

THE HEARING RESUMED AS FOLLOWS ON THE 17TH FEBRUARY, 1999:

CHAIRMAN: Good morning. Mr. Healy?

MR. HEALY: Mr. Bryan Sheridan.

HAVING BEEN PREVIOUSLY SWORN BYRAN SHERIDAN WAS EXAMINED AS
FOLLOWS BY MR. HEALY:

CHAIRMAN: Thank you very much, Mr. Sheridan. You are
already sworn from yesterday.

Q. MR. HEALY: Thank you Mr. Sheridan. Mr. Sheridan, you
have as the bank's law agent, access to all of the bank's
papers concerning the securities the bank held in the
1970's concerning Mr. Haughey's indebtedness, and you have
made a statement to the Tribunal setting out the extent of
those securities, and you have a copy of that statement in
front of you, I take it, and I simply want to take you
through that statement.

You describe yourself as the law agent of Allied Irish
Banks, and you have been employed by the bank since the 1st
of October, 1989, and you became Group law agent on the 1st
of January, 1990?

A. That's correct.

Q. You are referred, you indicate that you have been asked to
indicate the extent of the security held by the bank on the
21st of January, 1990, the 31st of January I beg your
pardon, I will say that again because these dates are

important. The extent of the security held by the bank on the 21st of January, 1980, the 31st of January, 1980, and the 14th of February, 1980. And you say that on the 21st of January, 1980, the bank appears to have held the following security

A. Yes, I should perhaps say, Mr. Healy, that the, it is at the request of the Tribunal that I have made this statement, it isn't that the solicitor on record for the bank is offering himself as a witness, other than at the request and for the assistance of the Tribunal.

Q. Correct. Absolutely. What you are saying is that from your examination of the documents the bank appears to have held on the 21st of January, 1980, the following security:

A deed of charge for present and future advances, dated the 28th of May, 1975; Mr. and Mrs. Haughey in favour of the bank over the property comprising in Folio 17735 at the Register of Freeholders, County Dublin?

A. Yes.

Q. Do you know what lands that folio refers to?

A. That would appear to refer to the principle part of the lands at Abbeville.

Q. That is the bulk of the lands at Abbeville?

A. Yes, the bulk of the lands at Abbeville.

Q. Secondly; the bulk of the lands including the residence, I think; isn't that right?

A. Including the residence, yes.

Q. Secondly; an equitable deposit of the lands certificate for

Folio 4713, the Register of Freeholders, County Dublin;
comprising eight acres, three routes and three perches.

Mr. Haughey full owner as tenant in common of an undivided moiety. Is that a reference again to part of the Abbeville lands?

A. That appears to be an additional portion of lands which was purchased by the Haughey's shortly before the dates about which I am speaking.

Q. Yes. Is that possibly the nine acres that was mentioned yesterday in the course of the documentation put up by Mr. Haughey?

A. I believe it is, yes.

Q. A letter of guarantee for €350,000 from Mrs. Haughey, dated 19th of April, 1977?

A. Yes.

Q. Fourthly; an equitable deposit of the land certificate of Folio 4713 of the Register of Freeholders, County Dublin, Mrs. Haughey full owner as tenant in common of an undivided moiety. That is simply presumably the other side of the title document you mentioned at No. 2; is that correct?

A. Yes, the lands in Folio 4713 were held by Mr. and Mrs. Haughey as tenant in common, and there was a separate land certificate in respect of each of their interests.

Q. Yes, they were separately deposited for that reason?

A. From my review of the file that appears to be the case, yes.

Q. A letter of guarantee for €40,000 from Larchfield

Securities Limited, dated the 18th of September, 1974?

A. Yes.

Q. Sixthly; an equitable deposit of the land certificate for Folio 253 of the Register of Leaseholders, County Kerry; comprising 199 acres, two routes and two perches.

Larchfield Securities Limited full owner. I take it that is the reference to Inishvickillaun Island?

A. That appears to be Inishvickillaun, yes.

Q. Seventhly; an equitable deposit for Land Certificate 4909 for Register of Freeholders, County Sligo; 12 acres, three routes and 26 perches for land of Lisbarr. Larchfield Securities Limited full owner?

A. Yes.

Q. The eight item is a Norwich Union life policy, Number A 794278, €1,000 payable on death or on the 15th of September, 1990, together with an assignment of this policy in favour of the Munster and Leinster Bank Limited, dated 27th of March, 1954. It was a rather old security?

A. Indeed, yes.

Q. The ninth item is Certificate No. 4 over 5765 ordinary shares of one pound each in Printo Pres Limited, together with assigned transfer form. That again was mentioned yesterday in the course of the evidence?

A. Yes.

Q. 10 is a letter of guarantee for €500 for Henry James Boland, dated 13th of March, 1956?

A. Yes.

Q. Now, you say that the charge at (1) meet the charges over the bulk of the Abbeville lands, including the Abbeville residence, was stamped to security advances up to and including €350,000, and originally also comprised a charge over the properties comprised in Folios 2644 and 2646 of the Register of Freeholders, County Meath, and ranked purely to a deed of charge over all three properties in favour of Northern Bank Finance Corporation?

A. That is so.

Q. I take it the reference to the County Meath lands is reference to the Rath Stud mentioned in the correspondence?

A. That appears to be the balance of Rath Stud.

Q. Yes. And ultimately I think the bank became the holder of a first charge over Abbeville after other indebtedness was cleared off?

A. That is so.

Q. On the 3rd of February, 1977, in return for a discharge by NBFC of its charge on Folio 17735, County Dublin, the bank executed discharges of its charges on Folio 2644 and 2646, County Meath. When the three discharges were duly registered this left the bank with a first charge on Folio 17735, County Dublin, meaning the Abbeville folio as you have just agreed?

A. Yes.

Q. In or about the same time and pursuant to the terms of a letter of sanction of the 12th of January, 1977, the stamping on the charge at (1), that is at Abbeville, was

increased to security advances up to and including
€350,000. It had originally been stamped to cover advances
up to €190,000, except for a period of three months in
early 1976 when due to an error it had been stamped to
€179,000?

A. That's so.

Q. On the 19th of April, 1977, and pursuant to the same letter
of sanction, a letter of guarantee for €190,000 from Mrs.
Haughey, dated 8th of October, 1975, was replaced by the
letter of guarantee referred to at Item No. 3, that is a
letter of guarantee for €50,000?

A. That's so.

Q. The only difference in the bank security on the 31st of
January, of 1980, from that set out in your statement, in
the part of which, that I have just taken you through, that
was by reason of an agreement recorded in a letter to Mr.
Haughey from Mr. Patrick O'Keefe, Deputy Chief Executive of
the bank of the 24th of January, 1980. It had been agreed
that if by mid February 1980 a permanent reduction had been
made in the indebtedness of Mr. Haughey to the bank to
€110,000 the bank would agree to release the charge on
Abbeville, the equitable deposits on other lands at
Abbeville

A. The interests of Mr. and Mrs. Haughey.

Q. The eight acres, so many routes and perches, and to return
the document relating to residence and 248 acres to Mr.
Haughey, and at the same time the associated letter of

guarantee for €350,000 from Mrs. Haughey would be cancelled?

A. That is so.

Q. You go on to say on the 14th of February, 1980, the last of the three payments to be made by Mr. Haughey under the agreement you mentioned a moment ago was received by the bank there upon. It could be said the bank's agreement to release the charge on Abbeville became unconditional?

A. Yes.

Q. The two land certificates for Folio 17735, County Dublin, comprising of the residence and a great bulk of the land were returned by the bank's branch at Dame Street to Mr. Traynor, I take it is what you meant in your statement under cover of a letter dated 17th of December, 1981. It would appear this letter, at that stage the bank's charge on the folio had been released. It would appear that the remainder of the deeds were not called for until 1990 when they were handed over against the receipt of Mr. Michael O'Connor of John S O'Connor and solicitor from Mr. Haughey on the 14th of February of that year?

A. That is so.

Q. So between 1980 and 1990 the bank returned initially, as we have mentioned, in 1981 the title deeds to the bulk of the Abbeville lands, including the residence. It held on to the title deeds to Inishvickillaun; would that be right?

A. Yes, it is certainly true that we retained possession of the deeds to Inishvickillaun, the exact effect of that

having regard to the letter is not entirely clear, but

Q. And Sligo?

A. And Sligo, yes.

Q. And that these were handed over on the 14th of February, of 1990?

A. That is the case.

Q. And am I right in saying that there would appear to be, apart from the documentation mentioned yesterday, there would appear to be no documentation suggesting that there was any agreement in 1990 relating to the handover of those title deeds to Inishvickillaun and Sligo?

A. I certainly have found no agreement to that effect, no.

MR. HEALY: Thank you very much.

CHAIRMAN: Nobody wishes to ask anything of Mr. Sheridan?

Thank you very much.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Gerard A O'Donnell.

HAVING BEEN SWORN GERARD O'DONNELL WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

A. Gerard O'Donnell.

CHAIRMAN: Thank you Mr. O'Donnell.

Q. MR. HEALY: Thanks Mr. O'Donnell. Mr. O'Donnell, you are a retired official of Allied Irish Banks?

A. Correct.

Q. And you have made a statement to the Tribunal, and I just wonder whether you have a copy of that statement in front of you?

A. I have indeed.

Q. I want to take you through the statement, then I want to refer to some of the documents that were mentioned yesterday, and we may go over one or two parts of the statement afterwards, if that's acceptable to you?

A. Certainly.

Q. Now, you say that you retired from the bank on the 31st of January, of 1996, having spent your career in Allied Irish Banks. When you retired you were in charge of the Registrars and New Issues Department?

A. Yes.

Q. You say that your involvement with the accounts at issue, meaning the accounts of Mr. Haughey I take it?

A. Yes.

Q. Followed upon your appointment in March of 1978 as an Advances Manager with a responsibility for the then Dublin West Region. You reported to the late Mr. Richard Barrow who was Advances Controller for Area East of which Dublin West was a region, he would have reported in turn to the late Mr. James J S Denvir who was General Manager for Area East and who in his turn reported to Mr. Patrick M O'Keefe, the General Manager Banking. "The purpose of the advances function at that time was to approve or decline proposals for advances of credit in excess of the level of a Branch

Manager's discretion and to monitor all advances.

Advances above the particular level authorised for the area which would have increased from time to time would have required the approval of either Central Advances Control or above their authorised level, which would also have been increased from time to time, the Advances Committee of the main Board".

The Dame Street branch fell into the region for which you have responsibility. You had an excellent working relationship with the late Mr. Michael Phelan, Branch Manager, who was probably the only person in the bank with fairly regular contact with Mr. Haughey. You say in your experience the accounts of Mr. Haughey were always of concern to the bank. They were extremely difficult to control, and monitoring them involved constant reference to you by Mr. Barrow sorry, what you said was that monitoring them involved constant reference by you to Mr. Barrow and/or Mr. Denvir, and by Mr. Barrow and Mr. Denvir to you; is that right?

A. That's correct.

Q. You say that you would almost always have referred to one of them if instructions were required, or one or other of them would have come to you regularly with specific or general instructions?

A. Correct.

Q. While the accounts were extremely troublesome with any

limit set appearing to be breached and there being great difficulty in getting Mr. Haughey to deal with the matter, the bank did hold security, including a charge over his principle private dwelling house and the lands attached to it.

That's right; isn't it?

A. That's correct.

Q. You say that the relevant area officer's file was in your custody and Mr. Denvir and/or Mr. Barrow would ask for it from time to time. You never had any contact with Mr. Haughey in connection with his affairs or the business of the bank?

A. Correct.

Q. So your role was in a supervisory

A. And administrative.

Q. As opposed to having a day-to-day contact such as a Branch Manager might have?

A. That would be correct.

Q. You say you have reviewed the files marked Tribunal file No. 3 and Tribunal file No. 4. Those are markings on files kept by Allied Irish Banks; is that right?

A. When I reviewed them the files were marked in that manner, they wouldn't have been so marked during my tenure of office.

Q. Of course, it was only subsequently that they became to be so marked?

A. Correct, yes.

Q. You say that you believe they are area office files, though you are unable to clearly distinguish what separate function, if any, might have been served by each.

Of course the files were put together many years after the events to which they referred had taken place?

A. Yes.

Q. As we saw yesterday there is indeed some duplication between one file and another file; isn't that right?

A. That's correct, yes.

Q. You go on in the narrative of your statement to say that you recall being seated at your desk in Bank Centre on a date which you cannot now determine, though which you deduce must have been in the late 1970's or early 1980's when you were approached by Mr. Michael Kennedy, then Regional Manager Dublin West, and you were asked for a file relating, for the file relating to Mr. Haughey; is that right?

A. That's correct.

Q. Where was the file kept, is that it?

A. By myself.

Q. When you say by yourself, did you keep all of the files of individual clients as Advances Controller or only some files?

A. In a general way all the files I would have had a responsibility for, but this particular file was in my personal possession at Bank Centre or Oldbrook House.

Q. And was it the only such file that you kept in your personal custody?

A. At this remove there may have been others but all I can state specifically that this one was.

Q. Right. Did you keep it in your own office in a safe or filing cabinet or what?

A. In a cabinet, yes.

Q. You say it was intimated to you by Mr. Kennedy that he was taking custody of it forthwith, and you recall that he made a remark to the effect that he was not telling you why the file was being requisitioned by him and that you were not to ask?

A. That is my recollection.

Q. And again though we may come back to this later, had you ever received a similar requisition and a similar instruction in relation to any other file?

A. I cannot recall.

Q. Yes. Is something unusual in that you do recall this occasion in any case; isn't that right?

A. This particular case would have been one in which I had a constant involvement and would remember this matter.

Q. Of course. You say that subsequently you have no involvement whatsoever in relation to the accounts of Mr. Haughey?

A. That's absolutely correct.

Q. You say you have also been shown a handwritten note or memorandum headed with the name of Mr. Haughey, which

includes the date the 20th of June, of 1979, and you say that you recognise the handwriting of the late Mr. Richard Barrow with which you are familiar, just so we understand the document you are referring to?

A. Yes.

Q. If you look at the monitor you may find it easier to see it there. Do you see the document with a date in a box on the right-hand side?

A. Just above the very heavy black dot, large black dot are the initials "RB".

Q. I see.

A. Absolutely no doubt whatsoever that that's Mr. Barrow.

Q. Right. And the handwriting?

A. His. I can state categorically that that is his writing.

Q. Now, you also refer to a handwritten note from Tribunal File No. 4 on which there is a comment which includes the words "Get Gerry Scanlon and discuss details of operation". You say you recognise the handwriting of Mr. Kennedy with which you are familiar, in fact Mr. Kennedy will be giving evidence and is here, so we won't need to produce that, but you see it on the monitor in any case?

A. I am absolutely satisfied that is Mr. Kennedy.

Q. I think you identified two other notes as containing the handwriting of Mr. Phelan. They are dated the 18th of the 1st, 1980, and the 22nd of the 1st, 1980.

Do you see those notes in front of you?

A. Yes I do.

Q. Two notes dated respectively the 18th and 21st on the one page and you recognise them. They seem to have the same handwriting in any case, and you recognise that to be the handwriting of Mr.

A. Michael Phelan, undoubtedly.

Q. Yeah, thank you very much.

Now, Mr. O'Donnell, you have described your role in 1978 as that of Advances Manager with responsibility for the Dublin West Region?

A. Correct.

Q. And that the function of the Advances Manager for that region was to approve or decline proposals for advances of credit in excess of the level of a Branch Manager's discretion, and to monitor all advances. So does that mean that you would have an active role in saying yea or nay to individual applications for credit where the Branch Manager didn't have sufficient discretion to allow a certain amount of credit or to permit a certain amount of credit, but that you would have an overall control, an overall role in monitoring all credit; is that right?

A. That would be correct.

Q. And in discharging that role you would, from time to time, have to refer to your superiors; is that right?

A. Regularly.

Q. You, of course, would have had your own discretion to either approve or reject applications for advances without

resort to your superiors; is that right?

A. That's correct.

Q. In Mr. Haughey's case, did you make these decisions yourself or did you refer them to your superiors?

A. Always referred.

Q. Why were they always referred to your superiors?

A. Just, the nature of the particular case and the fact that we were in generally, in repayment mode, as it were, at the time, but the circumstances and the level of indebtedness just by their nature, would have required me to refer to the higher line.

Q. Is that why you say that in monitoring these advances you were involved in almost constant reference to Mr. Denvir and Mr. Barrow, and they back to you and so forth?

A. Correct.

Q. And to whom would they report, in relation to these matters?

A. As my statement indicates, the area office in turn reported to the Central Advance Control area of the bank, which had a higher level of sanctioning authority.

Q. So that if you were referring to Mr. Denvir or to Mr. Barrow, if they were to refer they would be referring to Mr. O'Keefe ultimately?

A. From time to time, yes.

Q. Now, we saw, I think you were here yesterday, during which we saw the amount of internal memoranda generated by the need to monitor this account, and it reflects your own view

that it involved constant reference and considerable difficulty of management; isn't that right?

A. That's correct.

Q. And you say that one of the reasons why this account required constant monitoring was because you were in, what you called "repayment mode"; would that be another way of saying you were always trying to get Mr. Haughey to pay back what he owed you?

A. Downwards movement on the account would always have been the desire of the bank during my tenure of that particular function of Advances Manager, Dublin West.

Q. During the whole time you were there, you were trying to get this debt paid off?

A. And brought under control.

Q. In other words to stop any, not only were you trying to get it paid off, you were trying to stop it getting, increasing and getting larger by further advances being drawn in breach of undertakings or agreements made with the bank?

A. That was always my endeavour.

Q. Now, eventually this matter was taken out of your hands completely?

A. Correct.

Q. And you don't recall if any other similar account was ever taken out of your hands in this fashion?

A. I cannot recall.

Q. You don't remember if any other account was taken out of your hands with a direction that you weren't to ask any

questions about it?

A. I can, I have no recollection of any similar request.

Q. It is a somewhat unusual request, isn't it, that you hand over a file and not ask any questions about it?

A. One has to have regard to the particular circumstances.

Q. Which were?

A. The constant difficulty in the management of this account, and obviously the request indicated that the matter was moving out of the level, if you like, of the figures delegated to me for control, it was being taken away from that area for other purposes, for which I was not aware, either then or subsequently.

Q. It wasn't just that you were not aware of them, you were instructed not to inquire; isn't that right?

A. That is correct.

Q. Yes, and would I be right in suggesting that that was an unusual instruction, this file is being taken off you and you are not to inquire why?

A. It would be unusual, yes.

Q. And isn't it likely that the reason you can't recall any other similar instruction is that there was no other similar instruction during your many years experience of working with the bank?

