we know that the nationalisation of banks were being discussed, we know that the ... Minister Lenihan himself went to the Attorney General and circumvented Cabinet because he was concerned about leaks. If these issues, in terms of issues of national importance, can't be entrusted by a Minister to Cabinet, how could they be trusted to the Opposition where, more than likely, would be on their way out to RTE to try and

get the slot on “Morning Ireland” the next morning to brief the public, you know. Will this ever change, or have you-----

Deputy Pat Rabbitte: I’m ... I’m not so sure that in terms of the particular issue that we’re talking about ... I wouldn’t be that critical of the Minister of the day in terms of him not sharing the information that there were deep concerns in his Department about the future of the banking system and that options were being examined and being prepared. I mean, if that information had come out it would have precipitated the day and would have rushed us into a situation where, you know, the situation could be worse. Now, I would be critical of the Minister of the day in that I’m not sure, you know, what he was doing driving around south Dublin and eating garlic late after midnight shortly before the collapse. I would have thought that, ever since Northern Rock, there was time there to sit down and say, “What’s going on in our own banks and what measures can we take?” And I presume he was being told that everything is hunky-dory. And as far as I can see, there are some people - I don’t think they were dishonest - I think there are some people at the top of the banks themselves who were behaving recklessly but who didn’t even know the depth of the crisis themselves. And I think to ask a Member of Dáil Éireann whether he or she should have been able to divine what was going on ... I don’t think is the way the real world operates.

Deputy Pearse Doherty: Okay. Can I ask, Ms Burton, you refer on your opening statement, on page 17, to the 1974 Kenny report. Could you explain to the committee the reasons why the rainbow coalition did not implement the findings of the Kenny report?

Deputy Joan Burton: The Kenny report was a proposal to cap the ... to cap the price of building land. And I was a member of Dublin County Council where most of the development in the country was taking place. The rainbow Government took over ... sorry, when Labour went into government in 1992, there ... the economy was in a very, very difficult place and there was not an agreement with either Fianna Fáil - or, indeed, subsequently, with Fine Gael - to introduce legislation in relation to, in effect, capping the value of development land. In coalition negotiations, there are some items that are subject of agreement-----

Deputy Pearse Doherty: Okay.

Deputy Joan Burton: -----between the parties.

Deputy Pearse Doherty: So it was because you couldn’t get agreement but Labour pushed it at the time?

Deputy Joan Burton: Well, I wasn’t a negotiator in that particular set of negotiations for either of those Governments but that was my general understanding. It was a Labour point of view, which the Labour Party returned to and brought forward legislation in the House in 2003. Deputy Gilmore did that.

Deputy Pearse Doherty: Yes-----

Deputy Joan Burton: So it was a-----

Deputy Pearse Doherty: -----we got that-----

Deputy Joan Burton: -----widely held belief by the-----

Deputy Pearse Doherty: No, that’s fine, that’s fine. No, that’s clear. Mr. Rabbitte, and finally on this here, you were a member of the DIRT inquiry committee. And one of the findings

was the undue close relationship between the State apparatus - in the form of the Department of Finance and the Central Bank - and the Irish financial institutions. We have it from the DIRT report, it's on page 52, but I quote from it, just it says:

There was a particularly close and inappropriate relationship between banking and the State and its Agencies. The evidence suggests that the State and its Agencies were perhaps too mindful of the concerns of the banks, and too attentive to their pleas and lobbying.

Now, I put that out there ... as a former member of the DIRT inquiry, which did, to a lot of people's minds, a lot of good work ... we're sitting here in another inquiry, the findings of the inquiry that you were at seems to be some of the things that we're investigating into just a number of years later. So, in your opinion, did the establishment of the Financial Regulator's office in 2003 address the concerns raised by the DIRT inquiry in their recommendations and, if not, why do you think they were ignored?

Deputy Pat Rabbitte: Well, I think that particular conclusion related to the concern that was there at the time that the consumer dimension was virtually ignored by the Central Bank; that the Central Bank saw its job as the prudential supervision of the banking sector and it was not concerned with consumer issues and there were a number of conflagrations about consumers being done down and it not having been policed and them not having redress. So I think it was in that particular context. Did 2003 resolve that? I mean, a lot of messing went on with that right from the publication of the DIRT report until the Bill was brought into the House. I think maybe three, four years might have elapsed, and a lot of messing went on in a row between the two parties in government - the PDs wanted a green field regulator, Fianna Fáil, generally, wanted to retain it with the Central Bank. And the compromise was a hybrid which, I think you know, was unfortunate because, you know, I have watched snatches of your extraordinary work on this committee when the opportunity has presented - and I don't have much else to do nowadays so I get my kicks watching you guys and so on - and I think, you know, you bring in one person responsibility ... who's responsible, you think, for regulation and he passes the buck to the Central Bank, you bring in the Central Bank and he says, "No, no, the legislation says that's the job of the regulator", and they sling the ball out the wing. I think the substantial conclusion that I would like to see this inquiry draw, if I may suggest, is that we have classic case here of regulatory capture. I think we set up a regulator and I think, before you could say "Jack Robinson", he was doing the biddings of the banks rather than the other way around. And I think that's the tragedy ... that's the genesis of the tragedy that has befallen us.

Chairman: Thank you, Deputy. Deputy Joe Higgins.

