

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 7TH

NOVEMBER 2000 AT 10.30AM:

CHAIRMAN: I think Mr. Hunt had concluded and as I recall, Mr. Feeney, I think the intention was that you would be next.

TERRY DONOVAN WAS EXAMINED AS FOLLOWS BY MR. FEENEY:

Q. MR. FEENEY: Mr. Donovan, if I could ask you some questions on behalf of the Central Bank. When you went to the Guinness Mahon inspection, it was your first inspection?

A. That's correct.

Q. You had no previous experience or knowledge of inspections?

A. That's correct.

Q. And I think if I have taken up what you say in your statement correctly, experience learnt on the ground is one of the most important things in being able to understand and put in context any information which you glean?

A. It's a very important element, yes.

Q. It's not something which is learnt from books or from documents. It's something, to a large extent, you learn on the ground?

A. As I say, it's an important element. There are other elements. Fundamentally, an inspection is about checking to see that the Central Bank's rules are being

met and looking for any evidence that the prudential rules set out by the Central Bank are not being followed by an institution, for an overall level of risk. So it's a combination of using information available off-site on the premises of the Central Bank, using the rules published by the Central Bank and then taking the opportunity on-site to look for evidence as to whether those rules are being followed.

Q. You subsequently became more experienced as this was your training outing and you then became involved in it, you remained in it for a number of years; isn't that correct?

A. That's correct.

Q. What position do you currently have?

A. I am currently deputy head of Banking Supervision.

Q. When did you leave banking supervision?

A. I beg your pardon?

Q. You are kernel deputy head of banking supervision?

A. Correct.

Q. How many deputy heads are there?

A. Two.

Q. Who is in charge of Banking Supervision?

A. Adrian Byrne.

Q. And how long has that position maintained? I think 1995 was the year that Mr. Byrne became head of banking supervision; is that correct?

A. From the top of my head I wouldn't be sure, but I

wouldn't have any difficulty with that statement.

Q. Fine. And for how long have you been deputy head?

A. For almost one year.

Q. Almost one year. Now, in relation to this particular matter, there would be some planning and consideration of an inspection before the inspectors would go in.

A. That is the policy of the Central Bank.

Q. You would research the previous report, you would look beyond that if it was relevant, you would look at other documents and you would endeavour to identify particular areas that you were going to concentrate on?

A. That would be the normal approach.

Q. And you have no doubt that that took place in relation to the 1988 inspection of Guinness & Mahon?

A. I have no knowledge of what took place at that time.

I wasn't involved.

Q. No, no, the question I asked you, Mr. Donovan, and you mightn't accept it, you have no doubt but that that would have taken place? These were people whom you knew and worked with, you would have known their methods. I have no doubt but that planning and consideration as to how to approach it would equally have taken place in the 1988 investigation of Guinness Mahon as it would of all the other investigations?

A. I really can't make any assumptions as to what happened in my absence. I can confirm that it's the normal procedure.

Q. And have you any reason to doubt that it took place in this case?

A. I have no specific reason to doubt, but I have no knowledge as to what actually happened.

Q. But if we proceed for the moment on the basis that there would have been, as is the ordinary course, consideration of documentation and approach in advance of going in, who would that take place between?

A. In the case of the 1988 Guinness & Mahon inspection, I can't comment, because I wasn't involved.

Q. We know that you have made that known, Mr. Donovan, and there is no need to repeat it. You just might answer the question. Who would consideration of a plan in relation to going in take place between?

A. You mean in the current day, in the normal circumstances it would take place it would be the responsibility of the person leading the examination.

Q. The senior inspector?

A. The senior inspector.

Q. And in this instance we know that Mrs. Horan had Elaine Byrne with her?

A. Yes.

Q. And that would be the normal complement for an inspection such as Guinness & Mahon?

A. It would be the typical complement.

Q. What's the different between normal and typical, Mr. Donovan?

A. There have been incidents over the years where more than two inspectors were sent on inspections. It's not that unusual, but the majority of inspections I would think, would have that complement.

Q. It would be the two people who were going to carry out the inspection who were the people in the normal course of events would decide in advance the targets, would consider the documentation and you have no knowledge of that in the Guinness & Mahon in 1988 because it took place before you were even directed to go to Guinness & Mahon, isn't that correct?

A. That's correct.

Q. Now, by the time the suggestion was made, you were going to work under somebody else but that person didn't have an inspection in being at the time, is that correct?

A. That's correct.

Q. And therefore, even though the inspection had already commenced, you were sent to Guinness & Mahon?

A. Yes.

Q. You had no pre-reading, no knowledge of what had happened in earlier years or no knowledge of what had been discussed between the inspectors at a time that you weren't assigned to this particular task?

A. That's correct.

Q. Now, how many days into the inspection did you arrive?

A. I am not absolutely sure, but I know it was sometime

during the first week of that two-week inspection.

Q. Sometime during the first week. A few days into it?

A. Possibly.

Q. You certainly weren't there at the start?

A. That's correct.

Q. So we know that sometime during the first week are we also right in thinking that it was clear and I think you gave evidence in relation to this yesterday, that there were a number of very major prudential matters for consideration in relation to Guinness & Mahon in 1988?

A. That became clear to me in the course of the inspection, yes.

Q. And again you mightn't have personal knowledge of this, but from your observation of the way in which the inspection was carried out, it was clear that considerable attention was being placed on the loan portfolio and the adequacy of bad debt provision and also considerable attention to the investment business.

A. That's correct.

Q. They were the major items under consideration and were so defined in the ultimate report which you ultimately read in the year 2000, isn't that correct?

A. That's correct.

Q. And therefore, the issue of back-to-back loans was a minor issue taking up a small part of the time that you would have been involved in relation to the period that

you were there?