A. Probably not.

Q. Now, as I say, it was taken out of your control, but I want to ask you one or two questions about the figures involved and the numbers involved in the ultimate settlement of this

indebtedness.

Now, yesterday you may recall that a memorandum was put up on the overhead monitor which seemed to come into existence some time on or about the 17th of December, of 1979, it was Mr. Kennedy's note. I will have a copy put up on the overhead monitor so that you can look at it for a moment.

Now, I want to draw your attention just to one or two parts of that memorandum. I am going to get a copy, a hard copy for you Mr. O'Donnell so that you can look at it, because it is difficult enough to follow it on the monitor.

Now firstly, I want to make one thing absolutely clear; this note seems to be dated, as you can see, the 17th of December, of 1979 at least it refers to a meeting of the 17th of December

MR. SHERIDAN: The memorandum, as I understand it, is a memorandum of Mr. Kennedy's, Mr. Kennedy is here, it would appear best that perhaps Mr. Kennedy should give evidence as to his memorandum.

MR. COUGHLAN: He will in due course.

Q. MR. HEALY: I am sure he will give evidence in relation to his memorandum in due course, I simply want to ask this witness about it, and I was about to make it absolutely clear that it wasn't his memorandum, to try to tie it into something in the statement.

As I said, this document relates to something which appears to have occurred on the 17th of December, of 1979.

Referring to your statement, you say that Mr. Kennedy requisitioned the file from you sometime in late 1979 or 1980, I think we can take it that assuming your memory is correct the file must have been requisitioned from you before this memorandum came into existence?

A. That's correct.

Q. Or the meeting to which it refers?

A. That's correct.

Q. So therefore, I want to make it clear that in asking you questions about one or two things in connection with this memorandum, I am not asking you about your own involvement, but rather your knowledge of the entire file and your role as an Advances Manager in the bank at or around this time?

A. Right.

Q. In other words, this is a file which but for the fact that it was removed from you, would have remained under your control up to this time; isn't that right?

A. That's correct, yes.

Q. Now, if you look at the memorandum and about nine lines from the bottom of the first page?

A. Yes.

Q. You see there is a reference to the "Entire debt"?

A. Yes.

Q. The memorandum refers to a conversation or meeting between Mr. Kennedy and Mr. Traynor, in which there were

discussions with a view to settling the entire debt, and at that point the entire debt is described as standing with interest at 1.143 million. Do you see that?

A. Yes.

Q. Now, I want you to turn to the second page, and about ten lines from the top of the page you will see where Mr. Kennedy states that; "At this stage I intimated that if the debt were reduced to €200,000 he could take it that we would write off the balance, and that that was as far as the bank would go, bearing in mind that questions would be asked by our auditors and would have to be answered" .

Do you see that passage?

A. I do sir, yes.

Q. I take it from the documents you saw yesterday and from your own knowledge of the file the figure in any case doesn't surprise you, of 1.14 million?

A. No.

Q. Now, from your experience of dealing with indebtedness of this kind, do you have any comment to make, having regard to what sort of discounts you might or might not have approved of, of the €200,000 discount mentioned by Mr. Kennedy in the range of

MR. McGONIGAL: I wonder, Mr. Chairman, what the relevance of that question is and the basis upon which Mr. O'Donnell is going to answer that question? Because it in fact is inviting him to draw on his memory in relation to a myriad

of files which I presume are in the control of the Allied Irish Banks, and if he is going to give evidence about a myriad of files or examples which are known to him but not known to anyone else, it is putting everyone else at a disadvantage to understand the fullness of his answer.

I would have assumed that there were many accounts in Allied Irish Banks over the years which may or may not have had an indebtedness either similar to or relatively speaking similar to an indebtedness as appears in this account. It may well be that thereby many accounts on which AIB have permitted a reduction in the size of the debt to enable the account to be closed commercially or otherwise.

It seems to me if we are going to go down that line then, not only must Mr. O'Donnell but also Mr. O'Kennedy and Mr. Scanlon, give us the benefit of sight of the accounts and the examples upon which they are relying to enable them to answer this question to you, sir.

Because I would certainly like to, if this indebtedness is to be challenged in the way in which Mr. Healy is fishing around, I would like to be able to see how Allied Irish Banks dealt with many accounts which may have been in difficulties, some with assets equal to or greater to the assets in this case, some with assets less than the assets in this case, but there are all sorts of explanations, many

situations which one can think of.

I really wonder, Mr. Chairman, where are we going with a question of that nature and what benefit is it, bearing in mind the Terms of Reference and the state of the inquiry at this stage?

CHAIRMAN: The Terms of Reference, Mr. McGonigal, include an explicit instruction from the Oireachtas to me, to keep this Tribunal as expeditious and as cost effective as is realistically possible in the context of the overall task. It seems to me that if one were to embark upon a comparative examination of other accounts, quite apart from aspects of privacy and the like, I would be considerably deviating from that particular part of the Terms of Reference, as I understand it.

Mr. Healy's question is limited to calling upon the present witness, as a retired senior bank official, to give some general observations from his long experience of banking practice, as to what factors or what criteria may in general terms, have been observed by his former bank in the discounting of debts that may have been owed by customers, and certainly it is my intention that the inquiry will be limited to that. That you will have an opportunity to ask questions of the witness in due course, and to call any evidence that you may feel is helpful to resolving any issues in that regard.

I am not contemplating a trawl into comparative bank accounts, I am only going to be hearing, as I understand it, some general evidence from a senior official, who had a long career in a discipline relevant to what is being inquired into at present as to what practices may have been generally observed to his knowledge.

Q. MR. HEALY: Mr. Kennedy sorry, Mr. O'Donnell, I will come back to the question that I put to you, but before I do so, perhaps it might be of some assistance if I were to ask you whether or can you remember in your experience, from the time that you were working at the bank in 1979 and 1980, were there many similar accounts with a similar level of indebtedness, many similar accounts where there was no trading operation, where there was merely effectively a personal account with a similar level of indebtedness at 1.14 million, can you remember that?

A. I would have difficulty at almost 20 years remove in recalling that.

Q. Can you remember whether it was a very large number; wasn't it?

A. The indebtedness?

Q. 1.14 million?

A. Yes.

Q. I think the bank's profits, we can refer to them later, would have been in the order of 8 or 9 million, the banking profits, the Group's profits might have been about 20 odd million, so it was a very large number; isn't that right?

A. It was a considerable debt.

Q. Yes. In terms of the type of the numbers that the bank would have been dealing with at the time the figure of 1.14 million is something that certainly would have stood out?

A. It was a sizable figure.

Q. I will try to get a copy of the bank's accounts so we can put the annual report showing the bank's profit and loss accounts and so forth for the years in question which might give us some indication of the comparative size of the figure relative to the figures in the bank's annual report.

Now, I want to put one or two other aspects of the figure in context for a moment. And again we can come back to the question I asked you. Did you see the settlement yesterday, the settlement letter showing the terms under which the bank was prepared to accept certain sums of money in discharge of the indebtedness?

A. Yes, I have a copy of it.

Q. I can put it up on the overhead monitor do you have a copy?

A. I have, yes.

Q. Now, the total indebtedness was, as I have indicated, in the order of 1.4 million and presumably 1.14 million and presumably rising every day as interest was added?

A. Yes.

Q. The reason I mentioned that it was rising every day is because I will be referring you to another document later on showing the figure at a slightly higher level. In any case it was in the order of 1.14 million.

Now, under the terms of the settlement you will see that the debt balance on the account was agreed at €860,001.17.

Do you see that, as the first term of the settlement?

A. I do indeed, yes.

Q. That was to be permanently reduced to €110,000 by mid February of 1980. The balance of €110,000 was to be liquidated within a reasonable period of time, that was Term No. 2, and Term No. 3, as soon as the indebtedness had been permanently reduced to €110,000 the bank was to release its charge on the residence and 248 acres known as Abbeville, and the remaining items of security comprising the deeds of Inishvickillaun and of certain lands in County Sligo and so forth was to be held by the bank as security pending the liquidation of the remaining indebtedness of €110,000, and that €110,000 was to out stand free of interest.

So now, as of that date, the 24th of January, of 1980, the indebtedness that I mentioned a moment ago was agreed to be reduced provided certain monies were paid, to €110,000 ultimately, isn't that right? Provided the terms of settlement were complied with the entire debt was brought down to €110,000 and there was to be a reasonable period of

time for the discharge of that €110,000?

A. Correct.

Q. And it wasn't going to, there was no more interest was going to accrue to it or be added to it.

Now, you may or may not be aware, and you may not have been aware of these facts, I quite accept that, until this Tribunal raised certain inquiries concerning the matter, but ultimately that €110,000 was never paid off; isn't that right?

A. I cannot state categorically.

Q. You may take it the bank have confirmed it was not paid off?

A. If you say so.

Q. And in fact the title deeds to the property in Inishvickillaun and the title deeds to the house and 13 acres in County Sligo were released as Mr. Sheridan confirmed just a moment ago. So that in fact the entire debt was wiped out ultimately; isn't that right?

A. On the basis of this letter which, as you have said yourself, sir, you will appreciate

Q. You knew nothing about it, I quite accept that?

A. Absolutely nothing whatsoever.

Q. I am handing you a document, I don't know if you have seen it before? It is a document dated the 5th of February, of 1981?

A. Yes.

Q. And it is headed "Manager Suspense Account".

Now, it refers to the debt from the branch, cash, the debt remaining and then ultimately covered by suspense interest. Now, I don't wish to draw too much attention to the amount of the debt which is 1.89; the debt had, in fact, been frozen at an earlier date at whatever figure we mentioned in the settlement and certainly prior to the settlement it was in the order of 1.14 million. Now, you will see that by that date, February of 1981, the £110,000 is described as covered by suspense interest. Can you just perhaps explain that to me?

A. I cannot explain it in the context of this account. You will appreciate that that note was compiled as you state on the 5th of February, of 1981. I had long since had any involvement in the affairs of this particular account holder.

Q. Are you telling me you don't know what it means, does it mean anything to you as a banker?

A. I am not stating that.

Q. Perhaps you would tell me what you think it means?

A. The debt of £110,000 covered by suspense interest, I am not sure what the intentions were in regard to this account as to the application at any given future date of that suspense interest.

Q. Does it appear that the £110,000 was not being taken into the bank's profits?

A. Suspense interest by definition means that it has not been

taken into the bank's profits.

Q. Was the €110,000 ever taken into the bank's profits?

A. I cannot state.

Q. It was never paid for certain; isn't that right?

A. You are stating that, I cannot state that.

Q. You may take it that it wasn't paid?

A. If you say so.

Q. I am asking you to give your answers on the basis that it wasn't paid, Mr. O'Donnell. If it was covered by suspense interest would that suggest it was, in fact, a sum of money never taken into the bank's profits as a banker?

A. That would be reasonable to state.

Q. So that certainly by 1981 the bank would appear to have no confidence that they were ever going to get this €110,000?

A. I am not making that assumption, I am not competent to make that.

Q. In the ordinary way, if the bank puts interest into a suspense account, it is not letting a customer off with the interest, it is simply putting the money aside and not taking it into its profits; isn't that right?

A. That's correct.

Q. And wouldn't that, in the ordinary way, indicate that the bank didn't have full confidence that this interest was going to be paid?

A. That's a reasonable assumption.

Q. Yes, in the ordinary way?

A. Yes.

Q. And we know that ultimately the bank released the securities which were held to assure to the bank the payment of that €110,000?

A. As per the comments of Mr. Sheridan, that would be the position.

Q. Which would again seem to suggest that objectively, if you were looking at it objectively, that the bank had no reason to believe, or no confidence that they were ever going to get that €110,000?

A. I cannot myself state what the mind of the bank was in that particular case.

Q. Of course. Would you agree that my assumption would be a reasonable one if I were looking at it as an outsider?

A. Not unreasonable.

Q. Now, looking at it again as an outsider, and I am asking for your view as a banker, Mr. O'Donnell, in 1979/1980 by the time this file had been taken out of your custody and out from under your control, we know that the indebtedness of 1.14 million was reduced to €750,000. In your experience of dealing with accounts, with this level of indebtedness, would that sort of discount normally be granted?

A. I can only state that each individual case of indebtedness would always be examined on its own merits having regard to the, all the circumstances obtaining.

Q. I want to put the question to you in a more specific way.

If in 1979, late 1979 or 1980 you were dealing with a

customer who owed the bank 1.14 million and the bank had security over a large tract of land, would you normally approve of an indebtedness, of a discount of the level that was granted in this case?

A. It would never have fallen to me in any case, not alone this one, to enter into discussions or decisions.

Q. Approving or not approving?

A. Correct.

Q. You would, of course, know the level of discount that had been allowed from time to time; isn't that right?

A. In other cases?

Q. Yes.

A. Certainly, but I have to emphasise, every single case on its own individual merits, most definitely the bank would have no yardstick for such developments, most certainly not.

Q. Was there no policy or criteria by which the bank would judge how they would approach a level of indebtedness like this?

A. There would be no policy. I have to emphasise again sir, each case on its own merits.

Q. So, when you are dealing when you say your job was to monitor advances, would that also include the would the monitor or control of advances include the getting back of money or getting in of money, the repayment of money?

A. It certainly would.

Q. The bank has said in a statement that was given to the

Tribunal to be read out at the opening session of the Tribunal's public sittings on this occasion, that the settlement of the indebtedness was commercially justifiable, do you understand, or what would you understand by "commercially justifiable" in this context?

A. Again, at the risk of excuse me

MR. SHERIDAN: With respect sir, Mr. Healy the statement was a little fuller than that, the statement made by the bank at the outset of the Tribunal's work was a little more expansive than simply "commercially justified", and perhaps it would be helpful to the witness if it was put in its context.

Q. MR. HEALY: Absolutely, I will certainly put it all in context.

On the 27th of January, Mr. O'Donnell, Mr. Sheridan on behalf of the bank wrote to the Tribunal requesting that certain points be incorporated in the opening statement.

MR. SHERIDAN: If a suggestion to the contrary was being made by the Tribunal.

Q. MR. HEALY: What the letter says, I should read it out in full, is this:

"Dear Mr. Davis, I refer to our telephone conversation following receipt by you of our earlier letter of today's date.

I would wish to... the need for these comments only arise of course in the event that the Tribunal in the opening statement is making any suggestion or raising any question to the contrary. And the points are as follows:

(1) AIB sought no advantage or favour arising out of the indebtedness to it on these accounts, and indeed exerted considerable pressure on the account holder to compel him to deal with his affairs when it could be said that he had reached the apex of his career having just become Taoiseach.

(2) AIB believe the compromise was commercially justified having regard to the protracted and difficult history of the accounts, to the fact that it was extricating itself from them and was to have no further dealings with the affairs of Mr. Haughey."

Now, it is in that context that the bank stated that the compromise was commercially justified. Can I approach it this way, Mr. O'Donnell; would you think that an individual who was not involved with the bank would be somewhat surprised that a level of indebtedness of 1.4 million was reduced to €750,000?

A. He might well be, but that would not be the context in which any decision in this particular case would have been made.

Q. What is the context in which a decision would have been made?

A. The context, as per the statement that you have just read out there

Q. Would you like a copy of it, would you?

A. It would possibly be helpful, yes.

Q. What you were saying was that he might well be referring to an outside observer, might well be surprised, but that would not be the context in which any decision in this particular case would have been made, and then I asked you, what was the context in which it would have been made, and I think you were referring to the statement?

A. Yes.

Q. Perhaps you would like to expand on that?

A. Well, I would certainly fully concur with this statement of Mr. Sheridan's, this is, you will appreciate, the first time that I have seen this, but I would have absolutely no doubt about the commercial justification of this. Again in this specific circumstance, you will appreciate that this account at the time was being handled at the highest level of the bank, and in my position I would have been entirely happy as a bank official, that the people dealing with this at the time, having regard to all of the circumstances obtaining, and I lay the heaviest emphasis on the word "All", that this was undoubtedly a commercially justified decision by Allied Irish Banks.

Q. Do I understand you to be saying that because the bank had had constant trouble from this borrower, that it was a good idea to get rid of him altogether?

A. I think Mr. Sheridan's comment at paragraph two, "Having regard to the protracted and difficult history of the accounts" .

Q. The bank was extricating itself from them. The bank was owed at the same time quite a lot of money; isn't that right?

A. Yes.

Q. A huge amount of money in the context of the money being earned by the bank at that time?

A. It was a heavily indebted account.

Q. Is that why the account was taken up to the highest level for the settlement to be achieved?

A. Well, I think if we refer to the many papers that were produced yesterday, I think all the evidence is there of a high level of involvement in this account, perhaps not on a daily basis but the high authorities of the bank were always aware of the level of debt in this case.

Q. Is it in fact the case that the bank saw no other way of getting the money it was owed other than by reaching a settlement in which they discounted some nearly œ400,000?

A. I cannot state definitely what might have been in the minds of the people concerned, other than that at the particular time, and in regard to the circumstances and the conversations that took place, of which I had absolutely no knowledge whatsoever, either in detail or the fact that they had taken place, but the final decisions that were entered into and arrangements made were justifiable.

Q. I have a copy of the bank's accounts in front of me here, Mr. O'Donnell, I am sure you will be better able to make sense of the bank's annual, reported accounts for the year ended on the 31st of March, 1979. You may be in a better position to make sense of them than I would be, but I will let you have a copy and I will draw your attention to one or two parts of the accounts, so that you will know what I am getting at. I am simply trying to put the size of this indebtedness in context in some way, by reference to some of the other figures or numbers contained in the bank's published accounts.

This is the Allied Irish Banks Limited reported accounts for the year ended 31st of March, 1979. Some of the page numbers on mine appear to have been obliterated, so I will have to go through this with you fairly slowly. If you go to what I think is page 15?

A. Yes.

Q. That's the consolidated profit and loss account, that's for the entire Group?

A. Yes.

Q. Now, I want to just make sure that we are referring to the correct figures here. Could I also ask you to go for a moment to page 22?

A. Yes.

Q. Now, at page 22 of the same document there is a heading "Notes on the accounts", that's part of a chapter or part

of the document beginning on the previous page, referring to accounting policies. You will see that at Item No. 5 there is a reference to profit before taxation.

Now, the reason I draw your attention to that figure there is so that you can confirm for me whether that is a reference to banking profit as opposed to other profits, and if it causes you any difficulty you can go back to page 15 where we will deal with the other figures.

MR. SHERIDAN: Sir, if interpretation of the bank's accounts are required I am sure we can make available people from Group Financial Control for that purpose.

MR. HEALY: That may be very helpful.