Deputy Joe Higgins: Yes. Thanks, Chair. I'm gratified that we can see that as well as the insomniacs and alcoholics, we can now add a new cohort of viewers - demoted Ministers. Chair, Tánaiste - Deputy Burton - just very briefly, you both touched on the issue of Oireachtas oversight but, for evidential reasons, I just want another detail. You don't need to repeat the points. But, in your opinion, to what extent was the oversight during the bubble period limited, if it was, by lack of specialist knowledge among TDs and Senators ... that's, presumably, of banking and finance, etc.?

Deputy Joan Burton: Well, it was a situation where if ... when, on joining the Oireachtas, somebody had previous experience in that area, for instance, some, perhaps, some college education in relation to economics and so on, or had other, say, work experience in relation to different fields. After that, to be honest, Deputy Higgins, in ... certainly, in 2002, although I was the spokesperson for the Labour Party on finance, the Labour Party had one economic adviser

- of a very high calibre, I have to say - who acted both in relation to economics, but in relation to a whole load of other issues.

Deputy Joe Higgins: So, expertise was available, you're saying?

Deputy Joan Burton: There ... we had one person for the whole of the Labour Party.

Deputy Joe Higgins: Okay.

Deputy Joan Burton: I didn't have any specific person-----

Deputy Joe Higgins: Right.

Deputy Joan Burton: -----assigned to me. I think it was about 2005, 2006 when Members of the Dáil got a parliamentary assistant-----

Deputy Joe Higgins: Right.

Deputy Joan Burton: -----and I actually sought qualified people who would help me in relation to the brief I had.

Deputy Joe Higgins: Okay, let me ask you a broader question then, Tánaiste. When we take the prevailing ethos of the period 2000 up to 2007, when some would say, the entire establishment - from the financial markets to the media to the established political parties, or the majority of the Oireachtas, say - were saturated with an ethos that provided for maximisation of profit, maximisation of deregulation and privatisation, what I think *The New York Times* in 2005 referred to Ireland as "the Wild West" of finance, would it have made a difference, really, no matter how skilled the Oireachtas ... or the Opposition was at the time?

Deputy Joan Burton: Well, *The New York Times* article, which I always regarded as a bit of a wake-up call, because I was finance spokesperson then, basically related to the lack of regulation and oversight, particularly in relation to the IFSC because, as regulation developed in Ireland and after the Act that Deputy Rabbitte has referred to ... I think the McDowell report was 1999, it was discussed in the period up to 2002, and then the legislation began to be brought in after the 2002 general election. But actually, Deputy, *The New York Times* comment was about the fact that the IFSC and certain types of insurance companies by then were not, as I understand it, regulated at all. So, there was a move to regulation generally, but the development of regulation in Ireland was very slow and the publication of information and questioning of regulators, which is now, obviously, much more common, just ... it was in its absolute, bare infancy at that point in time.

Deputy Joe Higgins: Okay. That ... I understand that. Let me return to 2003 and the Bill that Deputy Gilmore introduced into the Dáil called the Planning and Development (Acquisition of Development Land) (Assessment of Compensation) Bill 2003 and it related to concern at the speculation and profiteering, perhaps, some would say, that was manifest in the area of building land. Why didn't you introduce legislation since you went into government this time to control the type of abuses that were pointed up by the Labour Party at that stage?

Deputy Joan Burton: In relation to this specific Government? Well, at that time, and I should have said this to Deputy Doherty, there was a very strong set of legal opinion, and we were given to understand right up to the Attorneys General, and, in fact, you will recall even on the old Dublin County Council, of which you and I were members, Deputy, that the advice was that, if this approach were followed, that it could result in very significant compensation claims.

And, if you like, that had a chilling effect on the support for such legislation, so the Labour Party put it forward but it didn't get any widespread support. What Fianna Fáil did - well, I think it was led by Fianna Fáil but they were in coalition Governments at the time - was, later, they introduced the part V where developers would have to make certain contributions in relation to the supply of social housing, or make contributions, but I have to say, Deputy, that never worked particularly well either. So, there has been a continuous debate around both the desirability, which I would think is highly desirable in order to prevent the build-up of bubbles, and the legal opinion that such a development would give rise to significant compensation costs-----

Chairman: Deputy Higgins?

Deputy Joan Burton: -----claims.

Deputy Joe Higgins: And, Tánaiste, to quote from your statement on a separate issue: "The property bubble was squeezing the living standards of ordinary people and loading them with an unsustainable debt burden while simultaneously enriching wealthy individuals and companies who availed of a huge range of property based tax shelters." One of the tax shelters, or lessening of tax was introduced by the Fianna Fáil-PD Government in the 1997 December budget, reducing capital gains tax from 40% to 20%, which was enormously helpful to those who were speculating on building land and, as was seen in the media, making large amounts of money. But, in 2007, why did your manifesto say specifically that you would remain with the low rate, rather than going back to 40%, or even 60%, which you had looked for?

Deputy Joan Burton: Well, because, Deputy, I have long held the view, and I'm aware you probably have a contrary view, that the critical issue in relation to taxation is that the real rate of tax that people bear is the important thing, not the nominal rate. You can have a nominal rate of tax, as happened in Ireland in income tax in the '80s, the '60s, '70s and '80s, but, in fact, if you have very, very high nominal rates, what happens is wealthy people can afford to employ tax advisers or put much of their activity offshore and, thus, end up avoiding all of the ... almost all of the taxation. I would prefer to have a situation where you have real rates of tax, you have minimum effective rates of tax, which is what I proposed, Deputy. And, therefore, everybody is a contributor and those contributions are progressive, but I'm not in favour of capital gains tax rates, for example, like you've suggested, of 60%. That has never been my position. I'm in favour-----

Chairman: Final question there, Deputy.