A. It's a question of defining what a small period of time is.

Q. Well, let us do it then in two ways. You have already identified what the major matters were so that quite clearly since back-to-back loans wasn't one of the major matters, you'll have no difficulty with me suggesting that it was a minor matter?

A. Well, I would have no difficulty in agreeing that the loan book in particular took up the vast bulk of our time

Q. I have asked you about back-to-back loans, Mr. Donovan, and you might direct your answer to that.

A. I would have spent some hours in the course of the inspection looking at material in relation to the files of back-to-back loans.

Q. Some hours. What are we talking about? Three or four?

A. Possibly more than that.

Q. Less than a day?

A. It wasn't in one unbroken period, so it's difficult

Q. Less than a day, Mr. Donovan?

A. Possibly more than that, I am not certain at this point. If you were to add together the periods of time.

Q. But it was a minor matter. It wasn't a matter upon which the two inspectors who were senior, knowledgeable

and trained were concentrating on during the investigation?

A. That's correct.

Q. And it was also clear that your state of knowledge was extremely limited both in relation to having no knowledge of the history of this organisation or indeed of some of the terms or concepts which you were coming across for the first time?

A. That's correct.

Q. Now, the bulk of your time would have been taken up with matters other than back-to-back loans?

A. Yes.

Q. And was it in the first week that the meeting which you suggest took place with Mr. Pender occurred?

A. I believe it was, but I am not absolutely certain.

Q. Now, we know from the report that the total period of time that the Central Bank was on-site started on a Monday, the 8th February, and ended on the Thursday of the following week, which was nine days in total. We know from your evidence that it is sometime during the first week that you arrived?

A. Yes.

Q. So you would have been there somewhere around five or six days?

A. Approximately, yes.

Q. And now, can you tell us whether it is in the first week that you go to see Mr. Pender?



A. I believe it was, but as I say, I am not absolutely certain.

Q. Now, you subsequently have been involved in bank inspections for twelve years. Would it be utterly unprecedented for a trainee within a day or two of arriving, going and seeing a senior member of management by himself?

A. I cannot think of any similar occasion.

Q. It's just something that wouldn't happen and if it did happen, it shouldn't happen.

Now, you have given an explanation as to why it occurred in this instance. To some extent if I have taken you up rightly, you were hijacked into going in to see him almost, is that correct?

A. I wouldn't quite use that term, but I find myself in circumstances

Q. "Pressed" might be a word you would accept?

A. Pressed would be a very good word.

Q. Right, we'll work with that.

What I can't understand, if I understand the system of inspections correctly, there is a room assigned to the Central Bank's officials within Guinness & Mahon where the two other or the two inspectors, you being supernumerary almost in this, the two inspectors carrying out the investigation would be present?

A. Would be working, yes.

Q. So there would be absolutely nothing to stop you on the way to Mr. Pender walking in and saying to Mrs. Horan or Elaine Byrne, look, come with me or I have been asked to do this.

A. I wasn't given the opportunity to do that.

Q. They are in the building. We are what, 20 yards away, 10 yards away?

A. My recollection is that they were on a different floor of the building.

Q. Fine

A. I was taken by Mr. Lannigan O'Keefe directly to Mr. Pender's office.

Q. And did you ever say to him, look, I am a trainee, on my first or second day doing this? Did you ever say that to him?

A. I may not have used those terms, but certainly I had a discussion with Mr. Lannigan O'Keefe as we travelled along the corridor to the effect that I was not happy to continue with the meeting. He was somewhat dismissive of that and somewhat dismissive of the significance of the account that was to take place and said to me, Mr. Pender just wants to have a quick word.

Q. But Mr. Donovan, the matters which you are at this stage considering, 'Hypothecated Loans', back-to-back loans, security, are they matters which you have any familiarity with before this? Did you even know what they were?

A. Well, certainly I would have known what a secured loan was.

Q. Did you know what a 'Hypothecated Loan' was? Have you ever heard of the term before this?

A. As I have stated in evidence, this term was new to me and I had been inquiring as to its meaning.

Q. So that here is an inspection being carried out. If you are to learn and understand what is happening, the starting point is you are going to have to have an idea and a knowledge of what terms are being used and what they mean. Isn't that correct?

A. That's correct.

Q. And the way to gather that information is from contact with your fellow inspectors and not going to senior management and raising issues which are based upon basic training terms which require to be learnt and understood. It's not a criticism of you. You are in your first or second day there. You can't know the terms. Isn't that correct?

A. I am not sure at this stage that we are still talking first or second day, but as I have said in my evidence, my starting point here was that I raised the question of the meaning of the term with the person in charge of the inspection; that led on to seeking a clarification in her presence from our contact point in Guinness & Mahon, and it was he then put me in this position.

Q. I think you told me it took place in the first week?

A. What I said was that I believe that it did but I was not absolutely certain.

Q. And you didn't arrive for sometime into the first week, so it's within the second or third day that you are meeting a senior member of management by yourself in a situation where you have no prior knowledge of the existence of the history of what is being considered and where fairly straightforward basic terms are unknown to you. Is that correct?

A. I am not sure I would agree that these were straightforward terms. But having said that, I believe

Q. Are they ones you have come across again in the next twelve years?

A. I beg your pardon?

Q. Are they terms that you have come across again and again in the next twelve years of your banking inspections?

A. I wouldn't say no so, no.

Q. So it was a term you had no idea what it meant?

A. I felt it was an unusual term.

Q. Fine. In giving evidence yesterday you indicated and if I have taken a note correctly and there is a transcript, I haven't seen it but this is my own personal note that when you were discussing these matters with Mr. Lannigan O'Keefe, you were not getting the message and you were not understanding what he was

saying. Is that a recollection you have and a fair description of your memory in relation to Mr. Lannigan O'Keefe explaining the back-to-back loans to you?

A. I think it is, yes.

Q. Whether you, Mr. Donovan, as a first-week trainee is understanding something or not would be seen by most people as of little or no significance, would you agree with that?