CHAIRMAN: I have some concern, Mr. Healy; I think it is entirely proper for the Tribunal that the bank's considerations be explored appropriately, I am conscious we will hear later today from Mr. Kennedy and Mr. Scanlon, and that there is a possibility we will be hearing from Mr. O'Keefe at some stage. I just feel, having regard to our overall commitment to fairness, this witness has specifically said that his competence is withdrawn as regards dealing with the account specifically of Mr. Haughey, and that whilst acknowledging he held a senior position, he would in any event not have held a sufficiently senior position to have a stake in discounting a debt of over a million.

MR. HEALY: I am happy to let that to another witness.

CHAIRMAN: It might be more appropriately addressed.

Q. MR. HEALY: Could I ask you one or two other matters, Mr.

O'Donnell, concerning the documents that were put up

yesterday, just to clarify one thing for me and for the

Tribunal, it may be that you have no dealing with this at

all, but do you recall yesterday seeing on the overhead

monitor documents consisting of references to arrangements

made with Mr. Haughey over a lengthy period of time giving

the dates of contacts, meetings, telephones calls and so

forth?

A. Yes.

Q. I just want to ask you about one of those, in case you can

throw any light on it. It is at pages 49 and 50, and I

will put it on the overhead monitor, so you will see it

now?

A. I have 49 here.

Q. If you go to page 50?

A. Yes.

Q. The third item from the bottom of the page, the 20th of the

6th, 1979. Now, you may recall at the outset of your

evidence I drew your attention to the handwritten

memorandum of Mr. Barrow, I think, and there was a

reference to that date?

A. Yes.

Q. And there seems to be some correlation between that

handwritten memorandum and what is contained in this note which says "CJH offered 400,000 in full and final settlement before the end of the year. BM said he would not put this in writing to HO Head Office I suppose because of likely reaction. BM Branch Manager again gave him no hope of acceptance. The possibility of the bank being offered a 10 million pound Middle East deposit was mentioned no enthusiasm shown".

Do you know how these, how shall I put it, aggregated notes came to be drawn up and did you have any involvement in them?

A. I had no involvement whatsoever to answer that part of your question.

Q. Were they sent to you or are you familiar with them?

A. Mr. Barrow's note, Mr. Barrow was the area Advance Controller to whom I reported. I can only suggest at this, again remove, that Mr. Barrow probably had a phone call, it would have been a normal day-to-day conduct of the account or other accounts.

Q. I fully appreciate that. I am just wondering whether it was Mr. Barrow who mentioned that no enthusiasm was shown, in other words whether this document was prepared by him or somebody else looking at the entire file, do you understand me?

A. I would suggest from my experience, that Mr. Barrow's handwritten note was probably on the basis of a telephone

call from the Branch Manager, and that the no enthusiasm shown, that would have been the late Mr. Phelan's own reaction to that offer.

Q. I see?

A. Yes.

Q. We saw yesterday a number of documents under your hand put up on the overhead monitor?

A. Yes.

Q. Can you tell the Tribunal what was the level or threshold of your power to deal with indebtedness, was there any figure?

A. There would have been a figure. I would be loathe to state categorically what that was in 1999.

Q. Because you can't remember, is it?

A. Correct. But it would, as stated in my statement which you read, it would have been a figure in excess of Mr.

Michael Phelan's discretion as the Branch Manager, that was the hierarchial structure.

Q. And from the fact that you were dealing with this account, we can assume that the borrowing was in excess of Michael Phelan and within the ambit of your discretion, and from the fact you were referring to other people, does that mean it went outside your discretion?

A. Yes.

Q. Would your discretion, was it a 100,000 or 500,000, can you remember that?

A. It probably was somewhere between the figures you have

stated, perhaps of the order of 200 or 250.

Q. I see. Thank you very much.

THE WITNESS WAS THEN EXAMINED BY MR. QUINN AS FOLLOWS:

Q. MR. QUINN: With your permission, Mr. Chairman. I just want to ask you one or two questions, if I may, on behalf of the Revenue Commissioners. As I understand you have spent most of your working life with Allied Irish Banks and in banking generally?

A. All of it, yes.

Q. You are familiar, therefore, with what the bank regard as their duty of confidentiality in relation to their clients; isn't that right?

A. Yes.

Q. Am I correct in thinking that the bank at any one time would have a number of documents in relation to a particular individual or customer, namely accounts, or in relation to showing deposits and withdrawals, correspondence on the file with the client and internal memorandum and correspondence; is that correct?

A. That's correct.

Q. Am I correct in thinking that save for any statutory obligation on the bank, that the bank would regard that their duty of confidentiality would extend to protecting that information to persons other than the client?

A. Correct.

Q. Save where the client gives permission to provide

information to others?

A. That's correct.

Q. Do I also take it that in certain circumstances that the internal memorandum of a bank might never be even shown to the client himself?

A. Certainly not.

Q. So therefore there would never be a question of the internal memorandum being provided to anyone, even with the permission of the client?

A. You are correct.

Q. Now, I understand that insofar as a statutory obligation rests with the bank, that historically the obligation on the bank to disclose matters to the public, and particularly the Revenue Commissioners, was very restrictive in the past; isn't that right?

A. Yes.

Q. I think there was an obligation on the bank in certain circumstances in relation to certain deposit accounts where interest had been paid or credited without the deduction of tax, to return those accounts to the Revenue, but save only where the amount of interest in any one year paid exceeded $\text{€}70$ and lately $\text{€}50$; is that correct?

A. Yes, I recall those figures.

Q. From the information which you have seen and from your review of Mr. Haughey's file within the bank, would you agree with me that there were no circumstances where those provisions came into play in his case?

A. Not during my time.

Q. Yes. And I think that secondly, the bank would from time to time in relation to interest charged and paid, provide to the customer a certificate setting out the amount of interest charged or paid in relation to that customer; is that correct?

A. That would be the general requirement, yes.

Q. Yes. And I think finally, I think that although it had no statutory basis, that there was agreement between the bank's Standing Committee and the Revenue, that with the permission of the client a form known as a Form 62 BD form could be given by a client to an identified bank in relation to a particular branch so that the bank might return the accounts held by that particular individual at that branch. I am not sure if you are familiar with that form?

A. I am not specifically familiar with that, but I wouldn't necessarily disagree with what you are saying.

Q. And I think it is fair to say that it wasn't until 1983 and Section 18 of the Finance Act in 1983 that the Revenue had any powers to inspect bank accounts.

MR. SHERIDAN: Mr. Healy (SIC), with respect, is again in fairness to Mr. O'Donnell

CHAIRMAN: I understand as being so brief, Mr. Sheridan, it is one of those limited situations, it is almost quicker to allow one short question to be asked than to have a five

minute discussion with that. I take it you are confining yourself?

Q. MR. QUINN: That's all, Mr. Chairman.

Now, in relation to Mr. Haughey, just, and again it may be something that you are not aware of. As I understand it that prior to 1974 farming activity was an exempt activity for the purposes of taxation. I don't know whether or not you are familiar, aware of that?

A. Just as a citizen I think I would be aware of that.

Q. I think since the late 60's and to date bloodstock is an exempt activity; is that right? Again you may or may not

A. If you say so.

Q. In relation to Mr. Haughey, I think that by 1976, December 1976 he made application for additional funding from the bank; isn't that right?

A. Just to repeat your question.

Q. I think it was December 1976 Mr. Haughey made application to Allied Irish Banks for additional funding, I think at that stage he was seeking €350,000?

A. Yes, I recall that from yesterday.

Q. And throughout the 70's isn't it the case that as a result of property acquired by Mr. Haughey in the 60's which had appreciated in value, the bank had made advances to him in the 70's; isn't that correct?

A. The bank made advances on the basis of having his debt

secured, yeah.

Q. It wasn't on the basis of Mr. Haughey's income that the advances were made; isn't that right?

A. I would not like to offer an opinion on that.

Q. It is unlikely that the bank would offer

CHAIRMAN: I think you can safely leave that much to me, Mr. Quinn.

Q. MR. QUINN: Yes, the just to deal with one or two other matters, if I may. There is reference in the correspondence and in the file to the taxation related to the tax implications of €200,000 which Mr. Haughey had told Mr. Phelan in February of 1979 were likely to come from a development in Baldoyle, do you know anything about that?

A. No.

Q. Mr. Haughey is not registered as the owner of any property in Baldoyle; is that correct?

A. I cannot state categorically.

Q. Just in relation to the suggestion that Mr. Haughey might enter into some sort of, enter into a deal with the Gallagher family is noted in the document earlier referred to as having noted a meeting of the 23rd of February, of 1979, I am not sure. Are you familiar with that document or that meeting?

A. No.

Q. What the document records; "Agree the account should be left with the Bank Manager who would propose to CJH. He

would consider a land deal under some guise with a member of the Gallagher Group". I have two questions. First of all, do you understand or know what a "land deal under some guise" means in that document?

A. Not in any detail.

Q. It does appear though from that contents of that document that the suggestion was coming from the bank and not from Mr. Haughey in relation to that land deal; isn't that right?

A. That might appear to be the case, but again I cannot state whether in the course of any meetings that might have taken place between the bank and Mr. Haughey, that it didn't come up.

Q. Do you have any information on the land deal under some guise as it is referred to in that?

A. Not specifically.

MR. HEALY: In fairness to the witness, My Lord, the Tribunal may be leading evidence in relation to matters related to this at a later point. I quite frankly don't see how this in anyway assists the Tribunal in getting at payments at this point, or how it is relevant even to the Revenue's role in the later parts of the Tribunal.

MR. QUINN: I am happy to leave it, My Lord.

CHAIRMAN: Mr. McGonigal?

THE WITNESS WAS THEN EXAMINED BY MR. O'DONNELL AS FOLLOWS:

Q. MR. MCGONIGAL: Just one or two matters, Mr. O'Donnell.

I know you spent a long time here dealing with matters of which you know nothing about.

MR. COUGHLAN: Sorry, sir, that's comment by counsel, it is most inappropriate.

MR. MCGONIGAL: I am glad

CHAIRMAN: I have noted that gentlemen, let's please get on with the evidence.

Q. MR. MCGONIGAL: Mr. O'Donnell, could you help with me €500 in 1956, as to what it represented at that time, was that a large sum in relative terms?

A. I am sorry, could I ask you to repeat the question.

Q. €500 in 1956 when the first letter of guarantee was given on this account, would that have been a large sum in relative terms, looking back on it?

A. It would have been a reasonable sum of money 43 years ago.

Q. In 1971 would €250,000 have been a substantial sum of money?

A. Yes.

Q. As I understand it, you had no dealings whatsoever with Mr. Haughey?

A. Correct.

Q. Did you have any dealings with Mr. Traynor?

A. None.

MR. MCGONIGAL: Thank you Mr. O'Donnell.

CHAIRMAN: Mr. Sheridan?

THE WITNESS WAS EXAMINED BY MR. SHERIDAN AS FOLLOWS:

Q. MR. SHERIDAN: Just Mr. O'Donnell, Mr. Healy put it to you that the, in relation to the files of the bank that they were, I wasn't quite clear why he, how he deduced this, that they were put together some years later. I am sure it wasn't intended, pejorative connotations, but so far as you are concerned, would it be the case that you were shown the files and asked could you identify, or what assistance you could give in identifying what part of the bank they might have come from?

A. Correct.

Q. I think Mr. Healy referred to these accounts as being non-trading, the accounts for counsel for the Revenue pointing out that Abbeville was a trading account, wasn't it one of the accounts relating to the stud?

A. The stud, correct, yes.

Q. And when you you said the files were taken out of your control, would it be correct to say that you had the physical custody of the files but that the control of those accounts was always, you would have answered to Mr. Denvir and Mr. Barrow in respect of them?

A. Most certainly, at all times.

MR. SHERIDAN: That's all.

MR. MCGONIGAL: Just one matter. I would like to put this

question through you, Mr. Chairman, as to whether Mr.

O'Donnell and/or Allied Irish Banks had any other
politicians on their books?

CHAIRMAN: Well, Mr. McGonigal, at this particular vantage
point I think that's something I have to reflect on as to
see whether both in the context of the Terms of Reference
and otherwise. If it transpires at a later stage that it
seems relevant and prudent to inquire into that, I will
certainly give an opportunity for this witness or some
competent

MR. MCGONIGAL: Perhaps I could just signal at this stage
because it may have relevance.

CHAIRMAN: I note your position.

MR. HEALY: Just one matter sir

MR. MCGONIGAL: Mr. Coughlan is saying something that I
didn't catch, I don't know if he wants to repeat it.

CHAIRMAN: Mr. Healy.

THE WITNESS WAS REEXAMINED BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Something arising out of a question put to you
by Mr. Sheridan, Mr. O'Donnell, as to whether these were
trading or non-trading accounts, just to clarify one matter
in relation to the way the accounts were operated, whether
the activities involved some trading or not. There was no

income arising from the activity giving rise to these accounts, isn't that right, as reflected in the accounts?

A. That would appear to be the case, but I would again have to state that 20 years down the road I would have to examine accounts to be very definitive in any answer.

Q. If you look at the files, wouldn't I be right in saying an examination of the file would show there was no income coming into these accounts at any time on any sort of regular basis or even on an irregular basis other than from the sale of property?

A. Yes, I think from papers displayed and exhibited yesterday that would be correct.

Q. And the indebtedness in question in this case could not have been justified by any banking criteria on the basis of ability to repay; wouldn't that be a reasonable assumption?

A. A reasonable assumption, but I would not like to personally make a definitive statement about what was or wasn't justified.

Q. Are you suggesting with somebody of an income of $\text{€}7,000$ and an even larger income at another point in the evidence put up yesterday, perhaps double or three times that, would have had the capacity to repay the sums that were mentioned in the evidence yesterday or in the documents put up yesterday?

A. On the clinical basis on which you pose the question, I would have to agree.

MR. HEALY: Thank you.

CHAIRMAN: Thank you for your attendance, Mr. O'Donnell.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Mr. Michael Kennedy please.

HAVING BEEN SWORN MICHAEL KENNEDY WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

A. Michael Kennedy.

CHAIRMAN: Thank you, Mr. Kennedy. Please sit down.

Q. MR. COUGHLAN: Mr. Kennedy, I think you furnished a statement to the Tribunal and also a supplemental statement; isn't that so?

A. That's correct, yes.

Q. You have those with you?

A. I have, yes.

Q. I think in your statement, Mr. Kennedy, you informed the Tribunal that you retired from the bank in March of 1990, having spent your career in Allied Irish Banks; is that so?

A. That's correct.

Q. And that when you retired you were Central Service Executive, being the executive in charge of a number of head office departments; is that correct?

A. That's correct.

Q. I think you have informed the Tribunal that in 1975 you were appointed a Regional Manager for the Dublin West

Region, which would have included Dame Street branch?

A. That's correct.

Q. And I think you have informed the Tribunal that in the bank's structure at that time Regional Managers had no involvement with the day-to-day management of advances, and indeed they were specifically excluded from the ambit of your responsibilities; is that correct?

A. Yes.

Q. And that the rationale for this is that you were to have the responsibility that were you to have the responsibility it would take up most of your time?

A. Yes.

Q. Your responsibilities were to look after all other areas of management in respect of branches; is that correct?

A. That's correct.

Q. And it was the area office which dealt with the advances?

A. Yes.

Q. I think you have informed the Tribunal that you were aware that Mr. Haughey had a significant indebtedness to the bank for many years which was going nowhere and was of concern to the bank which was anxious to help Mr. Haughey deal with the matter; is that correct?

A. Yes.

Q. The Branch Manager, Mr. Phelan, would have mentioned it to you at discussion?

A. He would.

Q. And you would have been aware that it was a difficult

account to manage, and although persistent attempts were made by the bank to have the indebtedness dealt with these all appeared to have failed?

A. That's correct.

Q. I think you have informed the Tribunal as follows; "My first involvement with the account at issue was in September of 1976 when I attended a lunch with the then Chairman the bank, the late Mr. EMR O'Driscoll and Mr. Haughey, which took place on the 14th of September"; is that correct?

A. That right, yes.

Q. I think you have also informed the Tribunal it would appear that Mr. Derek Moyter, Secretary of the bank was also present?

A. Yes.

Q. I think you have informed the Tribunal that the lunch proceeded as is customary on such occasions, with a general conversation before Mr. Haughey raised the issue of his accounts?

A. Yes.

Q. Mr. Haughey came up with the proposal which included a suggestion that his indebtedness would be allowed out stand indefinitely without any specific arrangement in respect of repayment; is that correct?

A. Yes.

Q. And that Mr. O Driscoll in reply left Mr. Haughey in no doubt whatsoever that such a proposal would hold absolutely

no appeal to the bank?

A. I recollect that quite clearly, yes.

Q. You have informed the Tribunal that from your recollection Mr. Haughey was very disappointed but this was how the meeting concluded, and that this ended your involvement with these accounts at that stage?

A. That is right, yes.

Q. Now, I think you have informed the Tribunal that on the 17th of December, of 1979; "I met with Mr. Traynor in Dame Street branch with Mr. Phelan"; is that correct?

A. I did.

Q. "The purpose of this meeting was to endeavour to make some progress to obtaining realistic proposals for clearance of Mr. Haughey's indebtedness"?

A. Yes.

Q. "Mr. Traynor indicated that Guinness Mahon were prepared to advance a maximum of €600,000 against a first charge on the principle private dwelling house, but only on the basis that it would be accepted in full and final settlement of the entire debt"?

A. Yes.

Q. I think you informed the Tribunal that; "I told Mr. Traynor that such a proposal was entirely out of the question, that the bank had reached the end of its patience and that on the grounds of potential embarrassment alone it was essential that realistic proposals for dealing with the debt be submitted for a meeting of the Board of the bank in

February"?

A. Yes.

Q. You have informed the Tribunal that Mr. Traynor's response was that "Our options were either to take the offer or leave the debt outstanding indefinitely"?

A. That's correct.

Q. "At this stage I intimated that if the debt were reduced to €200,000 the bank would be prepared to write off the balance and this was as far as the bank would go"?

A. Yes.

Q. I think you informed the Tribunal that the meeting concluded; "On the basis that Mr. Traynor would convey the bank's view to Mr. Haughey later that week and report back to Mr. Phelan"?

A. Yes.

Q. You have informed the Tribunal that Mr. Traynor was far from optimistic about Mr. Haughey's reaction?

A. Yes.

Q. You have informed the Tribunal that on the 28th of December Mr. Phelan rang you to say that Mr. Traynor had contacted him and arranged to have a further conversation on the 2nd of January?

A. Yes.

Q. That would be of 1980 I take it?

A. That would be 2nd of January, of 1980, that's correct.

Q. Now, I think you have informed the Tribunal as follows; "As far as I can recollect the next involvement I had with

the matter would have been in or around the 17th of January, when I was contacted by Mr. Paddy O'Keefe, Deputy Chief Executive, to convey to me the terms of the agreement which had been arrived at, and requested me to prepare a letter recording these terms"?