Deputy Joan Burton: -----of effective rates.

Deputy Joe Higgins: Tánaiste, we had a witness here, Mr. Derek Quinlan, who put together syndicates of wealthy individuals and, among other things, bought land, kept it for a while, got planning permission and then sold it on at massive profit. One instance was a €53 million profit for a syndicate. The effect of that capital gains reduction was, in round figures, a tax of €20 million on those individuals to €10 million. Would you not consider it socially beneficial that, in relation to building land particularly, speculation, profiteering, some might say, in relation to that, that you should have stood, in 2007, for a much higher rate of tax on gains in speculation?

Deputy Joan Burton: No, what I was strongly in favour of was an overall approach to the market which would have actually taken the tax incentives ... my understanding of the people who ran high net worth businesses, and I don't want to, under the Chairman's instructions, refer to any one particular person. The people who ran those businesses, Deputy, based the appeal

for funds on the fact that the investors who invested into those funds would find, through the use of appropriate tax mechanisms, that they would, in effect, be shielded from almost all taxation, the kind of tax breaks I referred to. So, in literally hundreds of Dáil questions and comments, I urge the then Government to significantly reduce those either by capping them, by the use of minimum effective tax rates, and by ending them because some of them, in my view, were entirely inappropriate. There is a role of tax incentives but it has to be targeted, it has to be, in my view, temporary, and it has to be costed and that was my continuous position.

Chairman: Thank you. Senator Sean Barrett?

Senator Sean D. Barrett: Thank you, Chairman, and welcome to our visitors this afternoon. As Deputy Rabbitte is, you know, one of the most distinguished parliamentarians around here over the years and ... should the whole light-touch regulation just be kicked away down to the far field, in that we've never brought in legislation - I'm only here one term - that has no penalty and there's no legislation that says no penalty, you know, more than 5p shall be imposed on this particular legislation. I mean, what we do is regulate and impose penalties and it's kind of an insult to a parliament, to say that it was practicing light-touch regulation. And I think that's ... that's not what parliaments do.

Deputy Pat Rabbitte: I still don't know enough about it, Senator, it's a complex issue. We're operating nowadays in a global financial market and we can't afford not to have regard to that fact. I mean, light touch ... light-touch regulation is ... or principles-based regulation is one thing but derelict regulation is a different thing and it seems to me that we've had derelict regulation. You know, if you borrow from some of the countries whose banks didn't fail, you know, apply their system and enforce it, then it seems to me that in an international capitalist economy, that's probably as good as you're going to get. You know, we're neighbours of the City of London, if we were to take dramatic radical decisions on our own, you know, what would be the implications, for example, for the IFSC? You know, there's a lot of people employed there and, you know, it's of value to Ireland and so on. So, I mean, I don't know enough about the question you ask me to give you a ... it's clear that under Governor Honohan, it is clear that he has tightened the situation up immensely. Additional people, additional expertise, expertise from outside has been brought on board, and it's clear from some of the decisions that he has taken, that he has taken them irrespective of the political temperature of the day or irrespective of who's lobbying him and, you know, I would like to hope that that system can be made work.

Senator Sean D. Barrett: Could I ask the Tánaiste, in relation to her own profession, don't we need a far sharper approach to accountancy? It mystifies me how much accountants missed, coming in here saying a bank was solvent in June 2008 and they were all in to Brian-----

Chairman: Be careful now without ... don't be leaning one way or another but I know the proposition you're putting forward, Senator.

Senator Sean D. Barrett: So, should accountants be reformed, particularly based on your knowledge of that profession, Tánaiste?

Deputy Joan Burton: Well, first of all, I think the fact is that nowadays, the accounting profession, legal firms, there tend to be a very small number of very large firms. That obviously has certain advantages but I think it also has disadvantages in the fact that one firm may be providing a whole range of services, and while firms have Chinese walls, whether in accounting or legal, that they don't share information, I certainly think that more diversity in terms of the functions that are carried out, perhaps by a bigger number of firms, would lead to perhaps more

questioning. But standard audits, Deputy, are designed to elicit certain information, whereas our banks faced a liquidity crisis. And, of course, in the long run, and often in the very short run, a liquidity crisis turns into a solvency crisis. Now, the audits of the banks and, you know, auditors, can ... there were internal auditors, but, you know, we have heard that internal auditors in certain circumstances did raise questions but they were contrarian views, very often were treated in that way, so they weren't well regarded. I think the critical issue is that we have a more open society in terms of information, so that legitimate questions can be put. I often found myself in a very contrarian position because I was questioning the orthodox explanation in relation to how the bubble was building up. What surprises me, as I look back in the context for preparing for this, that in the history of commerce and banking and so on, bubbles are a constant problem. And I'm just surprised that none of the institutions, as I look back, ever really seem to have queried or questioned the bubble. The explanation then was a liquidity crisis and no one, as Deputy Rabbitte said earlier, seems to have then said, "But if a liquidity crisis is serious enough, it's actually going to bring the whole institution down." And, unfortunately, that's what happened. But auditors and people like that have their role to play.

Chairman: I'll get the Senator towards to his final question, Tánaiste. Senator.