A. I can't speak for others, it was a significant matter as far as I was concerned.

Q. Of course, you were a trainee learning these matters. But if the bank is to form an informed view in relation to the importance or significance of matters, it's going to have to be done by people who have knowledge of the previous documents, who have considered the approach and who have experience in relation to the matter and whether a first-week trainee understands something or not or whether he has a grasp of it is in many ways utterly irrelevant, would you agree?

A. In the situation which I found myself, I felt it was my role to attempt to pursue the matter as best I could.

I was trying

Q. Mr. Donovan, I fear you are not answering my question.

I utterly accept what you have said is that you had the sense of duty and responsibility that you would want to pursue it as best you could. But what I have put to you is you are a first-week trainee who doesn't

understand the terms, who doesn't know the direction or the purpose of the main targets of the investigation, no knowledge of the previous history, in those circumstances, whether you personally understand something at that moment in time is of little or no significance to the overall inspection, would you agree?

A. I would agree that that view could be taken.

Q. Well, do you agree or not? Of course, any view can be taken, Mr. Donovan, that's not the question I am asking you. Do you agree with what I have said?

A. I wouldn't like to exclude the possibility that someone who was even a first-week trainee would be in a position to make a contribution to an inspection.

Q. I am not suggesting otherwise. But in relation to the overall impact of the investigation, the interpretation and the preparation of the ultimate report, a person in a situation with no previous experience, a first-week trainee, doesn't understand some of the terms which are being used, your state of knowledge, your understanding is not of central or importance or of great significance to the overall report. Would you agree?

A. I would agree with that.

Q. And in these circumstances, you were grappling with terms that you didn't understand and concepts that you had never come into contact with before?

A. Certainly with terms I didn't understand, yes.

Q. And in those circumstances, you were raising questions during the course of an investigation where these matters were a minor matter to very serious matters under consideration, isn't that correct?

A. I wouldn't have been conscious at that time that these might have been regarded as minor matters.

Q. Fine. But what we do know is that the bank at this stage, there was a serious question mark over its solvency, would you agree with that?

A. Yes.

Q. And once that is there, a serious question mark over its solvency, once that is there, anybody carrying out an inspection will realise that the centre aim of the target of the investigation will be to address that.

A. Yes.

Q. This wasn't a routine investigation where you were going into a healthy financial institution, where the finances were in good order and where there was proper provision in relation to bad debts. This was an institution.

And let me give you the following pieces of information, Mr. Donovan. There was a serious question of its solvency. Its parent bank will been the subject matter of a hostile takeover. There was a serious question in relation to the lack of cover from the new financial body which was in control covering

the debts of the Dublin branch. The internal auditors had resigned and there had been a history in relation to that.

Now, were they pieces of information of which you were aware and knowledgeable at the time?

A. Some of them I would have been aware of but not others.

Q. And against that background, to be having a first-week trainee raising issues which had been addressed in earlier reports against a background where that trainee doesn't understand the terms, I would suggest would place that issue in significance at the very bottom of the agenda as regards importance?

A. I would agree that the core focus of the inspection, as I have said in my own statement

Q. I am doing a lot more in relation to the issues that you are discussing and that you have this somewhat exact memory twelve years later. I am doing a lot more than that. I am placing it at the bottom of the agenda, a first-week trainee who doesn't understand terms asking questions in relation to matters which had previously been covered when he doesn't know what is being planned, when he doesn't know what the documentation is and where it appears he doesn't understand the terms. Dealing with or responding to that sort of matter is going to be at the very bottom of an agenda when the bank potentially has very serious solvency problems, would you agree?



A. I cannot say whether on the agenda it should be or was.

Q. You are a very experienced inspector at this stage,

Mr. Donovan, twelve years later. Quite clearly you

wouldn't place it very high now if you were an

inspector in charge of it, would you? A trainee not

understanding what the investigation is about, not

understanding terms which are being used and not

knowing of previous inspections, if somebody like that

raises a question, it's not going to be very high on

the agenda. Of course you try to assist a trainee,

but have I taken it up rightly that this was an

inspection under time constraints, with a lot to look

at, with a deadline of in and out in two weeks and, in

fact, it was in and out in nine days, here. It's gone

by the Thursday of the second week. So that there is

real and significant time pressure to get the job done?

A. Yes, as is normal in all inspections.

Q. But this is an inspection which isn't a

run-of-the-mill. This takes place at a time when this

bank has got really serious question marks over its

continued solvency, isn't that correct? You have seen

the report.

A. Yes.

Q. I mean, that isn't a run-of-the-mill investigation;

that isn't something that happens on a regular basis.

Of course problems arise in inspections, but the

circumstances where there is a real and substantial

question mark over the solvency of a bank and thereby its continued existence is a relatively unusual thing.

A. The degree of difficulty, I would agree with you, was relatively unusual.

Q. This is very high up in the list of visits which the Central Bank would have made where they were looking into a real risk of a bank folding.

A. Certainly that would have been considered as a possibility, yes.

Q. Indeed. And that is very unusual?

A. Yes.

Q. And therefore, of course, dealing with matters which are raised by a first-week trainee required to be dealt with, but the circumstances which existed here, I suggest to you, would have meant that you were given little or any attention in relation to the matters which you now say you were raising because of a scale of matters they were almost irrelevant?

A. I wouldn't have seen the issues as being irrelevant.

Q. Of course you didn't see it. You are a first-week trainee. But I am not asking you as a man with twelve years experience, the deputy head of Banking Supervision, faced with a bank which there is a risk that it will fold. In those circumstances, where does educating a first-week trainee sit in the order of priorities?

A. I would agree with you that it would not be a priority.

Q. And the first-week trainee is going to give emphasis and importance and significance to matters which would bear no relation on a proper or fair analysis of the inspection which took place in the circumstances which I have described. Would you agree?