A. Yes.

Q. "The letter was to be prepared with blanks left in the text which Mr. O'Keefe would complete prior to signing the letter"?

A. Yes.

Q. And I think you have informed the Tribunal; "It would appear from notes which I made at the time and from a draft on the file that Mr. E Rory O'Connor, then Group Law Agent was involved with me in preparation of these drafts". Is that correct?

A. I cannot specifically recall being involved with Mr. Rory O'Connor, but I take it if its on the file it is correct.

Q. I think you informed the Tribunal; "I was also involved in some of the internal transactions in connection with the settlement"?

A. Yes.

Q. I think you have informed the Tribunal from your perusal of, and this is an Allied Irish Banks' designation, Tribunal file No. 8, which appears to be a file of yours, you can say that "The debt balance was agreed at œ860,001.17". Is that correct?

A. Yes.

Q. "€750,000 of this was repaid by Guinness Mahon in three payments of €600,000, €100,000 and €50,000 respectively in return for an agreement to release the main item of our security, and the balance of €110,000 was allowed out stand against the remaining item of security on the understanding it would be dealt with by Mr. Haughey in due course". Is that correct?

A. Yes.

Q. "When all transactions had been completed a sum of €55,000,579.36 was transferred back to Dame Street branch to be taken into the branch profits". You have informed the Tribunal from this it is clear only accrued interest which - suspended and not taken into profit was written off and not the principle?

A. That's correct.

Q. I think you have informed the Tribunal that you have been shown a handwritten note from Tribunal File No. 4 which includes the words "Get Gerry Scanlon to discuss details of operation". I think you saw that up on the screen this morning?

A. I did indeed, yes.

Q. You say this is your handwriting, though you cannot recall the context in which it was written?

A. That is correct, it was my handwriting, certainly.

Q. Now, I think in your supplemental statement you have informed the Tribunal that from review of the files it would appear that the indebtedness of Mr. Haughey on 31st

of December, of 1979, stood at some €1,079,111.17; is that correct?

A. That's correct.

Q. Of this €391,146.63 represented suspense interest, which was covered by a credit to a suspense interest account of that amount?

A. That's right, yes.

Q. On the 17th of January, of 1980, these balances were transferred on your instructions from the branch to Head Office?

A. Yes.

Q. To the debt balance of control account. They were applied, three payments received from Guinness Mahon, one of €600,000 on the 21st of January, 1980; one of €100,000 on the 1st of February; and a final payment of €50,000 on the 14th of February, of 1980; is that correct?

A. That's correct.

Q. €219,111.17 was transferred from the suspense interest account to the credit of the remaining indebtedness on the 20th of February, of 1980; is that correct?

A. Yes.

Q. The indebtedness then remaining was €110,000?

A. Correct.

Q. "On the 22nd of February, of 1980, there was paid to Dame Street branch from the suspense interest account, again on my instructions a sum of €6,456.10 which appears to have been in respect of farm wages"?

A. Yes.

Q. Finally, "there was transferred at debit of the suspense interest account to the credit of Dame Street branch on the 13th of March, 1980, the sum of €55,579.36 to be taken into profit by the branch". Is that correct?

A. That's right.

Q. "This left standing to the credit of the suspense interest account the sum of €110,000"?

A. Correct.

Q. In other words, in the accounts of the bank itself as distinct from the account of the bank with the customer, the customer's remaining indebtedness of €110,000 was covered by the credit in the suspense interest account?

A. Yes.

Q. Mr. Kennedy, when you were appointed Regional Manager in 1975 were you informed at that stage of the level of Mr. Haughey's indebtedness at the Dame Street branch?

A. I have no specific recollection of being so informed, but I may well have been, because perhaps in discussion, general discussion with the Manager, he may well have mentioned to me that there was this difficult debt in his branch. I have no specific recollection, but I think, I think I would have been conscious of it or aware of it.

Q. Well, if you have no specific recollection but were conscious or aware of it, where would that consciousness or awareness come from?

A. From my interaction presumably with the Manager, Mr.

Phelan.

Q. Yes. Had you had any contact with anybody else, or did you derive awareness from anybody else that there was an account in the Dame Street branch which Mr. Phelan was having difficulty with?

A. I cannot recall any such contact.

Q. When you took over as Regional Manager in Dublin West in 1975, did you get a general briefing of the situation in relation to the banks which would be under your supervision?

A. I don't know what you mean by "a general briefing"?

Q. I mean a general briefing, Mr. Kennedy? Did you get a brief resume of the state of each bank branch, in general terms?

A. I would say yes, I probably, I assume I did, but I think I have to preface my answer by saying in the context of advances we were not involved in advances, so therefore any briefings which I got or any information which I got about the branches would not necessarily include anything in relation to advances.

Q. I see. So what were your responsibilities so as Regional Manager?

A. My responsibilities as Regional Manager were to look or to be concerned about the development of each branch in all aspects of its business; to ensure that the appropriate staffing levels were maintained in the branch; to ensure that appropriate appointments were made to managerial and

other staff when required; to ensure that staff was appropriately trained; to do everything possible to help the Manager to increase the resources of his branch; and generally to be concerned about the general development and profitability of the branch.

Q. Yes. Whilst you wouldn't have responsibility for advances which were dealt with by somebody else, it would be necessary for you to have an understanding of the debit and credit levels of each branch; isn't that correct?

A. I would be aware of what the extent of the advances were in each branch, yes.

Q. So you would have been aware of can we take it then of Mr. Haughey's level of indebtedness in the Dame Street branch so from the time of your appointment or soon thereafter?

A. I would think I probably was, but you are talking about many, many years ago. It is extremely difficult to remember precisely what I was aware of, whether I was aware of the extent of his indebtedness, but I would have been generally aware that there was an indebtedness there.

Q. It is perfectly understandable that one over a period of time couldn't remember all the detail, but could we take it that at the time of your appointment or soon thereafter, you would have had a general knowledge at least that this was an account over which the Bank Manager was experiencing difficulty?

A. Yes, I have stated that in my statement.

Q. And you knew whose account it was?

A. Yes.

Q. And apart from deriving that knowledge from Mr. Phelan, would you have derived that knowledge from anybody else before you took up your appointment?

A. I have no recollection of deriving it from anybody else.

Q. Who did you take over from?

A. I took over from nobody because there had been no previous, it was a new structure within the bank, there was no

Q. So you weren't in a position to receive a briefing from the person whom you were taking over as one might in normal circumstances we'll say?

A. No, because it was a new appointment, it was the first time a Regional Manager structure had come about in AIB.

Q. Who appointed you to the position?

A. I don't know what you mean by who appointed me to the position, the bank decided that

Q. Was it a Board appointment or was it an appointment made at a managerial level, do you understand the distinction?

A. No, it was an appointment made at executive level.

Q. Executive level?

A. Yes.

Q. So the appointment was made by, we presume, a Deputy Chief Executive or Chief Executive or somebody at executive level; would that be fair to say?

A. Yes, by a panel of people.

Q. Or by a panel of people?

A. Yes, I was interviewed by a number of people, as far as I can recall at this stage.

Q. And the day you took up your position were you just told to go off now and find out what's going on in the branches over which you have a supervisory role?

A. No, I was not told to just go off and find out what was going on.

Q. So did you receive a briefing?

A. Yes, we did receive information about the branches, of course.

Q. Well, we call it information. Who did you receive that information from?

A. Possibly from different parts of the bank, I cannot recall specifically where it came from, I cannot.

Q. Would you have received information from Advances?

A. I don't think so, to the best of my recollection I do not think so, because we were specifically excluded from being involved in advances, as I have already said.

Q. Would you have been informed by anyone in a more senior position than you, that there is an account in Dame Street branch and the Manager is experiencing some difficulty in respect of it?

A. I may well have been, I have no recollection whatsoever of it.

Q. Did you take any notes at the time that you were receiving this information?

A. I don't know, if I did I haven't them now.

Q. Yes, but in any event, no matter which way you came to have an awareness, you were certainly aware after your appointment, that this was an account which was a difficult account to manage, and persistent attempts had been made by the bank to have the indebtedness dealt with and these all seemed to have failed?

A. I was aware of that, yes.

Q. At what stage did Regional Managers become involved with advances or did they ever?

A. Not while I was a Regional Manager.

Q. Not while you were a Regional Manager. So your first involvement with the account at issue was in September of 1976?

A. That is correct.

Q. You attended a lunch with the Chairman of the bank, the late Mr. EMR O'Driscoll, Mr. Haughey and Mr. Derek Moyter, the Secretary of the bank at the time?

A. Yes.

Q. How was that lunch arranged?

A. I do not know, I was merely asked to attend it.

Q. By whom?

A. I am unable to recollect by whom.

Q. Well, we know that two of the most senior people in Allied Irish Banks, the Chairman and the Secretary are having lunch with Mr. Haughey, was it the bank who were hosts at the lunch do you recollect?

A. Yes, the lunch took place in the bank, yes.

Q. So were you invited to the lunch by the Chairman or the Secretary?

A. I cannot recall who invited me to the lunch.

Q. Can we take it that it must have been one or other of them?

A. It possibly was yes, possibly. At this remove I cannot remember, I was

MR. SHERIDAN: This relates, sir, to a lunch 20 years ago and the question of

CHAIRMAN: Yes.

Q. MR. COUGHLAN: What was the purpose of you being present at this lunch?

A. I would assume it was because I was Regional Manager for Dame Street branch where Mr. Haughey's account was.

Q. Yes, but you had no involvement in relation to the advances; isn't that correct?

A. I had, no, in relation to the day-to-day management of advances.

Q. And you had no involvement in the day-to-day management of the branch; isn't that right?

A. In the day-to-day management of the branch no, Mr. Phelan was Manager of the branch.

Q. So what was the purpose of you being present at this lunch do you recollect?

A. I have no recollection of why I was there, no recollection of why I was there other than to be a witness of what happened.

Q. Over than to be a witness of what happened. What do you mean by that?

A. Presumably I may have been required to make a note of the event later, I don't know, but I have no recollection, nor have I any note of such, there may well be a note somewhere in my writing, I don't know, I cannot recall whether I made a note of it or not.

Q. No. You can recollect that the lunch proceeded as is customary on such occasions with general conversation; isn't that correct?

A. Yes, that's my recollection, yes.

Q. And it is your recollection that it was Mr. Haughey who then raised the question of his accounts; is that correct?

A. At this remove I cannot say honestly who raised what first, but I would assume it was Mr. Haughey who raised the question, I genuinely cannot recall whether it was Mr. Haughey or the Chairman.

Q. Mr. Kennedy, what was the purpose of this lunch, as you understand it?

A. As I understand it, it looked as if Mr. Haughey wanted to make representations about his account, because it has, it emerges that he made a proposition, that his account would be allowed out stand indefinitely.

Q. So it is your understanding that this was a lunch which would appear to have been instigated so by Mr. Haughey who wanted to make proposals or propositions about his account, and wasn't a lunch on the part of the bank to attempt to

deal with the indebtedness; is that your understanding of the lunch?

A. That is I am not in a position to say what the arrangements were prior to the lunch, I have no idea because I was merely invited to attend, so I don't know what the background was to the arrangements for the lunch.

Q. Had you ever attended a lunch, at that time, as a Regional Manager, with a customer of the bank, the Chairman of the bank and the Secretary of the bank; had you?

A. I cannot recall any similar lunch, no.

Q. Can we take it that you didn't?

A. Would you mind repeating your question?

Q. Mr. Kennedy, at this time in September of 1976, you had been a Regional Manager for a year and a bit?

A. Yes.

Q. Isn't that correct?

A. Yes, yes.

Q. You had responsibility for a number of branches; isn't that correct?

A. That is correct.

Q. Up to that time had you ever attended a lunch with a customer of the bank, the Chairman of the bank and the Secretary of the bank?

A. I cannot recall having attended any such lunch. I would think I did not, I think it would be fair to say I did not attend any such lunch.

Q. Would it, in subsequent years, in your time as Regional

Manager, have been usual for you to attend a lunch with a customer of the bank, the Chairman and the Secretary?

A. I just cannot recall whether I would think I did not attend a lunch, any such lunch with those particular people present. I had plenty of lunches with customers, but not with, but not with those specific people present, I cannot recall any such lunch.

Q. Not with

A. With the Chairman, the Secretary and a customer, I cannot recall any such lunch.

Q. In any event, you do recollect that Mr. Haughey came up with a proposal which included a suggestion that his indebtedness be allowed out stand indefinitely without any specific arrangement in respect of repayment?

A. I do recall that, yes.

Q. Can you remember the words that were used or

A. No, I cannot remember the words that were used.

Q. And you can remember the Chairman, Mr. O Driscoll, leaving Mr. Haughey in no doubt whatsoever, that such a proposal would hold absolutely no appeal to the bank; is that correct?

A. That's correct, yes.

Q. And that was the way it was left, so that just wouldn't hold appeal for the bank; is that correct?

A. That's my recollection, yes.

Q. There wasn't any suggestion to your recollection made by the Chairman or the Secretary of the bank at that stage,

even politely, "wouldn't you think about getting your account into order", to your recollection?

A. There may well have been.

Q. I see.

A. There may well have been such exhortation to Mr. Haughey, there may well have been.

Q. I see. But you don't recollect it?

A. I don't recollect it, no.

Q. You believe you were asked to this lunch to attend as a witness; is that correct?

A. Well, you have questioned me as to why I was at the lunch, I am trying to think why I was there, and presumably it was for that purpose to be there, bearing in mind that I was Regional Manager for Dame Street, with responsibility for Dame Street, that's the only answer I can give you about it.

Q. But you do have a recollection that Mr. Haughey was very disappointed?

A. Yes.

Q. What's your recollection of how this was manifested?

A. Presumably his demeanor. I just, I can't remember him uttering any form of words, but I formed the opinion that he was disappointed.

Q. And that's your recollection, and you do recollect that that's how the meeting concluded; is that correct?

A. Yes.

Q. And it is your recollection that this ended your

involvement with these accounts at that stage, that's in

1976; is that correct?

A. Yes.

Q. Did you continue to be Regional Manager for the Dame Street branch after 1976?

A. I did, yes.

Q. Until when?

A. I think is it, whenever I ceased to be a Regional Manager, because I had Dame Street for my entire period as Regional Manager, so whenever I ceased to be a Regional Manager, which I think is in my statement, is it?

CHAIRMAN: I suppose, Mr. Coughlan, since we finished the 1976 lunch we might as well go to our own. Until a quarter to two. Thank you.

THE HEARING THEN ADJOURNED FOR LUNCH.

THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

CHAIRMAN: Mr. Kennedy if you would be kind enough to come back to resume your testimony?

MR. HEALY: Mr. Chairman, before Mr. Kennedy comes into the witness-box might I just deal with something that arose this morning out of an interjection that Mr. Sheridan made, and when at your suggestion I moved off the accounts to indicate that somebody else would possibly deal with them at a later point. That may not be necessary, but in any

event just to correct something that I said this morning.

I may have indicated that the bank's operating profit was eight million pounds at the time when I was asking Mr. O'Donnell to assist me with the accounts. The bank's, the Allied Irish Bank less it's subsidiaries operating profit was in fact 26 million pounds in 79; 24 million in 78. And I simply want to correct that impression, in case a false impression was given this morning.

If necessary Mr. Sheridan can deal with the matter later should it become more controversial.

CHAIRMAN: Thank you.

THE WITNESS RETURNED TO THE WITNESS-BOX AND CONTINUED TO BE EXAMINED BY MR. COUGHLAN AS FOLLOWS:

Q. MR. COUGHLAN: Now, Mr. Kennedy, I think we had, before lunch, been dealing with the question of a lunch you attended with Mr. Haughey, the then Chairman and the then Secretary. And it had been indicated to Mr. Haughey that the bank would not find it appealing to allow his indebtedness to remain outstanding indefinitely. That was conveyed to him; isn't that correct, that is your understanding?

A. That is my recollection, yes.

Q. Now, and again I am not sure when you ceased to be Regional Manager, but were you Regional Manager up to say 1980, up to the settlement of the indebtedness?

A. I was the Regional Manager up to 1980 and beyond.

Q. And I appreciate, Mr. Kennedy, that you were not involved

in advances, but can I take it that you would have a

knowledge of what was going on in the branches?

Nonetheless, you weren't involved in either the sanctioning

of advances or in the reduction much indebtedness in that

regard, but as Regional Manager you would have an idea of

what was going on say in the Dame Street branch in the

years say 1976 to 1980?

A. That depends on what you mean by a knowledge of what was

going on.

Q. All right. Well, perhaps we would take it step-by-step

so. We know from the documentation that by letter dated

the 20th of December of 1976, Mr. Haughey sought sanction

and that by letter dated the 12th of January of 1977 the

bank sanctioned an accommodation up to €350,000?

A. That is apparent from the documentation, yes.

Q. And we know from the documentation that there was a lot of

toing and froing about the question of whether his cheque

books would be withdrawn and dispute about the cheque book

and matters of that nature; isn't that correct?

A. That is true from the documentation, yes.

Q. And it seems also to be the situation from the

documentation; and can you say whether you do or do not

know about this, that no further sanction for an

accommodation was made after January of 1977?

A. So it would appear, yes.

Q. Yes. Yes, and from the documentation it would appear that the sanction was breached, the accommodation and the sanction was breached?

A. Yes that is true, yes.

Q. And continued to be breached right up to the period of the final settlement of the account more or less?

A. More or less, yes.

Q. Now, can we take it that or did you know that this was happening in general terms, between 1976 and 1980?

A. I have no recollection of whether I did or not.

Q. Well .

A. I just cannot recall and when I say I cannot recall I mean I cannot recall.

Q. Okay.

A. I am on oath here and I cannot recall; if I say I cannot recall that is true, that is a fact.

Q. Right. Well, I am not suggesting otherwise and what I am trying to do is help you with your recollection. Can we take it that from the documentation we can see that Mr. Phelan and his superiors on the advances side at least, seemed to have been in fairly regular communication, they were reporting to each other; isn't that correct?

A. That's correct, yes.

Q. And on the advances side he was being urged to try and get the customer, or the client, under control; isn't that correct?

A. That is true, yes.

Q. And would it be a fair reading of the documentation as well that Mr. Phelan was also saying, if I am to dishonour cheques I need somebody to tell me to do that; isn't that correct?

A. That is apparent from the documentation.

Q. That is apparent from the documentation?

A. Yes, yes.

Q. That he wasn't going to take on this responsibility himself as a Branch Manager, it would appear from the documentation?

A. That is quite apparent from the documentation, yes.

Q. That he wanted somebody more senior to effectively, I suppose, instruct him, perhaps not unreasonably for a bank, a Branch Manager, where he would be asked to dishonour cheques in a significant circumstance?