Senator Sean D. Barrett: I thank the Tánaiste for her important input on that. Just a final one, thank you, Chairman. If this committee, Deputy, was chosen from 650 people, would it be any better than what you've heard this afternoon? That's a question you raise on page 3, I think.

Deputy Pat Rabbitte: Yes. But it's not with regard to a particular committee, Senator. It is my conviction that the network of committees that we have established are too onerous for a small House to bear. I'm not talking about the quality or the membership of a particular committee, but if you have 650 members in a parliament, as does the neighbouring Parliament, it tends to develop specialisation. It tends to bring people through as chairman of the foreign affairs committee, who is expert on foreign affairs, who has no expectation of being a Minister or who doesn't want to become a Minister, or whatever. In our circumstances, in a very small House, if you strip out 30 Ministers and 30 Opposition Deputies to shadow them, it's a very small House. I mean, our system is impeccably democratic. Nobody can say that there's a point of view in the country that isn't represented here. Some of them are strangers to legislating but they perform other very important roles. And I think if you have too many committees or if you have circumstances where, for example, somebody has to rush down to room No. 3 to get in three or four people to vote here, or people has to run off ... have to run off from this committee to another committee because there's a more important issue, their membership of ... they've dual membership of two committees, I don't think ... I don't think that that can work. I mean, Deputies, virtually all Deputies, there was one or two Deputies behind me earlier on that this doesn't apply to, but pretty much all Deputies have an extraordinary constituency workload. And they have to do that as well. And I think we need to be careful in a small House that we don't grow too many committees.

Chairman: Okay, thank you.

Senator Sean D. Barrett: Thank you very much.

Chairman: Deputy John Paul Phelan.

Deputy John Paul Phelan: Thank you, Chairman. Good afternoon. Firstly, Deputy Rabbitte, in relation to your opening statement on page 2, you said "On the basis of evidence heard to date by this Inquiry it appears that a small number of influential individuals in the Financial

Sector had more influence with government than did Dáil Eireann”. Briefly, can you point to what evidence you’re referring to and, indeed, to the individuals or the types of individuals?

Deputy Pat Rabbitte: Well, I’m referring, if my memory serves, in particular to the evidence we heard from Mr. Cardiff, when he named certain individuals that he believed were or might have been in contact, to press a particular point of view. You know, and its a matter for the inquiry to establish whether that was purely a patriotic compulsion based on the fact that the people concerned have specialist knowledge that perhaps the rest of us wouldn’t have or otherwise. That’s a matter for the committee. I mean, personally I would like to know who were the owners of the subordinated debt. I think that might be of some interest, that if we knew that, but that was the reference.

Deputy John Paul Phelan: Okay, thank you. I want to turn to the Tánaiste now, I only have about four minutes remaining. Tánaiste, in your witness statement, under the heading of “The policy failures that propagated the crisis”, you were referring to the period following the adoption of the euro and up to mid-2007 and you stated that, “A more proactive regulator would have responded to these developments by taking action to slow [the] growth in credit and to prevent banks from lending beyond safe limits.” Did you, in your time as Labour finance spokesperson, request that any specific actions be taken along those lines?

Deputy Joan Burton: Well, I certainly was mindful of what had happened in countries like Canada and Spain and, indeed, in Sweden and Finland. Sweden and Finland had both had bank collapses but they responded in a different way to our blanket guarantee. It still cost them a lot of money and it cost a lot of pain but it was a lot cheaper than the blanket bank guarantee in Ireland. Essentially, they took out the bad banks, and they then sought to shore up the other banks so as to keep the domestic banking situation functioning. So, you know, in terms of-----

Deputy John Paul Phelan: I’m talking about actions by the regulator though before the guarantee. Like, did ... can you point to-----

Deputy Joan Burton: The particular actions I raised in terms of amendments to the Bill and subsequently was ... and I raised this, by the way, with the Central Bank as well I was so concerned about it. In my own constituency, Deputy, there were people going door to door to local authority estates and they were landing outside a local authority house and saying to the householder “Well, I reckon this house is now worth €150,000. Do you have a mortgage on it? Are you buying it? What’s the mortgage?” “It’s €50,000.” “Well, we’re willing, because of the equity in your property maybe to give you a loan of €120,000”, and that person often had the loan-----

Deputy John Paul Phelan: Okay.

Deputy Joan Burton: -----with the local authority structure and, in fact, I ended up in a number of situations-----

Deputy John Paul Phelan: You brought those concerns to the Central Bank-the regulator.

Deputy Joan Burton: I brought them to the Central bank because-----

Deputy John Paul Phelan: Was any action-----

Deputy Joan Burton: And I think I was probably the first person in the Dáil to mention sub-prime lending and what was happening in the states.

Deputy John Paul Phelan: Was there any action forthcoming though? I'm not trying to put you-----

Deputy Joan Burton: Not that I'm aware of, because it was not deemed to be a problem, but it was a problem because people took out big loans and you were told "Sure, you can buy a car", "You could do up your kitchen," and you ... and I think most Deputies here with large local authority areas in their constituencies would have been familiar. And I have to say, I was terrified for people who came to me, and on many occasions I asked people to think about it. I asked them to get advice, because I was so concerned. But the response from the ... to be honest, was very cold.

Deputy John Paul Phelan: Well, did you follow it up? I mean, the fact-----

Deputy Joan Burton: I followed it up-----

Deputy John Paul Phelan: -----that you weren't getting a response-----

Deputy Joan Burton: I spoke-----

Deputy John Paul Phelan: -----that you had raised alarm bells.