A. I wouldn't agree that there isn't attempted connection between the matters that I was looking at and the core work of the inspection. At least that was my view at the time that we were there primarily to look at the loan book. This was an element of the loan book. We were talking about back-to-back loans. In my inquiries, such as they were, it seemed to me that there were question marks about the security covering those loans. If

Q. We know that, Mr. Donovan, that is your view

A. If I may finish my answer please.

CHAIRMAN: Go ahead, finish.

A. There were doubts in my mind about the security. If it were the case that something had come from those questions which suggested that those loans were not properly secured, that could potentially have an impact on an overall assessment of the credit quality of that bank and on the level of provisions required and therefore on the solvency. So it seems to me that these were not irrelevant questions.

Q. MR. FEENEY: So, can I just, in finishing this

particular area, your state of knowledge at that time

would have been extremely limited?

A. In terms of inspections, yes.

Q. And in terms of the history of the bank?

A. Correct.

Q. And whilst you might have had apprehensions as to how

back-to-back loans might have impacted on a segment of

the overall position, you have no doubt but that the

really important matters for consideration was the

continued solvency of this bank.

A. With particular reference to the loan book and the

level of provisions, yes.

Q. And the inspector who had organised it was the person

who was going to have to form conclusions and views and

have regard, that would be Mrs. Horan, and she would

have to have regard to Elaine Byrne and she would have

to have some complete regard to what you might say, but

not particularly much in the overall picture which was

present as to the positions you were in.

A. I think that's reasonable, yes.

Q. Your opinion or your conclusion or your view at that

stage and I am not suggesting twelve years later, I

will repeat this question your view at that stage

wouldn't have or couldn't properly count for much?

A. Unless in the course of my questioning something

emerged which turned out to be highly relevant.

Q. And what had emerged in your mind at the time was a

series of question marks which you couldn't understand?

A. A series of question marks, yes.

Q. And insofar as when you went to Mrs. Horan with it, she gave you I am going on a number of visits, paragraph 19 of your draft statement which we have received and you say you formed an impression, on the fourth line of that, and you have given your evidence in relation to the impression you formed and the state of knowledge you had at the time.

And then you go on in the next sentence: "The indications provided to me by Mrs. Horan were sufficient to suggest to me, however, that much, if not all of the information which I believed I had discovered, was not new to the Central Bank."

A. That's correct.

Q. So you had identified a number of matters, they called question marks in your mind and when you discussed with Mrs. Horan, she was able in her responses to establish in your mind that the information which you were coming, as a first-week trainee saying, look what I have found, was information already known to and had already been either in total or the bulk of it already discovered by the Central Bank?

A. In terms of the overall operation of this back-to-back arrangement, yes.

Q. Fine. Now, then some issue arises in relation to

signing the report and some emphasis has been given to a suggestion that you refused to sign the report. I don't think that's correct, is it? This is a report which is, in fact, unsigned?

A. I never refused to sign the report.

Q. And any suggestion that you might have refused to sign the report is incorrect?

A. That's true.

Q. You are reported in the newspaper today in the headlines as having refused to sign the report.

That's just wrong. This report was never signed nor never sought to be signed, is that correct?

A. I am not aware of what it's saying in the newspapers, but I can confirm that I was not asked to sign the report. I did not refuse to sign it.

Q. And you know from looking at the report in the year 2000, that it wasn't signed?

A. That's correct.

Q. And whilst different examiners have different approaches, there is nothing unusual about that?

A. As I think we established yesterday, some reports are signed, some are not signed.

Q. So the issues of signing it was a matter which you were never asked to do?

A. That's correct.

Q. Now, can I then ask you before you read this report in the year 2000, did you know what the report said about

back-to-back loans?

A. I don't believe I did, no.

Q. And in those circumstances, on what basis were you proceeding with an apprehension that the report mightn't accurately or fully record the issues which you believe you might have discovered?

A. The normal practice on inspections is that sections of the report are drafted on-site before returning to the office, so I would have been aware of the approach which Mrs. Horan intended to take.

Q. And you have seen the approach in relation to the way the report deals on page 17 with loans of 'Hypothecated Deposits' and in Appendix 10 on page 96 of the report, you have seen how they deal with those matters, isn't that correct, in the year 2000?

A. Yes.

Q. Now, is it your recollection that that is what you saw in the when you were considering the matter back in 1988?

A. It is consistent with it, yes.

Q. And did you have knowledge then that there had been that the issue had been dealt with in the earlier report?

A. I am sorry, I didn't quite catch your question.

Q. The factual position is that in the 1986 report 'Hypothecated Loans' was dealt with as well. Were you aware of that?

A. I am not sure whether I was.

Q. Because if you are going to have an understanding of the context or circumstances of what you apprehended might ultimately be in the 1988 report, you'd have to do it in the context of knowing its place in a series of reports, would you agree?

A. I wouldn't disagree.

Q. Fine. Now, subsequent to the report being published sorry, the report is prepared, a draft is prepared and the opinions and conclusions, I think you would accept in the circumstances which prevailed in 1988, were going to have to be the opinions and conclusions of Mrs. Horan and Elaine Byrne rather than you, because of your lack of experience?

A. Well, certainly I contributed material which is now contained in this report, but I had no role in terms of deciding

Q. Opinions and conclusions, you wouldn't have had the knowledge, the ability, the background, the initial involvement, the initial planning in relation to it to be in a position to form any balanced view or opinion or conclusion. Of course, you can do groundwork, but that was the extent of it, wasn't it?

A. I had no role in determining the contents of the conclusions.

Q. Or opinions?

A. Or opinions.



Q. And that would be correct. You'd agree that that would be the proper way to do it, given the circumstances which prevailed in 1988?