A. Yes, yes.

Q. Now, in general terms can we take it that you knew there was, or that you may have had some knowledge of what was going on in general terms; that there was still difficulty with an account in Dame Street?

A. My knowledge would be confined to whatever Mr. Phelan may have mentioned during our normal meetings at the branch.

Q. Yes. Can we take it that he would have been telling you that he still couldn't get this account under control?

A. Very probably he was yes, very probably.

Q. And I suppose he would also be telling you as the documentation seems to indicate was his position, that if

he was expected to dishonour cheques he wanted somebody else to make that decision to him, higher up the line?

A. Yes, yes.

Q. Now, would he have, again in general terms, have informed you that the drawings on this account were substantial drawings in each year?

A. I am sure he would, yes.

Q. Yes?

A. I am sure he would.

Q. Now, I think you have informed the Tribunal that you again became involved in these accounts, that's Mr. Haughey's accounts, in December 79 or thereabouts; is that correct?

A. That is true, yes.

Q. And we have the handwritten memorandum, which I take it is your note?

A. I confirm that it is in if you are gone referring to the memorandum of the interview with Mr. Traynor, that is in my handwriting.

Q. Yes. Yes, now, before you had that interview with Mr. Traynor, did you obtain the file from Mr. O'Donnell?

A. I cannot recall, but I would assume that I hardly went into the meeting without some knowledge of the background to the case, but I have no recollection of asking Mr. O'Donnell for the file.

Q. Well, Mr. O'Donnell has given evidence, and a clear recollection, of you asking him for the file relating to Mr. Haughey, does it seem likely that you did?

A. I feel that Mr. O'Donnell's reference to my asking for the file was later than the period to which, the matter to which you are referring to now.

Q. I see.

A. I feel it was at the time when the settlement with Mr. Haughey had been arranged.

Q. Okay?

A. Now that is my best effort at recalling.

Q. That is fair enough.

A. Yes.

Q. So if it wasn't before the meeting with Mr. Traynor, we know you were in, you had an involvement on instruction in the preparation of the settlement letter; is that right?

A. That is true, yes.

Q. Isn't that correct?

A. That is true, yes.

Q. So it was sometime, say between the 17th of December of 1979, and the early part of January of 1980 that you would have asked Mr. O'Donnell for the file?

A. My best recollection is that it was around the 17th of January at the time that the arrangement had been come to with Mr. Haughey; with Mr. Traynor on behalf of Mr. Haughey.

Q. Right. And do you remember saying anything to Mr. O'Donnell or remarking to him that you were not telling him why you were requisitioning the file and he was not to ask?

A. I do yes, I do recollect that, yes. Yes.

Q. In this regard can I ask you who asked you to requisition the file?

A. I would think it was Mr. O'Keefe. I think it was Mr. O'Keefe.

Q. He was then the Deputy Chief Executive?

A. Yes. The Deputy Chief Executive, yes. Yes, I think I have stated that in my statement that it was Mr. O'Keefe who asked me to prepare a letter.

Q. I know and you also think it was Mr. O'Keefe, by logical extension who asked you to get the file?

A. I don't know whether it would have been necessary for him to ask me to get the file or not. I would not have prepared a letter without reference to the file.

Q. And what was the purpose of the remark to Mr. O'Donnell, if there was a purpose, that he wasn't to ask you about it?

A. Because the matter was very confidential.

Q. I see. Was that conveyed to you by Mr. O'Keefe or I presume it must have been?

A. I would have assumed the matter was confidential myself, anyhow, but perhaps it was also conveyed by Mr. O'Keefe, I cannot recall.

Q. Yes. Now, Mr. O'Donnell has given evidence and I think just to make sure that there is no suggestion that Mr. O'Donnell wasn't a proper official of the bank, and would breach confidentiality or anything of that nature; he was responsible .

A. Absolutely not.

Q. He was a responsible -.

A. A most responsible official.

Q. Absolutely?

A. Yes.

Q. And in fact we see in the documentation his involvement with the file, and adopting what might be described from the bank's point of view, as a very responsible position?

A. Of course.

Q. Why then would it be necessary to suggest to him that he shouldn't ask about it?

A. Because I felt he would be in a better position to answer questions that might subsequently be asked of him.

Q. By whom?

A. By anybody. That the less he knew about it the better.

Q. Well, you pardon me if I make the suggestion to you that that seems to convey the impression that this was to be very "hush hush" would you agree with that impression?

A. The matter was confidential.

Q. But all banking matters are confidential?

A. Yes.

Q. And this was extremely confidential?

A. Well, if you wish to use that word, yes.

Q. Well I am asking you?

A. No

Q. Now, Mr. Kennedy?

A. The matter was extremely confidential.

Q. Extremely confidential?

A. Yes.

Q. And for that reason could I say that it was extremely sensitive, even within the bank?

A. Yes.

Q. To such an extent that such a trusted and senior official as Mr. O'Donnell would be better off not knowing about it; is that correct?

A. Yes.

Q. In case he was asked questions about it?

A. Yes.

Q. By an official body of some sort?

A. Oh, I can't speculate on that.

Q. Or was it in case he was asked questions about it by somebody at a senior level in the bank?

A. I don't know.

Q. Well now Mr. Kennedy, could we just halt there for a moment. No, we know and every bank official, and certainly every senior bank official, understands their duty of confidentiality in respect of client's accounts and information; isn't that correct?

A. That's right, yes.

Q. And in the absence of being asked by a court or a Tribunal of Inquiry under the 1921 Act or some other lawfully designated offer, the only other people who could ask Mr. O'Donnell about matters would be somebody in a superior position to him in the bank, other than Mr. O'Keefe; isn't that right?

A. I am not quite sure what point you are making.

Q. The only people that Mr. O'Donnell would be obliged to lawfully answer a question about this, these accounts, would be to, as I have said; a Court, a Tribunal of Inquiry or some other properly lawfully designated official person; isn't that right?

A. Yes.

Q. That is outside the bank. Within the bank, he would obviously have to answer a question to Mr. O'Keefe, who was the Deputy Chief Executive of the bank; isn't that correct? He would be obliged to answer questions that the Board or other people who were in a superior position to him might ask; isn't that correct?

A. Well yes, it might be correct, I don't know whether they would ask him such questions or not.

Q. Well, what I want to ask you is, can you designate the context in which you suggested to him that he, the less he knew about it the better; so that he wouldn't have to, or wouldn't be in a position to answer questions about it? Was that in respect of some outside lawful authority or internal superior authority asking him a question about it?

A. It was in the general context of the fact that the client concerned was very high profile client and that therefore his affairs had to be handled extremely confidentially.

Q. This file was being kept, or I don't know whether it was one file or a number of files, it doesn't really matter, but these accounts were being kept by Mr. O'Donnell in his

own personal possession in his office in a filing cabinet.

They were being dealt with confidentially and discreetly in that context; isn't that correct?

A. Well, so Mr. O'Donnell has testified.

Q. You have said that the confidentiality which seemed to impinge on your mind when you made this request of him, was that confidentiality was necessary because of the high profile of this particular client; is that correct?

A. Yes.

Q. And what was that high profile you had in mind yourself, Mr. Kennedy?

A. The fact that the customer was a public figure.

Q. And you felt it appropriate that Mr. O'Donnell should not, in future, be in a position to answer a question about these particular accounts because this person was a public figure; is that right?

A. Yes.

Q. Were you aware, or are you aware now, by reason of seeing the documents which were put in evidence yesterday; that there is a memorandum dated the 23rd of August 1979, which deals with the level of indebtedness around then which shows that there is €281,000 odd in suspense and that the debit on the account is about, or the accounts, is around €913,000 or there or thereabouts?

A. I am sorry, what is your question?

Q. Sorry. Perhaps; yes, I will just hand you by reason of a document this is an internal bank memorandum I think;

isn't that correct?

A. Yes.

Q. You would recognise it as being that?

A. Yes.

Q. And that shows the level of indebtedness and the amount of interest in suspense; isn't that correct?

A. That's correct. That is true, yes.

Q. And can I take it that you would have had some awareness of this state of affairs before you went to a meeting with Mr.

Traynor on the 17th of December or 1979?

A. Oh, I would. I would take it that I had some awareness of the situation, yes.

Q. You would have to know the general level, you would have to know the general level of indebtedness when you were going to talk to Mr. Traynor on behalf of Mr. Haughey.

A. Yes, that is very reasonable to assume that, yes.

Q. And you would have to be in a position to deal, in someway, with questions of securities which the bank held, in general terms again?

A. How do you mean to deal with them, now?

Q. Well now, if Mr. Traynor were to make a suggestion; for example, were you aware of the fact that the bank held a charge, on say, the residence and the lands at Kinsealy?

A. Yes. I think it would be reasonable to assume that I was aware of that, yes.

Q. Were you aware when you went to that meeting, and was it your understanding when you went to that meeting, that the

bank was well secured in relation to this level of

indebtedness; was that your understanding?

A. It depends on what you mean by "well secured".

Q. Well, that there was sufficient assets to cover the debit which was reflected in the bank's books?

A. There would certainly appear to have been sufficient assets to cover the indebtedness, yes.

Q. That was your understanding?

A. But whether those assets could be realised at figures sufficient to cover the indebtedness or not is another matter, but on the face of it there appeared to be sufficient assets to cover the indebtedness.

Q. Had you ever been informed, or had you ever seen any evaluation that the bank had obtained in respect of these assets?

A. Well, I have seen it since, but I can't recall what I had seen at that stage, but I have seen since that there were certain valuations on particular items, yes.

Q. What I want to ask you is this; Mr. Sheridan has told us in evidence this morning about the charge on Kinsealy?

A. Yes.

Q. On the residence and lands at Abbeville?

A. Yes.

Q. And that these, we also know this from previous internal documents of the bank; that these were stamped up to secure advances up to and including €350,000, that would be in respect of the sanction granted in January of 1977?

A. That's right, yes.

Q. And here in this document, which is dated August 1979, under the heading "security", it indicates first charge over lands at Abbeville, County Dublin comprising the acerage vesting in Mr. and Mrs. Haughey, tenants in common, and then there is a valuation; 1.3 million pounds, that is per the manager. I presume that must be a valuation that Mr. Phelan must have?

A. Presumably, yes.

Q. Presumably yes. Indicating that this is without planning permission, that is what the note seems to indicate. Am I correct, I think, in that?

A. Yes. Yes.

Q. And it says: Stamped to œ350,000. And then it says to be increased to cover full amount of debt. Would it be your understanding of that that the deal was to be stamped to increase to cover the indebtedness which is showing on the stop of that memorandum?

A. Oh I would imagine so, yes. That that is what that meant, yes.

Q. Do you know if that was ever done?

A. I don't, no.

Q. Now, what was your understanding before you went to the meeting with Mr. Traynor. If you weren't to get satisfaction, I mean satisfaction in a proper proposal being put to you to take back to your superiors, what was your understanding as to what was to happen to this debt?

A. My understanding was, insofar as I can recall, that the bank would wish to have the debt cleared as quickly as possible.

Q. Yes?

A. That was my understanding.

Q. But if there was no - you were being sent off to a meeting with Mr. Traynor, and I presume you understood the purpose of the meeting was to discuss serious proposals in relation to the reduction of this debt. Can we take it that that was your understanding?

A. When you say I was being set off to a meeting, I don't know what you mean. Do you mean to say that somebody sent me to the meeting?

Q. Did you go to the meeting of your own volition?

A. I cannot recall the circumstances in which I went to the meeting, but I would imagine that I was probably asked by Mr. Phelan to be present. I have no recollection of the circumstances in which I went to the meeting, but I do not recall being sent to it by anyone.

Q. If you were going to a meeting with Mr. Traynor to discuss - and you were going to discuss?

A. Mr. Haughey's affairs.

Q. Mr. Haughey's affairs?

A. Yes. Yes.

Q. And you would have known the general nature of the indebtedness at that stage; isn't that correct?

A. I would, yes.

Q. Would you have gone to that without any of your superiors knowing about it?

A. Would I have gone to it without any of my superiors knowing about it? I might well have. But I just do not recall whether I discussed with anyone before I went, but it is likely that I probably did discuss it with someone before I went, but I have no evidence, I have no notes of that or anything.

Q. Yes, doesn't it seem likely?

A. Yeah.

Q. Mr. Kennedy, that you must have, because within a month, if you are correct, is when you asked Mr. O'Donnell for the file; within a month of this meeting you had a clear understanding of the need for extreme confidentiality, if that is not a contradiction in terms, in respect of this particular client's affairs because the client was a public official?

A. I don't see the connection between the two things you are, the two points you are making.

Q. This was something which within a month was exercising your mind to the extent this is so confidential, so confidential that you were instructing Mr. O'Donnell; sorry, may be "instructing" is an inappropriate word, but you were informing Mr. O'Donnell that he is not to ask you about it because you did not want Mr. O'Donnell to be in a position to have to answer questions about it subsequently.

You went to meeting a month previously with Mr. Traynor who was acting as financial advisor to this client. Can we take it that at that stage you were also aware of the extreme confidential nature of this matter?

A. I would say it is true to say I was aware of that at all times.

Q. And that you would hardly have attended a meeting to discuss proposals for the settlement of this substantial sum of money without your superiors being aware of it?

A. I cannot say one way or the other.

Q. Well, does the fact that some years previously you attended a lunch with the Chairman and the Secretary of the bank with this client render you any assistance as to whether your superiors would have known that you were going to this meeting on the 17th of December with Mr. Traynor?

A. I am doing my best to be as helpful to the Tribunal as possible.

Q. I appreciate that Mr. Kennedy.

A. But I am finding it very difficult to recall precise situations like what you are putting to me.

Q. Very good.

A. But it is likely that before I went to the meeting with Mr. Traynor I discussed the situation with someone. I cannot recall discussing it with anyone.

Q. Very good; and Mr. Kennedy it seems logical that you would have discussed it with somebody superior before you went to the meeting. Now, in relation to that isn't it likely that

you discussed it with somebody of, say Mr. O'Keefe's rank?

A. I think it would be more likely that I discussed it perhaps with Mr. Denvir.

Q. I see?

A. Perhaps now I don't know. I would be unlikely to go to Mr. O'Keefe at that stage.

Q. Okay. I think Mr. Haughey had just been made Taoiseach six days previously; is that correct, when you went to see Mr. Traynor?

A. I can't recall the exact date on which Mr. Haughey became Taoiseach, but I think that can be clarified from the documentation.

Q. Yes. Now, I think you prepared - it is page 299 and 300 in Tab 8. I think you prepared a handwritten memorandum, or note, arising out of that meeting; didn't you?

A. Yes, that is true.

Q. You generated a record?

A. That is true.

Q. And I think have you a copy of that there?

A. I have, yes.

Q. And I think I opened it yesterday, but I just want to refer you to some passages in it, if I may: The purpose of the meeting was to make some progress to obtaining realistic proposals for clearance of Mr. Haughey's large and unwieldy debt?

A. That is true.

Q. And I think there was then a discussion about a previous

proposal which had been made and you say in your report:

"At the outset Mr. Traynor made it clear that for political reasons the proposals that up to recently were being pursued were now completely out of the question, as the parties certain would have neither hand, act or part in them for fear of - and it is your quotation - "good names" being dragged through the Dail".

Did you understand that to just mean, to be in the context of getting involved in a political -?

A. Yes, that would be my understanding, yes.

Q. A political situation?

A. Yes, yes.

Q. And I think he informed you at that meeting that Guinness and Mahon were prepared to advance a maximum of €600,000 against the first charge on Abbeville, but this would be available only on the basis that the sum would be accepted in full and final settlement of the debt?

A. Yes.

Q. That is your recollection, is it?

A. Yes, that is what I have written down there, which is which I presume is true.

Q. Yes; and you seem to have been aware, or you may have gone to documents when you were preparing this particular memorandum, because your memorandum has an overall view of the level of indebtedness at 1.143 million

A. I think the branch might have calculated the interest from the previous September, and if that were added it would

come to the figure of 1.143 million.

Q. Yes; and is it your recollection that you told Mr. Traynor that such a proposal was entirely out of the question and that the bank had reached the end of its patience; is that correct?

A. Yes. Yes.

Q. I take it that you must have been informed by somebody in a superior position that the bank were annoyed or impatient about this?

A. I would think I was sufficiently senior myself to recognise that.

Q. Yes. Yes?

A. In looking at the file.

Q. And is it that you informed Mr. Traynor that on the grounds of potential embarrassment alone it was essential that realistic proposals for the dealing of the debt be in your hands for submission to the main Board?

A. Yes.

Q. At their February meeting?

A. Yes.

Q. Can we take it then that you must have been aware that this was going to the main Board, not just going to the Regional Board for resolution or consideration?

A. If I wrote that at the time that must have been my understanding.

Q. And can I take it that if that was your understanding that you had to be informed by somebody superior that this was

going to the main board?

A. Yes.

Q. And then there is the comments, are these a correct representation of Mr. Traynor's response at that meeting? "Mr. Traynor remained completely unmoved by the arguments and said there were no rabbits to be pulled out of the hat or blood to be got out of turnips. He made it quite clear that as far as he saw it, our options were either to take the œ600,000 on offer or leave the debt outstanding indefinitely"?

A. That is my clear recollection of the meeting, yes.

Q. Yes; and at that stage you intimated that if the debt were reduced to œ200,000 "he could take it that we would write off the balance and that that was as far as the bank would go, bearing in mind that questions would be asked by our auditors and would have to be answered". Did you say that to him, is that your recollection?

A. Well if I wrote it there that is what happened.

Q. Yes. That is more contemporaneous to the meeting, so you would have some, the note?

A. Pardon?

Q. The note you made, this written memorandum is that contemporaneous to the meeting of the 17th of December? In other words, was it made sometime around that?

A. Yes, I would imagine it was made that evening or the next day or something, yes.

Q. And then the meeting concluded that Mr. Traynor was to

discuss the matter with Mr. Haughey and get back to Mr.

Phelan, but he wasn't optimistic at that stage; Mr. Traynor wasn't optimistic?

A. Mr. Traynor was not optimistic, yes.

Q. Now, if you were in a position to intimate to him that if the debt were reduced to €200,000 that he could take it that the bank would write off the balance; can we take it that you must have been in a position to say that to him by reason of some information or instruction you had received from a superior?

A. I think that is a reasonable conclusion to come to, yes.

Q. And from your understanding of matters, because you did indicate to Mr. Traynor that that was as much as the bank could do, bearing in mind questions would be asked by the auditors.

What did you mean by that?

A. What I meant by that is it is not an area of the bank's business that I was terribly familiar with, dealing with the auditors; but I had an understanding that they examined the situation in regard to certain debts and writings off, or whatever that went on.