Deputy Joan Burton: I spoke at various times about the dangers to Ireland of sub-prime lending, but I was particularly concerned about the human cost, that people were being offered what seemed like-----

Deputy John Paul Phelan: Okay.

Deputy Joan Burton: -----a fabulous deal in which they could do some things but, in fact, they were going to get themselves now, having almost bought out their local authority house, into a very big debt that was going to last for a long time. I know I wasn't the only Deputy subsequently who raised this. As I say, I'd 3,500 local authority houses in my constituency. I was very aware of it.

Deputy John Paul Phelan: Okay. That's fair enough. I want to turn to the guarantee, before I finish. Several commentators - and I want to reference in particular a column by Vincent Browne in *The Irish Times* on 24 October 2012 - have stated that the Labour Party opposed the bank guarantee because it gave too much power to the Minister for Finance. That was what he mentioned in that particular column, and because it did not include a cap on bankers' pay. What do you say to that view expressed by him and, indeed, some others?

Deputy Joan Burton: Well, I can say that the Labour Party sought to ... as I think probably all of the different parties did, as the shock of the bank guarantee settled on that awful morning ... to do the right thing as far as was possible by the country, by the people, by the State and having been a consistent critic of various elements of finance in Ireland and of the banks in Ireland, it was my honest judgment, as it was the leader of the Labour Party then, Deputy Eamon Gilmore, that this bank guarantee was wrong and, in particular, I was aware of what had previously happened in Sweden where Mr. Nyberg, who subsequently, I think, came and visited committees in this House and said how the Swedes had approached it ... and it was never going to be possible to exit the problems cost free but we could have done it in a more effective way and we might have been in a position to have rescued the two big mainstream banks, high street banks, AIB and Bank of Ireland, in a less costly way. Now, mind you, we will now recover most of what we lent to them through-----

Chairman: A final brief supplementary, Deputy.

Deputy John Paul Phelan: Yes, a brief supplementary. I've gone through the record of the Dáil from the debates that took place around the legislation surrounding the guarantee and you've referred earlier on to burning bondholders and insolvency issues. I haven't - now, it was me trying to ... after the first question that was asked, I think, by Deputy McGrath - been able to find any reference of you commenting on that during those debates, but I've one particular quote that I just want to put to you. "In the context of the Minister's failure to meet, in any way, legitimate requirements of the Opposition to protect the taxpayer [I think you were referencing the fact that he hadn't taken amendments on board] we are supporting him in bailing out some banks in order to protect the Irish financial system". Now, that ... you have referenced in your previous response that some banks had to be bailed out but earlier you did infer, I think, in some of your evidence that you had concerns when you were ... when the guarantee issue arose about insolvency-----

Chairman: Make the question, Deputy, please.

Deputy John Paul Phelan: Yes ... about insolvency of certain institutions and the burning of bondholders and yet when this debate was taking place you didn't actually raise those concerns at all.

Deputy Joan Burton: Well, first of all, I was extremely concerned and I expressed those concerns in the private briefing with the Department of Finance in relation to the two institutions, Anglo and Irish Nationwide. But a comment was offered that they had a particular model, which I didn't appear to understand. I have to say, that was a fairly seminal moment because my understanding of the position of those two banks was that they were, in fact, a serious contagion in the financial system in Ireland. I was very anxious to see the main street banks in Ireland, particularly AIB and Bank of Ireland, actually salvaged as far as possible because they're just essential to doing business. And the Labour Party didn't, in any way, approach, other than with a sense of deep tragedy and upset and concern, what had happened, because my fear was around what was going to happen to ordinary people in the fallout.

Chairman: Deputy Kieran O'Donnell. And then I'll bring in the leads for the wrap-up.

Deputy Kieran O'Donnell: Deputy Rabbitte, in page 3 of your statement, you conclude that by saying, "In the narrow area of effective scrutiny of the banking sector, if the structures had existed and if the opposition had known the pertinent questions to ask, the government wouldn't have been able to answer them because the government didn't know there was a crisis until it was too late." To what extent do you believe ... you might just elaborate on that. And then to what extent do you believe the new structures implemented since 2010 have corrected the deficiencies which existed and what further measures do you believe need to be taken? You might do that in the round, that you're departing an illustrious career as a Member of the Dáil for many years of standing and ministerial and going off to pastures-----

Chairman: The question, Deputy.

Deputy Kieran O'Donnell: I'm putting that, Chairman, okay. Thank you.

Deputy Pat Rabbitte: Well, I think the decision by the former finance ... the late Brian Lenihan, to put in somebody of Patrick Honohan's acknowledged international standing in terms of regulation I think was major decision. It broke this automatic entitlement that was there for Secretaries General of the Department of Finance to pass on to automatically ... it

seems to me, automatically becoming Governors of the Central Bank. I think that didn't help in terms of the incestuousness and so on. I think the structural changes that he has made are far more effective than was the situation at the time of the crash. I think the changes that have taken place in this House, for example, if you look at how the ... as you know, as a member of the committee, I'm struck even by coming back now to see how the present day finance committee structures its business and discharges its role as compared to what was there in the past and, of course, it's not long ago since there was not a finance committee in place at all. I think in terms of the report referred to earlier that I prepared for the public accounts committee, you know, there may be an argument for further structural reform within the finance committee to put in place a specific budget committee, provided it were properly resourced. It would have to be resourced because you can only ask Members of the House to do so much. I mean, the variety of pressures that come on them and responses that they must make to their constituency is such that there is only so much they can ... and the expertise needs to be there. So I think, you know, we've all learned, I hope, a great deal from this crash and one suspects that academia will be still writing books about it in 25 years' time. So hopefully the fact that we all ... I shouldn't say all but if there are people who, unlike myself, knew that the financial system was at risk, we didn't hear from them at the time. They kept it a well-guarded secret.