A. I would have no difficulty with that.

Q. No difficulty with that.

Now, Mrs. Horan proceeds to being a person as the senior inspector responsible to prepare the report and you have described an incident yesterday which isn't in your statement where a conversation takes place at your work station, if I took it up correctly, where you are shown some document. You don't read it but you see it, is that a fair description of what you said yesterday?

A. Yes.

Q. And it's a document which you see a page of and you see another page but you don't have any detailed knowledge of what is the contents of it?

A. Correct.

Q. And you have introduced that piece of evidence, even though Mrs. Horan apparently doesn't remember it, on the basis that she was suggesting that the requirement for this was your fault, words to that effect?

A. She passed a remark along those lines.

Q. And was this, therefore, being prepared in advance of the final report being prepared? You have described it as taking place a couple of weeks after the visit to the site.

A. I believe I may have said a number of weeks. I am not absolutely sure of the sequence here because, remember, I wasn't involved at that stage in the finalisation of the report, so I don't know at what stage that

Q. I understand that you don't know at that stage whether the report had been finalised or not or whether this was part of a document which was going to be put into consideration in relation to preparing the final report?

A. Correct.

Q. Now, and from your observation in 1988, you have no idea in any detail what was in the document?

A. Correct.

Q. Now, you have described, and I'll deal with this in some detail later, but you have described that at a later stage some, initially I think your evidence was some two to three years later, you off your own bat, went back and took out the file?

A. I cannot

Q. Subsequently you said one to two years, that was my note of what you said yesterday in relation to the taking out of the file.

A. I tried to make it clear that I wasn't sure exactly when this happened. I couldn't fix it in time.

Q. That's why I had fairly put to you, Mr. Donovan, initially you said two to three years, subsequently you said one to two years, so your evidence was making

clear you weren't giving a very precise date?

A. I wasn't in a position to do so.

Q. But it was a substantial period afterwards.

A. It was certainly sometime afterwards, yes.

Q. And you went back, and you read a document presumably at your desk in the Central Bank?

A. My recollection is that I took the file from its location and read it on the spot and returned the file.

Q. Now, what was in that document?

A. My recollection is not clear but

Q. But you are prepared to make suggestions or implications that this document might in some way not be there or missing. What I can't understand is you have a very good memory of passing conversations and identifying documents as you pass in 1988. Here is where you go out of your way to take out a file; you see a document; you read it, and you can't assist us in relation to what's in it.

A. I believe I have said in evidence already that there was some description of the back-to-back arrangement in that document.

Q. What description?

A. From recollection, I can't be more specific than that.

Q. That could be anything. I mean, a description of the back-to-back. Was there anything of significance in it? Anything that you remember of relevance or was it a document upon which there was a description of what

back-to-back loans were and no more?

A. That I can't be sure about at this stage.

Q. Is there anything relevant which stood out

MR. HEALY: Let him finish, we need to get the answers to the questions

MR. FEENEY: Forgive me.

A. What I recall was there was a document with something else, a different typeface appended to it. I can't recall. And I think it would be wrong of me to try and suggest that I can recall specific contents of those.

Q. MR. FEENEY: Is there anything of significance which you now recall?

A. No, there is nothing I can

Q. Why make any issue of it?

A. It wasn't my intention to make an issue of it. My statement tries to complete my contact with the aftermath, if you will, of the 1988 inspection. And the reason why I mentioned it at all was that it struck me as unusual in reading the Inspection Report earlier this year, that the copy I was given had no markings on it whatsoever. There is no indication, not alone that anybody signed it, but that anybody referred it to anybody else in the organisation at a higher level or that any indication it was read by anybody. So that in itself

Q. What document are you referring to now?

A. I am talking about the 1988 Inspection Report.

Q. But it's part of the history. If you go back to the 1992 inspection, there will be reference to the 1988 inspection. It's part of the documents which are kept in relation to prior inspections. You are not suggesting otherwise, are you?

A. No, that's not what I am talking about. What

Q. But you are suggesting that there is no indication that it was read by anybody. That's clearly not the case, Mr. Donovan. This is part of the documentation which was available within the bank for anybody who was subsequently going into Guinness & Mahon. Of course, it was read by people within the bank.

A. I am not suggesting otherwise.

Q. Well, then

A. What I am saying

Q. Then what's the relevance of you saying there was no indication in the document that anybody had read it?

I mean, that's irrelevant. It's of no assistance to the Tribunal, is it? You know it would be read and would be studied within the bank, isn't that correct?

A. I am not saying that it wasn't read by anybody. What I am saying is that it struck me as unusual that there is no indication on it as to who would have seen that report at the time.

Q. And I have asked you in relation to the document which you say existed in relation to back-to-back loans which

you saw upon returning to look at the file is that the document, had it any relevant matter which you now recall, given the significance that you now in the year 2000 place upon these matters, is there anything that you recall from that document of significance?

A. There is nothing further I can add.

Q. And can you in any way say that there was anything in that document which is not covered by what is in the 1988 report?

A. Certainly there was more length in that document in its description

Q. It was longer

A. It was longer, yes.

Q. I am asking you are you in any way saying there is anything in that document that is not covered by what is in the 1988 report?

A. As I cannot recall at this stage the detailed content of that document, I cannot say that there was anything additional in it.

Q. So the evidence that you can give in relation to it is, in reality, of no assistance to anybody, would you agree?

A. It has one small significance in my opinion.

Q. You might as well give it.

A. It would help in that it may help to explain why there was no indication on the 1988 Inspection Report that it was given by anybody to anybody at that time to

read. It would be normal practice, even in the case where the Inspection Report is not signed, that there is some indication on it that it was delivered by the person in charge of the inspection to a more senior officer. It would normally say "Mr. X for attention please"

Q. Mr. Donovan, I don't want to leave matters hanging because it's a matter which comes from your statement is that there is expressions of opinions, feelings, possibilities of things occurring. Are you saying that the report was not dealt with in a proper manner?