Q. Yes?

A. And that therefore I felt that if there was an arrangement made on the lines being put forward by Mr. Traynor, that the amount which would be written off would be excessive and would therefore perhaps be scrutinised by the auditors, that is what I meant by that.

Q. Yes. So can we take it that there was your understanding whether it be right or wrong, on the technical side of auditing, and how it would be taken into the accounts; it was your understanding that a write off in excess of €200 - or €200,000 - would be excessive in the context of the overall size of the debt?

A. I had that understanding.

Q. You had that understanding?

A. Be it right or wrong.

Q. Yes. Be it right or wrong. Now, I take it you filed your memorandum, or you sent it somewhere; did you.

There is another note on it dated the 28th of December. "Manager rang to say that Mr. Traynor had contacted him by phone and arranged to have a further chat with him on January the 2nd, 1980". I take it that was just the late Mr. Phelan ringing

A. Can you refer me to that particular

Q. It is on page, they may not be marked the same as ours, 300; it is the second page of your memorandum?

A. 300 is the second page in my memorandum; yes.

Q. Just at the very bottom of it, do you see it dated the 28th of December?

A. Yes. That Mr. Phelan rang me to say that Mr. Traynor had contacted him by phone and had arranged to have a further chat with him on January the 2nd, 1980. That is true, yes.

Q. Yes. What would have happened to your note or memorandum?

Would that have been, would a copy of that - I take it you would file your own document, would you, yourself, or in Mr. Phelan's

A. I may have retained it myself. Again you are asking me something that happened 23 years ago.

Q. I appreciate that.

A. I presume I possibly held it myself at that stage.

Q. Would you have sent a copy of it to somebody? Would you have sent a copy to somebody up the line?

A. I have no recollection of doing so.

Q. Well, would you have reported what happened at the meeting with Mr. Traynor up the line?

A. I might have informed Mr. Denvir perhaps, he was my immediate superior.

Q. Yes, because there wouldn't have been much point in having the meeting if you hadn't reported what happened?

A. That seems logical, yes. Yes.

Q. Yes. Now, is your next recollection of involvement was when you were asked by Mr. O'Keefe, the Deputy Chief Executive, to prepare a draft of the terms of an arrangement; is that correct?

A. That is true, yeah.

Q. How did he contact you; by phone?

A. I would imagine that he telephoned me internally and asked me to attend at his office, that would be a normal procedure.

Q. Yes; and what is your recollection of what he told you?

A. My recollection of what he told me is that Mr. O'Keefe said that an arrangement had been arrived at with regard to this indebtedness and that I was to prepare a letter on the lines of an outline which he gave me. That is my best recollection of it.

Q. He handed you an outline?

A. No, I don't think he did. I think it was verbal.

Q. I see?

A. I think it was verbal.

Q. I presume you just .

A. Did my best.

Q. You took some note of it?

A. Yes I presume I did. Yes, yes.

Q. And you then prepared?

A. A draft.

Q. A draft?

A. A draft letter.

Q. Leaving blank spaces on it?

A. Yes, as instructed. Yes, yes.

Q. And do you, is it your recollection that it was around this time that you would have been asked to obtain the file from Mr. O'Donnell; is that correct?

A. Yes. That is my best effort at remembering that. Yes. That I got the file from Mr. O'Donnell at that time.

Q. I think we

MR. COUGHLAN: I am sorry for a second sir. I just want to check something with Mr. Sheridan.

We have a few documents which come from a separate file and perhaps I will just hand you a copy and ask you if this, if these are your notes which you may have made of the meeting. And if they are not, I don't want to go into them.

(Documents handed to witness)?

A. That is not in my handwriting.

Q. Those are not?

A. Not in my handwriting.

Q. But you have seen the text of the document which was the letter of arrangement which went to Mr. Haughey?

A. Oh, yes. I have that amongst the papers here, yes.

Q. Which was put up yesterday and which was then accepted and signed by Mr. Haughey; you have seen that?

A. Yes I have seen that, yes. Yes.

Q. And is that the document you prepared in draft form?

A. In draft form yes, that is the document.

Q. And is it your understanding that Mr. O'Keefe then filled in the spaces you left blank?

A. They would appear to be in Mr. O'Keefe's handwriting, yes.

Q. And I think that's on the monitor, that is the document, isn't it the document, it is dated the 24th of January, 1980?

A. Yes, that is the document, yes.

Q. Now, I think you were shown a handwritten document; isn't that correct? A note from Tribunal File Number 4 which

includes the words "get Gerry Scanlon and discuss details of operation" and we might put that, it is number 97?

A. Yes. I have seen that, yes.

Q. Is that in your handwriting?

A. Could I; could you tell me - I know I have it here, but .

Q. If it is stamped the same numbering as ours it is number 97. I will get you .

A. It is number 97 in 8, is it?

Q. We will - I will hand you up a copy.

(Document handed to witness).

A. That is in my handwriting.

Q. The whole document?

A. Yes indeed.

Q. And what does it indicate to you?

A. I have looked at this document a number of times and have found great difficulty in endeavoring to remember what it was about, but my best effort .

Q. If you just read it first of all.

A. "A call from client CJH, ongoing position, informed that settlement had been made, signed sealed and delivered, get Gerry Scanlon and discuss details of operation".

Q. And what it is your note or your attendance or memorandum?

A. It is my handwriting, yes.

Q. What does it mean to you?

A. It looks like, as if I had a phone call from Mr. Phelan and that I jotted down this on foot of that call. Now, that is

the best effort I can make. You see there is no date on it so I really can't put any great sense into it.

Q. Do you know why you would have wanted to discuss it with Mr. Scanlon?

A. No.

Q. No. Now, the next document number 98. Could you just tell us whether that is your handwriting? Is that your handwriting?

A. I think it is, yes.

Q. Could you read it please, Mr. Kennedy?

A. "œ750. 750 which I take it means 750,000 - and then I think there is 600 next Monday, 15th of February. 150 would be the amount left outstanding from the 750. And then 110 out stand free of interest pending clearance from sale of property. 10% of any sale over next few years. Banker customer relationship to cease. That is no further working account. Mr. T back on Monday having consulted with principal".

Q. I see. When do you think that note was made or what is it intended to convey; you are not sure?

A. I would imagine it was made after the arrangements had been made with Mr. Traynor because it seems to indicate so.

Q. The œ750,000 seems to

A. Yes, yes.

Q. Very good. Before you met Mr. Traynor on the 17th of December, did you know him before that?

A. No, I had never met Mr. Traynor before.

Q. You had never met him before? Turning now to the evidence which you gave in your supplemental statement. I think you have, do you have it?

A. Just one moment now, I have it. I have it in front of me now, yes.

Q. Yes. Now, in your supplemental statement you point out that if interest had been calculated up to the 31st of December, 1979 the indebtedness would have been $\text{€}1,079,111.17$; is that correct?

A. No, that is not correct.

Q. Is that not correct?

A. The debt stood at $\text{€}1,079,111.17$ on the 31st of December, but that did not include interest from the previous 15th of September.

Q. I see. And if the interest had been added you would have brought it up to 1.143?

A. That appears to be the situation, yes.

Q. And you say of this $\text{€}391,146.63$ represented suspense interest which was covered by a credit to a suspense interest account of that amount?

A. That's right.

Q. Could you just explain that, because that is public Tribunal for the public to understand; what does that mean?

A. It means that at a certain stage and I think from my recollection of the documents that it was around 1976, a decision was made to begin suspending the interest on this particular case and all that meant was that the interest

was calculated each half year and was credited to a suspense interest account.

Q. Yes?

A. But not, and not taken into the profits of the bank.

Q. And not taken into the profits of the bank. Well what does that mean?

A. It means that it was suspended and held in a suspense account.

Q. Well, does that mean that you are not foregoing the interest but you are not adding it to the account at that particular time; is that?

A. That is what it means, yes. The interest was still due.

Q. Yes?

A. By the customer.

Q. And would it still continue to appreciate the interest?

A. Oh, yes. Oh, yes because it was added to the account each time as if it were being paid.

Q. Yes. Now, when the €750,000 eventually came in, there was in effect from the customer's point of view; now, I will deal with it in the suspense account in a moment, but from the customer's point of view there was a foregoing of a substantial sum in respect of interest; isn't that correct?

A. That is the fact. Those are the facts.

Q. Those are the facts?

A. That the bank .

Q. The best part of €400,000?

A. The bank made a interest concession of €219,000 not

€400,000. €219,000 was the interest concession made in this case.

Q. And the balance then was to remain on the €110,000 was to remain at the debt of honour is that how, is that how?

A. The €110,000 was remaining due by Mr. Haughey.

Q. Yes. I will come to that in a moment now. So, between the two, there was in excess of €300,000 or thereabouts; isn't that correct?

A. Yes, there was €110,000 and there was €219,000 which is 300 and what is it? €329,000 I think or thereabouts.

Q. Yes?

A. Yes, that's correct.

Q. And where was the balance then in respect of the €391,000 that was in the expense account? I am purely talking in terms of interest now? Was there ever any interest paid when the €750,000 was paid or was that all capital?

A. The €750,000 was sufficient to allow €55,000 from the suspense interest to be credited back to the branch and taken into the banks profits.

Q. Back to the branch?

A. Well, it was credited back to the branch yes, and taken as profits.

Q. So what was made then as far as the customer was concerned was €55,500 interest; is that correct?

A. Plus the 110 which was to be paid later of course.

Q. I will deal with that in a moment, but the €750,000 represented capital of close on €700,000; sorry, €695,000

or thereabouts, and interest of about €55,500; is that your understanding?

A. At that point yes, that was my understanding, yes.

Q. And then in the suspense, what was written off effectively on the interest side then, was about €219,000?

A. Yes. €219,000 was the amount of the interest concession which was made in this case.

Q. Yes; and then €110,000 was to be the outstanding indebtedness of the customer; is that correct?

A. That's correct.

Q. And that was placed in the suspense account; isn't that correct?

A. No. There was €110,000 of the interest left in suspense as a contra against that 110,000.

Q. Explain that to me?

A. It means that the €110,000 was due by the customer.

Q. So it was represented on the bank's books as being a customer's debt?

A. I presume so, yes.

Q. And then on the other side, in the suspense interest account, it was represented as €110,000 in suspense interest; is that right?

A. There was €110,000 in suspense interest, and there was €110,000 due by the customer.

Q. And they contra-ed?

A. Pardon?

Q. You said that they contra-ed each other; is that correct?

A. Well, you can contra them if you like.

Q. No, you said it?

A. But the customer owned œ110,000 fullstop.

Q. As far as you were concerned?

A. Yes. The œ110,000 in suspense was an internal matter for the bank.

Q. Was an internal matter for the bank?

A. Yes.

Q. Right. But the customer was being afforded a facility then of œ110,000 to which no interest would be charged?

A. That is what Mr. O'Keefe's letter said, yes.

Q. An interest free loan effectively in that respect. Am I correct in that Mr. Kennedy?

A. Yes. It was an amount allowed outstand as part of a repayment arrangement.

Q. An interest free loan in common man's language, am I right?

A. If you wish to so describe it.

Q. Am I right? Am I right? An interest free loan?

A. Yes.

Q. Which on the information available to the Tribunal as of this date has never been repaid; is that correct?

A. So you inform me, yes.

Q. Well, have you got any information to the contrary from bank sources that it has been repaid?

A. I haven't sought any information to the contrary.

Q. And can we take it, without going into the detail of the variations in interest rates since 1980 or thereabouts,

that £110,000 if interest had been added to date would represent a substantial indebtedness?

A. Of course it would, yes.

Q. So it is your understanding therefore that all through the 1980s if this sum of money had never been repaid, and all through the 1990's, there has been in effect an interest free loan outstanding on the bank's books; is that correct?

A. If that is the case that is it, yes of course. Yes, but I think Mr. O'Keefe's letter made it clear that it was free of interest.

Q. Oh absolutely, absolutely. And I wonder if we might put Mr. O'Keefe's letter up please? Number 326, 327. And if we come to - the first one is the debit balance on the account was agreed at 860 odd thousand, and that was to be reduced to £110,000 by mid February 1980 and that was done?

A. Oh, yes, yes.

Q. Yes. (2) The remaining balance of the indebtedness, namely £110,000, is to be liquidated within a reasonable period of time by the introduction of funds arising from the disposal of any part of the property and lands known as Abbeville, it being understood that not less of 10% of the proceeds of such disposal would be so introduced.

(3) As soon as the indebtedness has been permanently reduced to 110 as set out at one above, the bank will release its charge on the residence, that is the £750,000". So the main charge is released on the residence?

A. Yes.

Q. And then the bank continued to hold the security in respect of Inishvickillaun and Sligo property I think?

A. Yes.

Q. That was in respect of the outstanding €110,000 indebtedness?

A. That's right, yes.

Q. And then the letter goes on, "it is to be further understood that as part of the above arrangements, the remaining debit balance of €110,000 will now stand free of interest in the head office ledger of the bank at Bank Centre, Ballsbridge, Dublin with no transaction, save for reduction in clearance".

So Mr. O'Keefe was making it clear that this €110,000 indebtedness would be free of interest; isn't that correct?

A. Quite right, yes.

Q. And it also; does it not make it clear that this indebtedness is being taken off the books of Dame Street; isn't it?

A. That is correct.

Q. And is being taken in to headquarters?

A. Right, yes.

Q. Isn't that right?

A. That is right, yes.

Q. Do you know or do you have any understanding as to why that might have been done?

A. I can only speculate that it was the wish of the bank to

have it at head office rather than leave it in the branch.

Q. Because I now want you to see was that to do with confidentiality, would you think; what would your understanding of that be?

A. It could have been, yes.

Q. Because you have already informed us that out of the suspense interest there was transferred to Dame Street a sum of €55,579.36 transferred back to Dame Street Branch to be taken into that bank branch's profits; isn't that correct?

A. That is true, yes.

Q. So that looking purely at the Dame Street Branch one might be left with the impression that the whole account had been cleared and that there was no indebtedness, and that in effect a profit had been established in relation to it; isn't that correct?

A. Perhaps the Dame Street Branch could have interpreted it that way, yes.

Q. I am saying an outsider looking at it. Like would that be a reasonable view to take of it?

A. It could, yes. It could be, yes, although I am sure they would have been far clearer if the whole 391,000 came back.

Q. I know, but again would you think that was done for confidentiality reasons?

A. If it was what was done for confidentiality reasons.

Q. The moving of the €55,000 from the suspense account and putting it into the Dame Street Branch and it being taken

into the profits of the branch at Dame Street?

A. That was done because there was €55,000 surplus which was properly due to Dame Street branch as part of their branch's profits.

Q. Why wasn't it taken off the indebtedness of €110,000 that was on the Bank Centre

A. Because that was being, that was still a debt due by the customer that was not being reduced. A debt of €110,000 was still due by the customer.

Q. If we continue over the page. Mr. O'Keefe says "you will appreciate" of course you prepared this draft on his instructions; isn't that correct?

A. I prepared a draft, whether subsequent change was made I can't recall.

Q. "You will appreciate that the implementation of arrangements of this nature would in the normal course give rise to certain legal requirements. However, since the fulfillment of the agreement outlined is a matter of honour, I am dispensing with such formalities, confident in the knowledge that you will ensure beyond any doubt that the €110,000 will be cleared within a reasonable time".

Do you remember being instructed to prepare that as an aspect of the draft?

A. I cannot specifically recall being instructed to prepare that particular sentence.

Q. Can I ask you, as a banker, is this a usual way of dealing with an indebtedness to the bank?

A. It was the only instance in which I ever had anything to do with that, but then my knowledge of advances was limited.

Q. Yes. Yes?

A. The only instance I have been

Q. Would it strike you, as a banker, as being somewhat unusual relying on somebody to fulfill this agreement as a matter of honour, if the person, if you have had experience of the person as being extraordinarily difficult in dealing with his accounts over a decade?

A. I, of course was not involved in the final negotiations.

Q. Yes?

A. So therefore I was not in a position to determine one way or the other what had been agreed.

Q. We know from this letter that the £110,000 to which interest was not being charged, was nonetheless secured on the island of Inishvickillaun and the property at Sligo?

A. That is true, yes.

Q. Isn't that correct? As a banker have you ever experienced the handing over of a security without a debt being discharged, without another security or proposal being put in place?

A. Would you mind repeating the question please?

Q. Yes indeed. If a bank is lending money to somebody they like security; isn't that correct?

A. Normally, yes.

Q. Normally. And in this situation there is, in effect, a loan of £110,000; isn't that correct?

A. Still outstanding, yes, pending the arrangement. Yes.

Q. And the bank has a security. Have you ever had experience of a security being released in the absence of a debt being discharged, or an alternative security being put in position?

A. Are you referring to the release of the deeds of Abbeville is that what

Q. No, I am not. Is it something that you don't know anything about other than Mr. Sheridan gave evidence this morning that the deeds in relation to Inishvickillaun and Sligo appear to have been released, I think in the year 1990.

MR. SHERIDAN: I also, of course, sir gave evidence that the exact status of the security under the letter, under Mr. O'Keefe's letter was a matter of ambiguity.

CHAIRMAN: Well, that

Q. MR. COUGHLAN: That may well be so, but I want to ask this man sorry, Mr. Kennedy, as a banker, in the normal course of banking business if you have a security and a debt, isn't it normal that the security is released when the debt is discharged?

A. Absolutely yes, of course that is normal, yes.

Q. We all know that from our own lives; isn't that right?

A. Yes, but again I have to emphasise that it is difficult to determine the exact circumstances in any particular case.

Q. I appreciate that?

A. You know, but it would in the normal sense be unusual.

Q. Yes, because I suppose the experience of most people might be when they buy their house and have a mortgage, they have to discharge it before the title deeds would be released; isn't that right?

A. Of course, yes.

Q. And that is the way things work; isn't it?

A. Absolutely.

Q. In normal circumstances?

A. Yes, yes.

Q. Or of course a security could be released where an alternative, an acceptable alternative security is being put in place?

A. Oh, yes I would think that would be normal practice, yes.

Q. That would be another normal practice. Now, you have told us that at your meeting with Mr. Traynor, on the 17th of December, that what you were prepared to do on behalf of the bank was to reduce the debt by £200,000; isn't that right?

A. That's right, yes.

Q. And it was your clear understanding that was the appropriate discount, bearing in mind what your understanding was of what the auditors would look at?

A. I don't know if there is such a thing as an appropriate discount, but having regard to all the circumstances and presumably having discussed the matter with a superior before I went to the meeting, although I have no recollection of such, there was general agreement that in

all the circumstances of this case an immediate reduction to €200,000 would be acceptable to them.

Q. Yes. Well, can I take it, is it general banking policy that when there is an indebtedness that one lends on the basis of an ability to repay?