Deputy Kieran O'Donnell: Do you think people knew? Do you think people knew that the banks were insolvent? Within the system.

Deputy Pat Rabbitte: I think there is a distinction, probably, to be drawn between what are now called the pillar banks and Anglo Irish.

Deputy Kieran O'Donnell: Right. The monoline banks, do you believe people within institutions, within Government were aware on the night of the guarantee that Anglo was insolvent?

Chairman: That's a certain opinion, I suppose.

Deputy Kieran O'Donnell: Or do you think they should have been ... Should they have been aware?

Deputy Pat Rabbitte: My opinion is that their opinion was that it was indeed insolvent. That's my belief and they couldn't have believed otherwise, given what had happened over the previous months. Not just the St. Patrick's Day massacre but generally what was the word on the street. And I've always thought and I, you know-----

Deputy Kieran O'Donnell: But when-----

Deputy Pat Rabbitte: May I just say this, Deputy-----

Chairman: To clarify where you're saying where the belief was owned, that people thought that the institutions were solvent, was that in the Central Bank, on the boards of the banks, where? In terms of the location of that opinion.

Deputy Pat Rabbitte: Well, the question was relating to the Department of Finance. And I think that in the case of the Department of Finance, I think they had to have that suspicion or conviction, I don't know which. I mean, I always thought in watching the former Taoiseach, Brian Cowen, before the committee, I always thought that the question that the committee should have asked him that they didn't asking him was that, if he didn't ask Mr. FitzPatrick when he was playing golf with him, why didn't he? I mean, it seems to me that the whole pur-

pose of the encounter was to ask FitzPatrick “What the hell is going on in your institution?” And, you know, I say that without in any way imputing any dishonesty to the former Taoiseach because I believe he is an honest man and I believe that, you know, when the crash happened, he did his best by his lights to do right by the country. But I can’t for the life of me believe why there was a mediator running between himself and Anglo Irish Bank and he was playing golf with Anglo Irish Bank executives, that he didn’t ask them what was going on.

Chairman: Okay, final question, Deputy.

Deputy Kieran O’Donnell: Tánaiste, do you believe ... what specifically would you have done differently in terms of when ... after June 2007, in dealing with the banks and in terms of a guarantee? Specifically. I don’t want the general, I just want specifics. And would it have saved the taxpayer money?

Deputy Joan Burton: Well, as I said earlier, Northern Rock in autumn of 2007 was a warning shot for Ireland. From the evidence I’ve heard, I think the Department of Finance, perhaps the politicians in government then, the people in Finance were perhaps aware of it or alerted to a potential very serious risk. Regulation which would have addressed some of the consumer protection issues, a bigger guarantee on deposits to prevent a run on the banks, that actually did happen. I recommended that at that time.

Deputy Kieran O’Donnell: So would you have gone for higher than the €100,000? Earlier?

Deputy Joan Burton: No, I recommended, in September 2007, I recommended €50,000 and people gasped, believe it or not, because it was considered so radical. I subsequently suggested that it would be €75,000 and, in fact, Deputy, former Minister Brian Lenihan, the late Brian Lenihan ultimately raised it to €100,000 and we supported that very strongly. The second really big thing that was missing that would have been helpful was resolution, you know, in other words, it was almost impossible in the Irish legal structure to in fact have a bankruptcy or an insolvency in a bank. We didn’t have the legal mechanisms. That’s been subsequently addressed, it’s a resolution mechanism that should have been there. I certainly read Professor Honohan’s articles around banking crisis as part of the background reading and that gave a lot of advice and presumably, subsequently that was why Deputy Lenihan actually appointed Patrick Honohan as the Governor of the Central Bank.

I’ve made my point about the contracts for difference, and can I just say this: the Dublin Stock Exchange is a small stock exchange. Bank shares were one of the key elements of that Stock Exchange, and yet the Stock Exchange was allowed to become a kind of casino for contracts for difference. The share by investors, the build-up of a stake in Anglo Irish Bank, which was ultimately potentially going to take over that bank, was key to the collapse of the bank subsequently. Had that 1% ... had Brian Cowen implemented what he said he would do, the 1% stamp share tax on the CFDs, I believe ... again, it wouldn’t have stopped everything that happened subsequently but I think it would have been ... it might have woken up the investors who were taking over their stake in Anglo through CFDs. If those ... if they had to be recorded and paid tax, it might have just made some of the people who were gambling pause for thought. Would it have prevented it? I think it would have mitigated it.

Chairman: Thank you very much, Tánaiste. I’m moving to the wrap-up please. If I can invite Deputy Michael McGrath. Deputy, three minutes please.