You might as well come out and say it, if you are going to, rather than leaving things hanging, Mr. Donovan.

Are you saying that this was report was not dealt with properly?

A. It is not my intention to leave anything hanging. No, I am not in a position to say that the report was not dealt with properly. I had no contact with the further processing of that report.

Q. Have you asked anybody who you have worked with for the last twelve years how was this report dealt with before you put the suggestion out in front of this Tribunal?

A. I do record in my statement that I can recall a brief conversation with Mrs. Horan in that connection later in 1988.

Q. Did you look at the post inspection letter to G&M, to Guinness & Mahon?

A. At what time?

Q. At any stage? We know that you never looked at the report of 2000, and I'll come to the facilities that were made available to you in relation to preparing your statement. In relation to your researches at that stage, did you look at the post-inspection letter to Guinness & Mahon on the 29th April 1988?

A. Did I look at it in 1988?

Q. Yes, that it was there. Exactly what you would expect after an inspection takes place, there is a letter dealing with the matter sent by Mr. Halpin, the credit institution supervision department, a four-page letter of the 29th April 1988 dealing with matters which arose in the Inspection Report. Did you look or have regard to that in relation to how the Central Bank dealt with this report?

A. I don't have any specific recollection of seeing that at that time.

Q. If you had seen that letter, it would have been absolutely clear that this report was considered, dealt with, and correspondence dealing with matters arising from it were directed to Guinness & Mahon and that, therefore, any suggestion lingering or otherwise, that this report was not dealt with properly, is mere speculation and guesswork on your part. Is that correct?

A. I haven't suggested that the report was not dealt with



properly. I pointed out what I thought was an unusual element and I have included in my statement what I think may be an explanation for that.

Q. Because, Mr. Donovan I had taken, maybe rightly or wrongly, some lingering suggestion in your evidence, consistent with some other lingering suggestions without precise details in your statement, that something might not have been in order. Can I take it in relation to the manner in which the report was dealt with and subsequently dealt with by the Central Bank, that you make no such suggestion?

A. The only issue that I have raised is in relation to what I felt were outstanding points in relation to the back-to-back loans. I now know that that material does not feature in the 1988 Inspection Report which is consistent with the belief I had in the course of the inspection

Q. Mr. Donovan, I don't want to interrupt you, but I'd like you to direct your answers to the question I asked. Would you now answer the question I asked.

A. Could I trouble you to repeat the question for me?

Q. Certainly. What I'd asked you was in relation to a lingering suggestion which I said I had taken, rightly or wrongly, out of your evidence concerning the manner in which this report was dealt with, that there was something out of the ordinary and something incorrect in relation to that and I have asked you, do you now

accept that you do not want to or intend to nor is it your evidence that there was anything peculiar or unusual with the way this report was dealt with?

A. In all respects other than I have stated my views as to the treatment of the back-to-back loans, I would have no suggestion, lingering or otherwise

Q. That's the content of the report, I was dealing with some suggestion by you, I took that you suggested that it mightn't have had the circulation or it mightn't have been directed in the way in which reports normally would be. As regards that matter, there is no suggestion nor is your evidence to be taken as having any such suggestion, is that correct?

A. There is certainly no suggestion on my part that there was anything wrong in the way that report was handled. When we are talking about circulation or the processing of it

Q. The consideration of the matter after the report has been read?

A. No, I have no information as to who considered it or why. It struck me as unusual that nobody had given an indication on that in the report and I recalled in conversation

Q. But you are now saying it again, Mr. Donovan, and I have been through a series of questions, took it where you arrived at a situation where you accepted there was no suggestion on your part. You are merely raising,

what I say, is another one of these suggestions or impressions to no particular effect, is that right?

What conclusion do you want anybody to draw from the fact that there is something out of the ordinary in relation to markings concerning circulation?

A. I am not sure what conclusion can be drawn with it or from it.

Q. You don't ask anybody to draw any conclusion?

A. No, I don't and I haven't done.

Q. Well then, I'll leave it at that.

Can I then ask you when you went back some period afterwards to look at the file, did you seek out and obtain a copy of the 1988 report?

A. I don't recall that there was a copy of the 1988 report on that file, I don't recall reading it.

Q. Did you seek out or obtain a copy of it?

A. No.

Q. Now, if you were in any way worried about what views, opinions or conclusions had been expressed by the people who were appropriate to express views, conclusions or opinions in the 1988 report, why didn't you look at the 1988 report or seek it?

A. At that stage the report had been processed, time had passed, things had moved on. I had no role in relation to Guinness & Mahon beyond that I have described in relation to the 1988 inspection. It

wasn't my responsibility. There didn't seem a lot of purpose at that stage in me opening an issue.

Q. You are telling the Tribunal that you are going back and looking in the file. What's the purpose of that?

A. What I have said is that something prompted me to check to see if that note was there, I can't recall.

Q. I am quite sure that's correct Mr. Donovan, but could you answer the question. What was the purpose of doing it?

A. I wanted to see if the note was, in fact, on the file.

Q. What note? A note that you had seen but not read?

A. A note that I believed made some reference to the back-to-back loans and of which I had some knowledge but not the detail on it.

Q. And you got that document and you read it and you now don't recall anything of significance of it, isn't that correct?

A. I do recall that there was in it a description of the back-to-back loan arrangement.

Q. Indeed. But you don't recall because it was the very question I asked you, you don't recall anything of significance or importance in that document and I take it, Mr. Donovan, given your approach that you deliberately intended, it was your intention to go back and see if this document, if it be it, existed, that if there was anything of significance or importance, you would recall it?

A. I am not sure that it's fair to say that.

Q. You recall details of conversations which took place twelve years ago, Mr. Donovan. In those circumstances where you are motivated for no reason, when you are not involved in it, to go back to check a document, if there was one iota of significant information in it, you would be telling us about it, wouldn't you?