A. Yes presumably, yes. Yes.

Q. Because again, by analogy with those of us who obtain mortgages, what is looked at is one person's income or perhaps a partner's income as well, and what is looked at is the ability to repay the loan; isn't it?

A. That is quite true, yes.

Q. And then the second question which arises is the security in case that situation isn't met; isn't that right?

A. That's right, yes.

Q. I think you would be now familiar from the documentation which you have seen, that there was, I think, perhaps virtually no reduction in the indebtedness on these accounts; isn't that correct?

A. No reduction over what period?

Q. Over many years?

A. No, the accounts certainly seemed to be going in one direction, upwards.

Q. Yes; and you would also see from the documentation of the bank what the levels of income of the account holders was at various times; isn't that correct?

A. Yes. There was mention of that in the documentation, yes.

Q. And it would be, I suggest to you, reasonable or is that

so? To infer that the indebtedness could not be reduced

out of current income?

A. No, certainly not, no.

Q. So the bank might then find itself in the position of having to say to itself "Well, look, we will have to look at the security", would that be normal banking?

A. Realization of security would probably be an element, yes.

Q. And there would have been no difficulty, or would there have been, in realising the security here?

A. My interpretation, or my impression from the documentation is that there would have been an awful lot of difficulty realising the security.

Q. What?

A. Because of the attitude of the customer. That he would be faced with a forced sale of the security, that was my impression.

Q. Yes?

A. From what I knew of the case.

Q. Yes. Yes, financial institutions go to court everyday of the week to enforce judgements and sales of property, don't they?

A. If you say so, they do.

Q. Well, don't you know?

A. Well, I don't study the papers to that great extent.

Q. Don't you know, Mr. Kennedy, that that is what they do? And in fact there are many occasions when the customer, or the client, isn't consenting to it; isn't that right?

A. That is right, yes.

Q. So, what marked this out of the ordinary so? Even leaving aside the security which was held; what was holding the bank back from even issuing proceedings in respect of the debt and even registering a judgement mortgage? Leave aside the security which was held at all; what was, why was the bank holding back in your understanding, in respect of that?

A. It was my experience in the bank that the bank would go to extraordinary lengths in any case, not in this particular case, but in any case, go to extraordinary lengths and show extraordinary forbearance in order to avoid going to court and taking legal action and confrontation with clients.

Q. Yes?

A. That was my experience, that it was a last resort.

Q. Yes?

A. And I think it would also be true to say, that it was the experience of the bank that such instances where they did have to enforce a sale, they finished up with a very poor return from the realisation of the security, particularly a security like which was held in this case, i.e. farm lands et cetera. Very, very difficult, and something which the bank would go to extraordinary lengths in any case to avoid. That was my experience.

Q. Well, was it your understanding so that any security held so was effectively worthless?

A. I didn't say that.

Q. You see, what is the point in having security?

A. The fact that the customer knows you have it.

Q. And in fact is it not the situation here, that there was a residence and about close on 250 acres of land that one could even have enforced the security without putting somebody out of their house; there was plenty of land there, wasn't there?

A. I would imagine that the bank would be grievously concerned about the value, about the amount that that security would realise in an enforced sale, because there was every indication that it would have to be a forced sale. There was no indication that the cooperation of the customer would be forthcoming.

Q. Was it a consideration of the bank that this man was a public figure?

A. I have no doubt whatsoever but that it was a consideration of the bank that this man was a public figure.

Q. And that by the time December of 1979 had come around, that that man was the Taoiseach of this country?

A. Absolutely.

Q. And that the bank was concerned about entering into a confrontational situation with this man because he was the Taoiseach?

A. That would be my understanding, yes.

Q. Yes. Would it be your understanding that in effect there was a fear in the bank of taking this man on, in respect of the security; is that your understanding?

A. I don't like the word "fear". I would think that there was a concern in the bank that if they, the situation which you outline were taken on, there would be implications and repercussions for the bank's general business throughout the country.

Q. And what would that be?

A. People; this man was the Taoiseach of the country.

Q. Yes?

A. And if I recall correctly had the greatest majority in the history of the state and if the bank were seen to get into legal action, confrontation et cetera with him, it would create great resentment towards the bank.

Q. Yes?

A. Throughout the country.

Q. Yes?

A. That is my understanding.

Q. And that you might have a flight of customers?

A. Precisely.

Q. Yes.

A. The bank had to have concern for all it's business.

Q. So it wouldn't be unreasonable so, to infer that the bank's settlement of this debt had a connection with the office which was held by Mr. Haughey?

A. I don't think it would be unreasonable, no.

Q. Now, I appreciate and I am not in anyway denigrating Allied Irish Banks, I want you to be quite clear about that, that the bank would do it's best to forebear if they could

resolve a bad debt without taking the final step of trying to give effect to a security.

A. I don't think it is true to say that it was a bad debt, it was a repayment arrangement, it was a non earning debt.

Q. It was what?

A. A non earning debt. There was no interest being paid on it. The interest was being suspended.

Q. Yes. It is a, just a definition of the whole bank. Would it be your understanding, in any event, of what we call it that at the end of 1979 when a debt had just spiralled out of control all through the seventies; that if the bank was owed over a million pounds in 1970, by the end of 1979, it would be fair to say that it had reached the end of it's tether; would that be fair to say?

A. That is a reasonable assumption, yes.

Q. And if this customer or client had not been Taoiseach, would it be fair to say that the bank would have had to move on the security in the interest of bank funds and it's duty to it's shareholders?

A. That is very difficult for me to say because as I always understood in the bank, that each case was considered on it's merits and having regard to all the circumstances of the case.

Q. I appreciate that.

A. So it is very difficult to get into any situation of trying to use criteria or anything like that. The answer is I don't know.

Q. Yes. There was no policy; is that correct?

A. There was no policy. Each case was considered on its merits. That was my understanding.

Q. That was your understanding; and policy is something that would have to be enunciated by the Board in the first instance; isn't that correct?

A. Yes. Yes.

Q. Can I take it, is it your understanding that a debt of this size, and bearing in mind the person who was the client, that every decision was an ad hoc decision, that something of this size had to go to the Board, the main Board?

A. How do you mean something of this size had to go to the main Board.

Q. A debt of this size. Over one million pounds at the end of 1979; is that something that in your understanding would be something that the main Board would have to consider?

A. Consider what aspect of it?

Q. Consider a settlement thereof?

A. Yes, I think it possibly would, but I can't say whether it did or not, I just simply don't know.

Q. It was certainly your understanding when you attended the meeting with Mr. Traynor on the 17th of December, that the matter would be considered by the main Board?

A. Yes.

Q. In February?

A. I must have been given that understanding from somewhere.

Q. Yes. So on the question of the commerciality of the

settlement of this debt, would it be your understanding that a consideration which would have to be taken into account in respect of the commerciality of this debt from the bank's point of view, was the position held by the client?

A. All matters connected with the client would have to be taken into account.

Q. But that was one of the matters?

A. Including his position.

Q. Yes; and as you say, each customer or client was dealt with individually and there was no policy; so you are not in a position to say how it fared in respect of the settlement of other debts, in respect of a discounting?

A. I am not, I am not.

Q. Okay. Now, I think the lunch which you attended in 1976, with Mr. Haughey, the Chairman and the Secretary; at that time Mr. Haughey of course wasn't a minister; isn't that correct?

A. I don't think so. I couldn't be dogmatic.

Q. I think you can take it?

A. No, he wasn't, because they were in opposition they didn't come in until 77; isn't that correct.

Q. I think Mr. Traynor was the Chief Executive of Guinness and Mahon in 1979, he was Deputy Chief Executive?

A. There is a letter there that indicates.

Q. He was the boss man anyway as far as you were concerned?

A. Well, he seemed to be able to speak on behalf of he was

Deputy Chairman.

Q. Yes.

A. In January 1980 anyhow.

Q. Yes; and I think in relation to the actual settlement which we see affected through Mr. O'Keefe's letter?

A. Yes.

Q. It was Mr. Traynor who was the bank's contact from the 17th of December. Your meeting up to the settlement of the debt is as far as you know?

A. As far as I am aware that was the case, yes.

Q. And the course of payment into the bank came through Mr. Traynor as far as you know as well?

A. Oh, yes I think there is evidence on the file of that, that it came from Mr. Traynor.

Q. And I think there is a bank document of the 18th of January of 1980, number 192. Do you know whose writing that is?

Is it Mr. Phelan's; do you think?

A. I think it is Mr. Phelan's.

Q. I will give you a copy.

A. If I could have a copy please, yes.

(Document handed to witness).

Yes, I think that is Mr. Phelan's writing, yes.

Q. Yes, I think it is

A. Yes, yes.

Q. And if we move down along the; sorry, I beg your pardon, if I could move it back up again please, above the note of the 21st. "DT" I presume that is Des Traynor"seeing CJ" I

presume that is Charles Haughey?

A. Yes.

Q. "Weekend DT seeing POK" I take it it is a Paddy O'Keefe?

A. Paddy O'Keefe, yes.

Q. Yes. "Thursday, to sort out details" and then if we move it up, "600" we take it that is €600,000?

A. €600,000, yes.

Q. "Lodged at Bank Centre today from GM". And then there is a note "CJ does not know account is to be closed". Do you know whose writing that is?

A. I said I thought it was Mr. Phelan's.

Q. You think that is Mr. Phelan's as well?

A. Yes.

Q. Do you know anything about that final note there?

A. No, no.

Q. No. Now; sorry perhaps I could just come back to one matter finally and it is the question where you corrected me when I described this as a bad debt and you said it was a non earning debt. I think in fairness, in documents which have been furnished to the Tribunal, one of the accounts; and that is number 270, page 270 if we just look at that?

(Document handed to witness).

There is a liability to the bank of 290 odd thousand. 290 odd and 500 and that is in a document which is headed "Bad and doubtful debts"?

A. The key word in this instance being "doubtful" that is the

difference, yes.

Q. So it is in the doubtful category as opposed to a bad debt. A bad debt is one that you are never going to get or you don't think

A. A balance remaining after a compromise, or something like that.

Q. There is a document I would like to put up; and I will give you a copy. Perhaps you can assist us?

A. If I can.

Q. Yes indeed. It is number 193. Folder 8.

(Document handed to witness).

A. Thank you very much.

Q. I beg your pardon. You see it is, we will put it up now in a moment. It seems to be a calculation of drawings and interests?

A. Yes, that is what it appears to be, yes.

Q. And that is showing as of the 7th of December; the principle after interest as being charged as standing at œ1,143,839.18; is that correct?

A. That's correct.

Q. So that is as of the 7th of December of 1979?

A. Right, yes.

Q. Not as of the 31st of December?

A. Well, why do you say the 31st of December?

Q. I thought you mentioned that yourself?

A. I mentioned it in the memo which I made of the meeting on the 17th of December, which was probably the latest time at

which interest had been calculated.

Q. I see. Very good?

A. I would imagine that it was from there I got that figure.

Q. Very good. But that is the level of the indebtedness?

A. That is the level of the indebtedness due, with interest, to the 7th of December. Yes, yes.

Q. Yes. Thanks very much Mr. Kennedy.

CHAIRMAN: Do you have any questions Mr. Quinn? Mr. McGonigal?

MR. MCGONIGAL: No questions.

CHAIRMAN: Mr. Sheridan?

THE WITNESS WAS THEN EXAMINED BY MR. SHERIDAN AS FOLLOWS:

Q. Mr. Kennedy, in relation to the way in which the account was treated; could I ask you to say that when you, to think back when you joined the bank, whenever it was, what would have been one of the first documents put before you?

A. A declaration of secrecy.

Q. And would it be fair to say that that has been the central ethic of bankers, it may have been injured somewhat by legal evasions in recent years, but that would have been central?

A. Absolutely; and I would go so far as to say that even today I find it quite uncomfortable having to discuss the affairs of a customer because it was never done in the bank.

Q. And would you say that that was a duty which the bank regarded itself as owing, equally and impartially to all customers?

A. Absolutely.

Q. Now, if you want to keep the banking affairs of Brian Sheridan secret, outside a limited circle, that presumably is a relatively easy exercise to conduct because there is not a - it is not a particularly well-known individual?

A. Yes.

Q. Clearly the better known the individual, the more precautions are required in the interests of preserving confidentiality?

A. That is correct.

Q. And that would be true of a public figure in any field?

A. In any field, yes. Yes.

Q. To a prominent journalist?

A. Yes, I would think so, yes. I would think so, yes.

Q. To a prominent accountant?

A. Yes.

Q. To any public figure?

A. A figure who is in the public eye would certainly require great care to ensure that his affairs were kept confidential.

Q. So when you said to Mr. Coughlan that this was a very confidential case, it was very confidential by reason of the public profile of the individual?

A. Of the customer, yes.

Q. But the basic duty owed to him was no different to the duty owed to all other bank customers?

A. No different whatever, no different.

Q. When you spoke to Mr. O'Donnell, upon the occasion of taking the file from him, the way Mr. Coughlan put some of the points to you, just for the purpose of clarification; did you intend to put Mr. O'Donnell in a position where he would not be in a position to answer any question put to him by anybody in the bank who had a right to put a question to him? It was suggested that - it was suggested that you might have been trying, that you might, your purpose in saying what you did to him might have been to secure to ensure that, for example, if a superior inquired of him what was the position in relation to the account, somebody who was entitled to make that inquiry; that Mr. O'Donnell would not be in a position to answer. Was it your intention in anything you said to Mr. O'Donnell to put Mr. O'Donnell in a position where anybody in the bank who was properly entitled to ask him a question would be disadvantaged from asking him that question?

A. I wouldn't say it was my intention that anyone would be disadvantaged, but it would be my intention that if anyone asked him he would refer it elsewhere.

Q. But

A. He would be able to say he had no knowledge.

Q. Of?

A. Of the situation.

Q. For example, if a member of the Board or the Chairman or a Director was to ask, was to ask Mr. O'Donnell as to what had happened in relation to a case, was it your intention in making that remark to him that he should not be in a position to answer such a query?

A. I had no such specific people in mind when I made, when I made that, when I said to Mr. O'Donnell that he should not even ask what happened. I didn't have any particular people in mind, I just generally felt that it would be far better if he were able to say "Well, the file has been taken from me, and I am not in a position to answer your question". I didn't feel that it was related specifically to people on the Board or anything like that.

Q. But would you seek to interfere in the relationship, in a relationship between Mr. O'Donnell as a bank official and those to whom he reported?

A. No.

Q. Before Mr. Coughlan pressed on Mr. O'Keefe's letter in relation to the 110,000, you described it I think as part of a repayment arrangement?

A. That is true, yes.

Q. And then he pressed you and that it was in fact a loan of 110,000?

A. It was the balance of a loan which I have, which had already been made.

Q. It was the balance of a loan?

A. Which had already been made.

Q. It was in fact part of a repayment of the loan that is evident from the terms of Mr. O'Keefe's letter?

A. That is true, it was not a fresh loan.

Q. We saw the text of the letter, and in relation to this 110,000 which was to remain outstanding in the books of the bank. It was, I think we saw the wording described as an "obligation of honour" or words to that effect?

A. That is what is in Mr. O'Keefe's letter, yes.

Q. Yes. Have you ever found a lawyer who was in a position to advise you that honour constituted a cause of action which you could sue on, an obligation of honour?

A. No, I have never had that experience.

Q. Did you send; Mr. Coughlan questioned you in relation to the, the impression given to Dame Street branch as to the compromise which was reached; did you send a copy of Mr. O'Keefe's letter to Mr. Phelan?

A. No.

Q. Well, can I ask you to consider that reply, because there is on the files a copy of a letter with a compliment slip from you to Mr. Phelan?

A. Well if there is I must have sent it, but I have no recollection whatsoever of doing so.

Q. So, but if it is there it clearly was not part of your intention to disguise it, it wasn't part of your intention to disguise the arrangement from Mr. Phelan?

A. If that is the case, and I have no recollection of it, it obviously was not disguised from Mr. Phelan as such, from

him personally, from him personally.

Q. Mr. Coughlan asked you about the basis on which loans are made, and I think you said that the primary criterium in the making of a loan is ability to repay, and you agree that is the textbook criteria, it is the criteria in which loans are supposed to be assessed?

A. That was my understanding, yes. Yes.

Q. But it would not be the invariable criteria. For example, you can have so-called non recourse levels?

A. If you say so, I was not that familiar with the lending situation.

Q. Is it - would it also be the case that in an ideal world the making of a loan is based primarily on the criteria of ability to repay?

A. Yes. Yes, but I think there are probably also loans made pending realisation of some assets. That would be my recollection, yes.

Q. And when that is done, the question of the value of assets available for security is relevant; isn't it?

A. Irrelevant.

Q. Is relevant?

A. Is relevant, of course, yes.

Q. Now, from the documents opened yesterday, it does appear from that from the beginning of 1979, we heard the unsatisfactory history of the account and the difficulties which were encountered; it does appear from that, from the beginning of 1979, the words were fairly - I think Mr.

Coughlan may have referred to it in his opening, there were "there were fairly determined efforts made by the bank to try and bring this matter to a conclusion"?

A. So it would appear from the documentation, yes.

Q. And I think there are there are, if I can ask that number 2 of 8; Document 2 of 8, if it is possible to put them up. It is on Tab 8. It is a memorandum of the 19th of February. And if you - down about halfway down the page, further down there is a reference to, just at the top there a reference to his immediate proposal towards reducing the debt would be in the amount of €200,000. So at this stage Mr. Haughey was making, starting to make proposals towards repayment at the beginning of 1979?

A. Yes.

Q. He wasn't Taoiseach then?

A. No, no. He wasn't Taoiseach then, no.

Q. And then I think there is reference, there was reference yesterday to meetings around May where Mr. Haughey had come up to €400,000?

A. Yes, I think I recall that figure being mentioned, yes.

Q. And he wasn't Taoiseach then?

A. That is true.

Q. And then I think there was a report submitted to the Dublin Local Board in September?

A. I recall that, yes.

Q. Where there strictures imposed in relation to the drawing of cheques from then on?

A. That was on the 7th of September of 79.

Q. The 7th of September 1979, yes; and I think there are, on the files, lists of cheques from then on which suggest that cheques were monitored pretty closely from then on?

A. By the branch, I would imagine, yes.

Q. Yes; and Mr. Haughey wouldn't have been Taoiseach then of course?

A. Yes.

Q. So when you went to, eventually to the meeting of the 17th of December, while Mr. Haughey was then Taoiseach.

Taoiseach of I think only a few weeks standing, it was, that meeting was the culmination of a process that had been in train since 1979?