Deputy Michael McGrath: Thank you, Chair. Just if I can clear up one issue, Deputy Rabbitte. You said that yourself and Deputy Noonan raised a question about solvency of the banks when the guarantee Bill was being discussed at the end of September 2008 and you went on to say you wouldn't expect the Minister of the day, Brian Lenihan, to come in and say that he believed the banks were insolvent. I would just ask you to clarify, are you suggesting that the Minister had a belief that the banks were insolvent, if you could clarify that? And secondly, you said a moment ago, and it's related, that the Department of Finance must have had a suspicion about solvency with Anglo Irish Bank and I would just put it to you, we've have many of those former officials in who've given testimony under oath and certainly there hasn't been any suggestion from any senior Department official that they had a suspicion, when the guarantee decision was being made, that the bank was actually insolvent. And as you know, the Governor, Financial Regulator, gave advice at the time that the bank was solvent. So can you just clarify, and just give me the opportunity to do so in relation to Brian Lenihan, are you making any inference or suggestion that he did actually believe there was a solvency issue with Anglo at that time?

Deputy Pat Rabbitte: I think, Deputy McGrath, we knew enough about banking to know the difference between liquidity and solvency. And I can't speak for the present Finance Minister but I know what I was trying to find out was, well is it true that it's only a liquidity crisis? And, quite honestly, I thought it was no more than just a liquidity crisis until immediately around that period when I began to have concerns. Secondly, I think there was a distinction in the areas where this issue was being discussed at the time as between the two old banks and Anglo Irish. You know, I mean, it was an open secret that people were puzzling with, "How is it that to banks that were, in one guise or another, older than the State itself could have got into such a reckless lending splurge?". But, a distinction was drawn between that and Anglo Irish and, I must say, I had a doubt in my mind about Anglo Irish - I think that was widely shared. I think the Minister for Finance - I had been opposite him for a year and a month, I think it was, in justice - and I think you could see the learning curve that he was on. And I think ... let me put it this way, he was at least, at that stage, asking himself the same question. Now, I would not have expected him to get up in the House and make a ... a statement because that would have obvious repercussions. But I think he had reached the stage ... not, I think, in respect of what are now called the pillar banks but in terms of Anglo Irish, I think that he had reached the stage ... and I say that from ... in addition ... I say that from some discussions that I had with him before, during and after ... I think he himself was asking himself questions about whether Anglo was in fact rotten.

Deputy Michael McGrath: And are you suggesting that he had come to a view on that question at that time? I think it's important because he's not here to answer for himself and you're ... you're ascribing a possible view that he might have held about the solvency of Anglo at the end of September '08, which we haven't heard from anybody else.

Deputy Pat Rabbitte: No, no, no. I don't mean ... I don't mean to do that and I haven't asserted any definitive statement. I'm only guessing, you asked me to guess at the frame of mind of the man when the questions were put him.

Deputy Michael McGrath: You said he was asking himself the question.

Deputy Pat Rabbitte: I think that he was asking himself the questions and I think the fact that there was legislation in the Department, ready to go, for the nationalisation of Anglo Irish ... I think is, you know, kind of circumstantial ... evidence that there were concerns within the Department too that was wider than the Minister.

Chairman: Okay, Deputy McGrath, final question.

Deputy Michael McGrath: Final question, Chair, thank you. And, Tánaiste, it relates to the, the issue of stamp duty and the debate that was raging around stamp duty in 2007. And, again, going into that election, all of the main parties competed on how they were going to help first-time buyers deal with the stamp duty issue. And, as you know, up until then there was a threshold of €317,500 and any purchase by a first-time buyer of a home up to that level was exempt and any purchase above that, stamp duty kicked in. And the Labour Party proposed to extend that exemption up to I think it was €450,000, so ... effectively exempting the vast majority of first-time buyers from stamp duty. Like, what was the thinking at that time, given that prices had probably peaked in late 2006 and prices were beginning to fall in the early part of 2007? Had you any concern that creating that incentive might actually push prices back up and put houses further out of reach for first-time buyers?

Chairman: Tánaiste.

Deputy Joan Burton: Yes, I mean, the purpose behind the Labour Party proposal - and, in fact, it was joined to Fine Gael ... it was a discussion which was held between both of the parties - was that the first time ... it was to try and tilt the regime in relation to stamp duty in favour of first-time buyers because the cost of a house, particularly in urban areas, had actually risen, from the figures you quoted, somewhere in the three hundred thousands up to over €450,000. And in more expensive parts of cities like Galway and Cork and Dublin, even far higher than that. So, for instance, two civil servants on something like ... a HEO's salary or a nurse or someone like that, a teacher ... two teachers married to each other, were finding themselves priced out of being able to afford a house. So the objective was to try and ensure that people on reasonable incomes could actually take part in home ownership, which, I think, had been agreed as being a desirable social policy by practically all parties in the House. Now, what happened then was, as well, you had, in relation to second-hand properties, which had been traditionally somewhat cheaper, you know, particularly in less expensive areas, you had competition which the Bacon reports attempted to address. You had competition from investors who got favourable tax treatment and again there was a disadvantage to the traditional buyer who was providing a residential home for themselves as they sought to establish a family for themselves and their ... their partner. And there was a step ... there was a step system where once the value went over a certain amount, you jumped up into a much higher rate of stamp duty. And the proposals by the Labour Party and Fine Gael were to try and iron out the anomalies, which were arising at that point, which were putting home ownership out of the reach of people who traditionally ... I think everybody - all parties - wanted to be involved. Now, Fianna Fáil, of course, subsequently abolished stamp duty for first-time buyers.

Chairman: Okay, thank you.

Deputy Joan Burton: So that answered the question.

Chairman: Senator D'Arcy.