A. If I would remember it, certainly I would have provided it in my statement. We are dealing with a situation in 1988 where I was very much involved in pursuing certain matters. In terms of this note, we are talking about a situation where I was not involved at all.

Q. You are not involved, Mr. Donovan, I suggest in 1988, and it overstates your position to suggest that you were pursuing matters. You have accepted that any conclusions, opinions have got to be formed by other people. You are asking, I suggest, relatively basic questions which a trainee would be expected to ask in circumstances where there is limited time and opportunity to properly and maybe it's a failing train you or educated you on that particular job. That's the extent of your importance in 1988, Mr. Donovan, isn't it?

A. I am certainly not attempting to overstate my importance. I accept fully that I was a trainee, that I was not a member of that team. I was added to the

inspection. However, in the allocation of work in the course of the inspection, or in the course of any inspection, it would be nice to think that each member of the team can bring some value to it.

Q. Mr. Donovan, when I ask you these things, I am recognising that you are a first-week trainee. I am not in any way suggesting that in the year 2000, that that is appropriate. I must put that in context and if there is any misunderstanding I apologise for that.

But what I am making absolutely clear, particularly when you have regard to the fact that in paragraph 19 you recognise that what you were finding as new and unusual and surprising was matters which were, in fact, already known to the Central Bank and therefore, the significance that your fellow inspectors would place on it, would be very very minor. Would you agree with that?

A. I would agree that I would not necessarily be seen as a significant player in that inspection, yes. I was a trainee.

Q. Now, you never if you had ever wanted my instructions are and you will know a lot better than I do, that the system within the Central Bank's supervisory department is open, where you assist one another, where you help one another, where there is free discussion and free communication, would you agree with that?

A. Yes.

Q. And if at any stage from 1988 to this day, if you had gone and said "I want a look at the Guinness & Mahon 1988 report because I have some lingering doubts about it," it would have been made available for you. Do you agree?

A. I agree that I could have sought out the 1988 report.

Q. And it would have been made available for you. It's a question which is absolutely clear, Mr. Donovan.

There is an open, supportive approach where you support colleagues, where you assist them if you think they might be going down the wrong track, that is the approach and if you wanted access to a document such as the 1988 report at any stage, it would have been made available to you, do you agree?

A. I have no reason to believe that the report would have been withheld from me.

Q. Well, would you not be a little bit more fulsome.

This is an institution where you have worked honourably and for the last twelve years, where you have worked with your colleagues, where you have got assistance and help and given assistance and help. You can't have the slightest doubt that if you ever wanted that report, it would have been made available to you?

A. I don't have any doubts, no.

Q. Good. And in those circumstances, you choose in 1988 you didn't look at the report. From there

until the year 2000, you didn't look at the report, is that correct?

A. That's correct.

Q. Now, before I come on to that, there is just a few matters in passing in relation to your statement that I want to deal with. I think I have dealt with your just would you accept in relation to Mrs. Horan and Elaine Byrne, that matters that you might raise during your first week as a trainee might have been of such little significance to them that they would have little or no recollection of it, would you accept that?

A. That's a possibility, yes.

Q. And in those circumstances, your view would be giving undue emphasis to matters if one was to rationally look at what was being considered and properly considered at the time?

A. That's a possibility, yes.

Q. Now, for instance, you describe a conversation which you had when you went to Mr. Byrne. It's in paragraph 14 of your statement, pages 13 and 14. Now, Mr. Byrne has no recollection of this conversation whatsoever but can I take it that if I have interpreted your statement correctly, you go to Mr. Byrne, you identify some matters which you as a first-week trainee have come across, and he tells you when you describe what has happened, firstly, that you shouldn't go as a trainee to see senior management by yourself. That would be a



very good piece of advice to give a trainee, you would agree?

A. He didn't put it in quite those terms but that was certainly the message, yes.

Q. And it was the right message. If one of your first-week trainees did it, you wouldn't want them going into senior management. I mean, it is a very unwise thing to do.

A. Well,

Q. You wouldn't want them, would you, in their first week, a trainee who doesn't understand the basic terms, is speaking to senior management with nobody else present.

Wouldn't prudence demand that you say, don't do that.

Go in with somebody. Deal with it through the senior people. Isn't that what you'd do yourself?

A. In the cold light of day, yes. In the circumstances in which I found myself, that wasn't necessarily an option.

Q. I perfectly understand the circumstances in which you went in. What I am asking you about is if a junior trainee came to you, that advice to avoid it in future and don't do it again if you can avoid it, is what you would give them, isn't that correct?

A. Yes.

Q. And the other thing, if I have taken up what you say in paragraph 14 correctly, is Mr. Adrian Byrne told you that you should go and complete the segment of work

that you were raising with him.

A. I pressed him in the conversation that I should complete

Q. This is a conversation you had twelve years ago with somebody.

A. That's correct.

Q. I am mystified as to how you recall the precise details of it.

A. Well, I am not saying that I do recall precise details of every word that was said, I don't. But certain things have stayed with me and I do recall quite distinctly that I explained to him what work I had in progress in relation to looking at the set of files to which I had been directed by Martin Lannigan O'Keefe and I asked him to agree to my completing that work. And he did so.

Q. Where do you say you asked him? Is that in your statement?

A. I believe so.

Q. What? You obtained his agreement "that I should complete this segment of work." That's how you phrase it. This statement that you prepared arose in circumstances where the Tribunal had been in contact with anybody who signed a Guinness & Mahon report over the years. Isn't that correct?

A. I understand the Tribunal contacted anyone whose name appeared on

Q. Any report?

A. Special report, yes.

Q. That is why you were contacted?

A. Yes, I believe so.

Q. Now, before that sorry, so when Mr. Byrne, if he did

and he doesn't recall this conversation because I

suggest to you it was of no significance, is if

Mr. Byrne was to say to you, "Don't go in by yourself

as a junior trainee and finish the work you are doing,"

it would be perfectly proper and correct advice and

approach for Mr. Byrne and would you make no criticism

of him in relation to that, is that correct?