A. Yes.

Q. And that meeting, which was a meeting when Mr. Haughey was Taoiseach, appears in fact to have been the impetuous to whatever took place over the Christmas period and into January which resulted in the settlement?

A. That would be my interpretation of events, yes.

Q. And that resulted in an increased, in fact, an increased payment?

A. Up to €750,000, yes.

Q. Right. So that insofar as it might be suggested that the bank was deterred from taking action at the point that he became Taoiseach, the facts don't really bear that out, do they?

A. That was the point at which some significant, very

significant progress was made in resolving this very, very difficult case.

Q. Right. And there is, I think on the file, I am not sure that in the end it was actually opened to the Tribunal, but it was put to us in correspondence; a draft letter from Mr. Michael Phelan at the beginning, a letter, a draft letter from Mr. Michael Phelan at the beginning of January 1980.

CHAIRMAN: Is that the proposed registered letter referring to drawing facilities?

MR. SHERIDAN: That was an earlier one back in, I think in July 79. There was a letter in January 1980, a letter which bears date January 1980, which the solicitor to the Tribunal asked me to confirm; asked us in correspondence the other day to confirm as representing the state of Mr. Haughey's account; and I wasn't in a position to say that it was a letter that had actually been sent, because it is not signed.

A. That letter is in the documentation I think, isn't it? But if I had the .

Q. I haven't been able to locate it in my documentation. It was in a letter sent to me the other day from the Tribunal solicitor. It is a letter from Mr. Michael Phelan to Mr. Haughey which sets out the state of the account. Yes, that is the letter?

A. That is the 7th of January 1980.

Q. I think on the second page of that letter, it appears that

if you look at the second last paragraph to it?

A. Yes.

Q. "I have been instructed in the circumstances to advise you that as stated above, no further drawings will be permitted on the working account. There will, in effect, from the week funds to meet them are provided beforehand, I regret having to write to you in the above terms, but circumstances have left me with no option. I need hardly say if you wish to discuss the situation with me I will make myself available at any time".

It would appear that letter is not signed, so that it is not clear that he was, that it was sent, but it does look at if may be, it was a draft letter or a letter which was prepared for sending. Would it be reasonable to infer that that was a letter prepared against the eventuality that the process which had come to culmination in September, which had been going on for most of 1979 might not prove successful and that it would in fact be necessary to call in the account?

A. I am afraid I cannot help you because

CHAIRMAN: Surely the next witness is more appropriate Mr. Sheridan?

MR. SHERIDAN: Well I don't think the next witness will be able to assist on that sir, but we can see if assistance can be got elsewhere. It does appear on the face of it that that letter is a draft letter and the relevance of it

to the line being taken by Mr. Coughlan is that at that stage Mr. Haughey was Taoiseach?

A. If I may respond Mr. Sheridan? It would look a bit unusual to send that letter, bearing in mind what we subsequently know about the deliberations which were going on at that time with Mr. Traynor. It would be, it would be unusual to send that letter at that time I think, so perhaps it was a draft.

Q. Indeed. But it might be a letter prepared against the eventuality that the process which had come into culmination in September was not going to prove successful. There is no evidence from that that the bank was resiling from taking action at that point because Mr. Haughey was Taoiseach?

A. No, no.

MR. SHERIDAN: Thank you.

CHAIRMAN: Just in conclusion then Mr. Kennedy, in relation to the meeting and an important meeting it was

MR. COUGHLAN: Sorry sir, there were one or two questions if you wish to wait, there are one or two questions that I wish to put to Mr. Kennedy arising from matters raised?

CHAIRMAN: Of course.

THE WITNESS WAS FURTHER EXAMINED AS FOLLOWS BY MR.

COUGHLAN:

Q. Mr. Sheridan has asked you, Mr. Kennedy, about a debt of honour, and as to whether you had ever received any advice from any lawyer that you could sue on that. Do you remember him asking you about that?

A. Yes. Mr. Sheridan asked me that question, yes.

Q. And I think you have informed the Tribunal have you not, that Mr. E Rory O'Connor the then Group legal advisor, or law agent, had some involvement with you in the drafting of this letter?

A. There appears to be some indication of that in the documentation but I am not able to recall having discussions with Mr. E Rory O'Connor.

Q. Yes, and now just one other thing, and that is the document which I handed to you which was headed "Bad and doubtful debts" which is dated November 1979?

A. Yes.

Q. It is number 272; do you have that?

A. Yes I do, yes.

Q. And you remember in 1976 when the sanction allowed the accommodation to extend to €350,000?

A. Yes.

Q. There was a suggestion being made in respect of that accommodation that the full indebtedness would be discharged from the sale of certain lands, whether they be at Abbeville or somewhere else; isn't that correct?

A. To the best of my recollection that was in the documentation, yes.

Q. And in this document which is November of 1979, there is included a brief history of account, including measures for recoveries already taken; and if we could just move that up there please? And it says: "Manager has had several meetings with debtor over past few months. We are confident that he is anxious to have this unacceptable situation resolved. A scheme is being prepared whereby he will dispose of part of his lands in a certain manner which would raise sufficient funds to clear both debts in total". This is being worked on at present by his financial advisor Mr. J D Traynor you see that?

A. I see that, yes.

Q. And you know from the documentation there were proposals or suggestions about the disposal of lands to clear the whole debt in total; isn't that correct?

A. There appear to have been, yes.

Q. That was in November of 1979 but what had significantly changed by the time you had a meeting on the 17th of December of 1979 when all bets were off; was that Mr. Haughey had become Taoiseach by then?

A. On the 17th of December I understand he was Taoiseach, yes.

MR. COUGHLAN: Thank you.

CHAIRMAN: Perhaps at that 17th of December meeting in which you discussed matters with Mr. Traynor and Mr. Phelan, I think you basically put the potential debt to Mr.

Traynor in global terms as being somewhat in excess of 1.1 million?

A. That's correct, sir.

CHAIRMAN: You weren't at that stage concerned about Suspense Accounts or amounts that might be eventually left outstanding?

A. Oh no, I was not.

CHAIRMAN: And obviously an ideal solution from the bank's point of view, would have been a payment in facility of 1.1 million?

A. Absolutely, yes.

CHAIRMAN: Prior to that meeting, am I right in thinking that the parties had been hopelessly at loggerheads, this had been a maximum offer on behalf of Mr. Haughey of €400,000 and I think Mr. Phelan at the other end of the spectrum had referred to a possible write off of €100,000 or thereabouts?

A. Some figure like that sir, yes.

CHAIRMAN: So if one takes perhaps the full indebtedness at being slightly over 1.1 million it means that by offering to forebear in the sum of €200,000 you were effectively looking for €900,000 pounds at the meeting on the 17th?

A. If you add in the interest right up to that date yes, sir, yes.

CHAIRMAN: Yes; and that the most that Mr. Traynor felt he could go to was €600,000?

A. That was the figure he mentioned at that meeting, yes.

CHAIRMAN: And again if one ignores the outstanding 110,000, the eventual settlement a month later was exactly halfway between those two figures?

A. Those two figures, yes.

CHAIRMAN: €750,000?

A. Yes, that's right sir.

CHAIRMAN: So it may seem a very pivotal narrow of difference that contributed to the eventual resolution?

A. That would be my interpretation of it.

CHAIRMAN: Thank you very much.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Scanlon please.

CHARLES SCANLON HAVING BEEN SWORN WAS EXAMINED BY MR.

COUGHLAN AS FOLLOWS:

CHAIRMAN: Thank you very much Mr. Scanlon please sit down.

Q. MR. COUGHLAN: Mr. Scanlon, I think you furnished a statement to the Tribunal and do you have it there for your assistance? I think you informed the Tribunal, Mr.

Scanlon, that you retired from Allied Irish Banks on the 31st of December of 1993 as Deputy Chairman and Group Chief Executive, having commenced your banking career in 1952; is that correct?

A. I did.

Q. From 1955 to 1977 I was based in Cork and received my first executive position as Regional Manager Cork County in March 1975; is that correct?

A. I did.

Q. And I think you informed the Tribunal that as follows;"I was appointed Central Advances Controller based in Dublin with effect from the 1st of August of 1977. The function of central advances control was to supervise the system for the advance of credit in Allied Irish Banks and to ensure that control systems in this area operated effectively"?

A. That is so.

Q. "Part of the function of central advance control involved the presentation of application for advance to the Advances Committee of the Board in cases above the threshold where the sanction was required. This threshold would have varied from time to time"?

A. Correct.

Q. I think at that time you reported to Mr. Patrick O'Keefe who was then the Banking Director?

A. Correct.

Q. I think you have informed the Tribunal that you were generally aware that the Branch Manager in Dame Street, the

late Mr. Michael Phelan, had great difficulty in controlling the particular accounts at issue and that his contact with the client was reported to be intermittent and infrequent and that the relationship with the client was conducted to a certain extent through the accountancy firm Messrs. Haughey Boland; that was your understanding?

A. Yes.

CHAIRMAN: I think you are specifically talking in the context of Mr. Haughey's account?

Q. MR. COUGHLAN: Yes indeed sir, yes indeed sir. I think you have informed the Tribunal that "I had no direct function in relation to the case which for obvious reasons of confidentiality was treated as something as a reserve case between Mr. O'Keefe the late Mr. James S Denvir General Manager area east and the late Mr. Richard Barrow Advance Controller area east".

I think you have informed the Tribunal that "I would have become aware after the event that there had been a meeting or meetings between Mr. O'Keefe and the late Mr. Traynor in or around January 1980, and that as a result a settlement was reached on the accounts at issue"; is that correct?

A. That is so.

Q. And you informed the Tribunal as follows; "my recollection is that a figure of €750,000 was involved and that no write off arose since interest additions to the account had been suspended, that was not taken into the bank profits for

some years previously. I was not involved in any of the discussions with either Mr. Traynor or Mr. Haughey and indeed never met with either of them in connection with the financial affairs of Mr. Haughey"?

A. That's correct.

Q. I think you became Group Chief Executive of Allied Irish Banks on the 1st of October of 1984; is that correct?

A. Yes.

Q. And that the files on the financial affairs of Mr. Haughey were among a small number of files passed to you for retention by Mr. JJ McAuliffe, then Assistant Chief Executive on his retirement in March 1987?

A. That is my recollection.

Q. And thereafter you retained them in a locked safe in your office?

A. That was correct.

Q. I think you have informed the Tribunal as follows; "I believe that in or about February 1990 I was approached for the file on this matter by an AIB executive; and you cannot recall who; in connection as you recollect with an inquiry which had been received relating to either a life policy or some deeds held by the bank"; is that correct?

A. That is my recollection.

Q. And you have informed the Tribunal that your recollection is that you would have allowed him sight of the file while he was in your office?

A. Correct.

Q. I think you have informed the Tribunal that you had no further involvement in the matter of these accounts; is that correct?

A. That is so.

Q. And I think you have been shown a handwritten note from Tribunal File Number 4, which includes the words; and we saw it earlier on the screen "Get Gerry Scanlon to discuss details of operation" which I have been told is in the handwriting of Mr. Michael Kennedy; is that right. You have been shown that document?

A. I have.

Q. And you have no recollection of being involved with discussions with Mr. Kennedy in relation to the events connected with the accounts at issue in January or February 1980, but you are unable at this remove to say definitely that Mr. Kennedy had no conversation with you on those accounts at the time; is that correct?

A. I believe that Mr. Kennedy dealt directly with the financial control people. Mr. Duncan in particular at that time.

Q. And from a review of the files you would conclude that the "details of operation" were agreed between the area office and the group financial control?

A. Correct.

Q. Could I just ask you Mr. Scanlon, what does "details of operation" mean?

A. I couldn't say.

Q. I see.

A. My assumption for what it is worth, is it is the mechanics of how the balances were going to be written down between branch and financial control.

Q. Yes. That would be, I suppose, to take into account what Mr. Kennedy has described the 55 odd thousand from the suspense account going to Dame Street, and being taken into the profits of Dame Street. œ110,000 remaining debited to the customer and œ110,000 effectively contra-ed in the suspense account; is that correct?

A. I would tend to start at the other end. It was concerned with taking the balances out of the branch, both the over drawing balance and the suspense interest balance; so therefore the branches books were clear and those figures went into the head office control books.

Q. Yes. Can you explain to me why that would have been done? Would there have been auditors for the branch as well as auditors for head office and the

A. Let me say that the branch books would be available and the branch ledgers would be more available to people than the head office books were; and obviously if this situation was being treated as extremely confidential as I believe it was, appropriately too, the information would not be in the branch books as to how the debt was being dealt with; and in those days of machine posted ledgers they were ledger sheets for each account as distinct from today's world of computers; and the situation would have been on record in

the branch and the branch ledgers, branch ledgers are available to all the staff in the branch, so there would be hundreds of people with access. Where in financial control there might have been a small number of people with access to the records.

Q. Yes. Do you have any idea as to why this should be done so? It is just purely for confidential reasons?

A. Yes.

Q. Extra confidential reasons?

A. Exactly.

Q. Because as we know Mr. Sheridan has asked Mr. Kennedy - and I suppose when you join the bank yourself, you had to sign a secrecy document?

A. We all did.

Q. Yes. So that everyone working in the bank is subject to the same duties?

A. Many people are human as well.

Q. I appreciate that.

A. With regard to information.

Q. It is somewhat similar to the banks, I suppose an Official Secrets Act type of document; isn't it?

A. That's so.

Q. And I take it that if anyone breached confidentiality it would be a matter which the bank would take very seriously?

A. If they were discovered.

Q. If they were discovered?

A. Yes.

Q. If they were discovered; and perhaps warrant dismissal?

A. Yes.

Q. So this account had been on the branch ledger up to 1980; isn't that correct?

A. Yes.

Q. These accounts?

A. Yes.

Q. So, the level of indebtedness would have been familiar to at least some people in the branch?

A. No doubt.

Q. Yes. What was so significant in respect of the confidentiality at this stage? Did it relate to the fact that there had been a substantial forbearance in respect of interest?

A. I would assume so.

Q. You would think so, that that would be the

A. Um hum.

Q. And that this was being afforded to the Taoiseach; would that be your understanding?

A. I have no reason to disagree with you.

Q. Yes. You were not involved in the actual negotiations or the resolution of the indebtedness?

A. Absolutely not.

Q. And the only reference to you at the end of the day, if it be a reference to you at all, is in relation to the mechanics of effectively removing it from Dame Street and taking it into head office; is that correct?

A. I discovered yesterday on a paper that was opened, number 48, that on the 23rd of August of 1979.

Q. Sorry. If I just find that now for a moment. I can't remember which Tab we were at.

A. It is Tab 8.

Q. Tab 8?

A. Um hum.

Q. It is the .

A. The second paragraph.

Q. Of the second, the report is it?

A. Yes.

Q. Yes. If we could put that up please?

A. If you go down the second paragraph to the 6th line.

Q. "Area office has been in constant contact with branch to have matters brought to order and eventually in February last Mr. Haughey appeared anxious to get debt down to manageable proportions, vague hints about possible land sales and deals by the end of the year, leaving a residual debt of 300 to œ400,000 for an indefinite period were made but a negative response was given to Mr. Haughey following a meeting of the area General Manager, central and area Advance Controllers and branch managers". You would be the central advance?

A. I was the Central Advance Controller at that time. I have absolutely no recollection of being at that meeting and I would believe that it was far more likely that I was represented there by one of my staff; and I believe that

the written text at the top of that page was written by a member of my staff at the time, but in any event that is the only involvement of which has come to my notice.

Q. Yes?

A. Other than what I have said.

Q. Other than the mechanics after the negotiation?

A. I was not consulted about the mechanics, I was referred to as a possible source of information, as I would understand it.

Q. Yes. So you were not consulted about the source of the mechanics?

A. That's correct.

Q. Were you ever consulted; you obviously weren't consulted about the indebtedness in your capacity as Central Advance Controller?

A. No.

Q. Is it the type of matter which you would have expected should have come within your ambit of responsibility?

A. I would say it probably wasn't big enough. Let me say I dealt with corporate accounts primarily.

Q. I see.

A. And this account would have been governed by the level of sanction as distinct from the level of debt, and it falls to be treated or it fell in those days to be treated as a repayment arrangement, in excess of its authorised limit and the authorised limit, the largest one you have seen on this is in the order of 350,000.

Q. May I ask you then, in the demarcation of responsibility within the bank; it is the level of sanction which determines who deals with it rather than the actual level of indebtedness itself, if there is a breach of sanction?

A. Primarily it was level of authority.

Q. Level of authority which was 350,000?

A. Not for me. My level of authority was, as I say, in or around a million pounds plus.

Q. Right. But what I am trying to do is just to understand the mechanics and the areas of responsibility and the areas of

A. I would believe that the area of discretion was probably half a million pounds.

Q. For the area at advance control?

A. Yes.

Q. But .

A. Although I note in this instance, my timing may be wrong, because obviously figures changed through that period.

Q. Yes?

A. But my dealings, when I became Central Advance Controller were at a higher level and they primarily related to corporate accounts.

Q. Yes. Well, what I am really concerned to establish here is not so much the actual figure, it is the principle, that it is the level of authority or sanction which determines whose responsibility it is rather than what the indebtedness might end up as?

A. Yes. This one looked as though it was being handled at Local Board level where the authority would have been, where the discretion or the authority would have been half a million pounds.

Q. Notwithstanding the level of authority, the sanction granted £350,000 in January of 1977, that was breached?

A. I think, with respect, that was authorised by the Local Board.

Q. Yes.

A. As I recall it from this documentation.

Q. You are absolutely right, it appeared to be breached. It went to the Local Board, it was stamped approved, that brought it up to 400 and something odd thousand?

A. Yes.

Q. Looking at the documentation there doesn't seem to be any further authorisation or sanction notwithstanding that the indebtedness continued to grow?

A. That's right. I think that one should consider that it was easier to deal with something that wasn't authorised, if it was irregular, than something that was authorised.

Q. I see.

A. If I could translate that for you?

Q. Yes.

A. If you authorise it you approve it.

Q. Yes?

A. If it is unapproved it is a different case.

Q. Yes. A different case in what way from a banker's point of

view, might I ask?

A. The money is still out I know, but it is easier to pursue somebody went you don't authorise it than it is to pursue it when you have authorised it.

Q. Yes?

A. It might be only a nicety.

Q. What?

A. It may be only a nicety.

Q. Something I think about and I may come back to you on, if I may. Of course

CHAIRMAN: Mr. Coughlan, unless you are going to be a very brief time and if it is not an undue imposition on you Mr. Scanlon, perhaps you wouldn't mind coming back for tomorrow at half past ten? Thank you very much.

MR. COUGHLAN: Thank you Mr. Scanlon.

THE HEARING WAS THEN ADJOURNED UNTIL THE 18TH OF FEBRUARY
1999 AT 10.30 AM.