Senator Michael D'Arcy: Tánaiste, you were the ... Deputy Rabbitte's finance spokesperson from '02 onwards to '07. And you had cited the FSR reports in your own opening statement. You itemise about, on page 3, the ... loading of citizens with "unsustainable debt".

Deputy Joan Burton: Sorry?

Senator Michael D'Arcy: The loading of citizens with "unsustainable debt".

Deputy Joan Burton: Yes.

Senator Michael D’Arcy: Did you ever go to the then, or whoever was acting, Central Bank Governor to ask the Governor to take action in relation to the sustainable debt that was being clearly stated in the FSR reports, about household debt in particular?

Deputy Joan Burton: Yes, I ... I have actually I think about 20 pages of quotes from different contributions and questions at different times-----

Chairman: Can you read them all there for us, please, Tánaiste?

Deputy Joan Burton: I ... I can offer you a copy of them but those who wish to read them can have a copy.

Senator Michael D’Arcy: Can I ask ... can I ask, did you go to the Governor? Not quotes that you put out there, did you seek a meeting ... did you correspond with the Governor, requesting the Governor to use the tools that were available to him, as the Governor of the Central Bank, in relation to financial stability?

Deputy Joan Burton: I ... I ... I met with the Governor at intervals and I raised my concern with the Governor. But when the Bank of Scotland (Ireland)-----

Senator Michael D’Arcy: But the question, Chairman, the question I asked was, if I could, please, did you request the Governor to use the tools available to him in relation to the financial stability-----

Chairman: We can discuss other actions afterwards but that’s a very, very specific question.

Deputy Joan Burton: I expressed my concerns to the Governor and when Bank of Scotland (Ireland) arrived in Ireland - because this is pertinent to the answer - I expressed, and they’re on the public record, reservations about the model that they were bringing into the Irish financial market. And I also expressed reservations about the development of the 100% mortgage and the apparently cheaper mortgage product that they were bringing in. They were kind of coming in as the Ryanair of financial products and, I have to say, it made me deeply uneasy and I questioned that when Mr. Duffy, I think, was there chief executive, came in and made a presentation to the finance committee.

Senator Michael D’Arcy: No, I didn’t ask that.

Chairman: Just reframe the question again, right.

Senator Michael D’Arcy: Did you ask the then Governor of the Central Bank to use the tools that were available to him in relation to financial stability because the level of personal indebtedness?

Deputy Joan Burton: What exact date, Deputy, are you referring to there?

Senator Michael D’Arcy: Any stage.

Chairman: Can I just come in on that question there? The ... the Central Bank had powers in the overall macro stability of the country to make particular actions available through their own legislative framework. The Senator’s question is that concerns were known to you, Tánaiste, in sharing those concerns with the Central Bank - and further to the sharing those concerns - did you discuss with them that they might invoke this part of the Central Bank Act

or this part of the Central Bank Act? Is that fair enough? Okay, thank you.

Deputy Joan Burton: I had a general conversation, in which I raised issues in relation to matters which were developing in the Irish banking structure. I didn't have, if you like, a question-and-answer dialogue with the Central Bank Act in my hand because, bear in mind, Deputy, as we were constantly reminded - and still are - that the Central Bank is independent. So it was a conversation and a discussion in which, on behalf of my own political party, I put forward my concerns. But the Central Bank Governor did not respond as though that Governor was accountable to me because the legal position was that Governor was independent, and I could certainly raise issues with the Governor, which I did.

Chairman: Okay. Are you concluding, Senator?

Senator Michael D'Arcy: Yes.

Chairman: Thank you very much. Okay. With that said, I'm going to bring matters to a conclusion now. It's 4.30 p.m. I'm proposing to resume in one hour because members will need a more substantial break at this time. In doing so, I would like to excuse both Deputy Rabbitte and Tánaiste, Joan Burton. In doing so and excusing you, I would like to thank you for your participation with the inquiry today and for your engagement with it and to now formally excuse the witnesses.

I propose that if we could say maybe 5.25 p.m. to get back for a 5.30 p.m start. In that regard, the meeting is now suspended. Is that agreed? Agreed.

Sitting suspended at 4.31 p.m. and resumed at 5.52 p.m.

Castlethorn Construction and Chartered Land Group - Mr. Joe O'Reilly

Chairman: Before commencing public session, I would like to ask those in the public Gallery and other members to make sure that their mobile devices are switched off. So the Committee of the Inquiry into the Banking Crisis is now resuming in public session. At our next session we will hear from Joe O'Reilly, a founder of Castlethorn Construction and Chartered Land Group. This is one of several sessions in which the inquiry is focusing upon the relationships between property developers, companies and their principal financial institutions. From the outset, Mr. O'Reilly, I know you've been waiting for a while this afternoon to come in and, on behalf of the committee, I'd like to apologise for any delay and discomfort that that may have caused you today.

Joe O'Reilly has been involved in property development in Ireland for the last 25 years. He founded his company Castlethorn Construction in 1991. He is also the founder ... the executive chairman of the Chartered Land Group, which focuses on the development, management and operation of shopping centres and commercial office buildings in the greater Dublin area. Among their projects were the Dundrum Shopping Centre, the Pavilions Centre in Swords, the ILAC Centre in Dublin city centre, the Grand Canal Theatre and adjoining office blocks in Dublin Docks and the creation of a brand new town at Adamstown. Mr. O'Reilly, you're very welcome before the inquiry this evening.

Before hearing from the witness, I wish to advise the witness that by virtue of section 17(2) (l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect to their