A. That's correct.

Q. And people in senior management often have to deal with

trainees who raise matters which appear important to

the trainees, but your experience tells you, look, get

on with it, just keep matters going, don't worry about

matters like this. That would be your experience over

the years as well?

A. I am not quite sure that I understand the significance

of your point.

Q. The significance is of no relevance when a question is

asked, Mr. Donovan. The importance is the answer.

A. I will rephrase, I didn't understand your question.

Q. Sorry, then you are perfectly entitled is the answer.

Is that the sort of approach which a person like you,

who as being a deputy manager in Banking Supervision,

is that if a young trainee comes with a problem which appears important to them, what you want to do is deal with it as quickly as you can; smooth it over and let them get on with it. They are going to learn on the ground as things happen and they will gain more experience and they will then not have these type of problems, isn't that correct?

A. I would certainly agree that my inexperience or the inexperience of any officer would be a factor in considering any information that they brought to a more senior officer.

Q. Now, Mr. Donovan, if there is anything of significance in relation to what is in this report, if you believed that anything relevant to the Moriarty Tribunal was, why did you not raise it with the Central Bank when they were preparing to give evidence earlier this year?

A. This is a matter we looked at yesterday. And I

Q. If you could just answer the question. It's a reasonably straightforward one. If there is anything of significance in your statement here, why, as you view it, why did you not raise it with the Central Bank when they were preparing their statement earlier this year?

A. I wasn't part of the process of preparing that statement. I wasn't

Q. Do you recall being given a draft copy of Mr. Byrne's report, being offered it?

A. I was not given a draft

Q. Do you recall being offered a draft copy of Mr. Byrne's report?

A. I recall being offered an opportunity to have a last look-over, or words to that effect, a report

Q. Very important is a last look before it goes off to the Moriarty Tribunal, you would have been aware of the considerable effort and detail and research and looking for documents which had gone into preparing that statement, wouldn't you have been aware of that?

A. I was aware that considerable work had been done.

Q. And you are the deputy head of the department whose head is making a statement to this Tribunal. Isn't that correct?

A. That's correct.

Q. And if you have any relevant information, if you have a scintilla of information which will add to the knowledge of the Tribunal, I suggest to you, you owed it not only to the Central Bank, not only to the Moriarty Tribunal, but to the colleagues you worked with, to tell them. Would you agree?

A. I wasn't familiar with the discussions that had taken place or were taking place between officers of the Central Bank and the Tribunal at that stage.

Q. You knew that a detailed statement outlining what dealings were between the Central Bank and Guinness & Mahon during the years where they were carrying out

investigations, is that that was being prepared; that the Central Bank, your boss, the man immediately above you, was preparing a statement, you had been offered a copy of his statement, and let me go further, Mr. Donovan, after you had been offered the copy of his statement, there was a staff meeting on the 11th February 2000 at which you were present where one of the items on the agenda was the Moriarty Tribunal and the statement which the Central Bank was going to make.

Did you say anything at that meeting to say you had a scintilla of relevant information to suggest what was going into the Moriarty Tribunal was wrong?

A. I have no recollection that it was clear to me at that time what the statement was going to cover. My recollection is that there was a series of meetings between Mr. Byrne and others from the Central Bank and the Tribunal in preparation of a statement. The coverage of that statement, I was given to understand, was extended a number of times during the course of those discussions, but I wasn't privy to the details of that. I didn't know what was going to be put into those statements.

Q. Now, you have been offered a copy of it. We believe that takes place about the 4th February. You are at a staff meeting where it is on the agenda on the 11th February. On both those occasions there is available

to you a copy of Adrian Byrne's statement which he is making to the Moriarty Tribunal on behalf of the Central Bank in relation to its dealings with the investigations of Guinness & Mahon and you don't do anything. You don't take the statement to see what's in it and you don't say anything to anybody. Is that correct?

A. That's correct.

Q. And I suggest to you, Mr. Donovan, if you had any real relevant evidence, rather than suspicions, apprehensions and placing importance post facto on events which do not deserve it, you not only should have, but you were obliged in every way, I suggest, to raise it at that stage. Is that correct?

A. I wouldn't accept that, no.

Q. Why were you not obliged, if there was anything of relevance, not to raise it at that stage when considerable effort, research had gone into preparing a statement, if you had any relevant information, why not speak it out? Why do you keep quiet and come here and make vague and general acquisitions? That's what I want to know. Answer that question.

A. I don't accept that I have made acquisitions let alone vague or general ones. What I have done is to reply to a request from the Tribunal for information. I have stated as best I can recall the specific facts of my involvement in the 1988 inspection. It's for

others to judge the significance or otherwise of that material.

Q. Did you consider them relevant and important?

A. In 1988 I considered that these were sufficiently significant for me to raise it with a number of people at that time. Their reaction suggested to me that they didn't agree with me.

Q. In the year 2000, did you consider them relevant or important?

A. In year 2000 I had considerable doubts in my mind as to whether I had significant material or not. What I had done, as I explained in my evidence, is to look at the Terms of Reference of the Tribunal and I was satisfied from reading that that I didn't have material that was relevant to those specific Terms of Reference. That doubt in my mind if I may finish as to the level of significance, whether I was attaching greater significance than was warranted, was a factor in my decision, rightly or wrongly, not to draw attention to this within the Central Bank.

Q. Did you, at the meeting, staff meeting when the report was proffered to you in the first two weeks of February, immediately before the report was sent into the Moriarty Tribunal on the 15th February, in the two weeks before that, did you consider that you had anything relevant in relation to the inspections of Guinness & Mahon to say or not?



A. I have no way of knowing at that point whether I had material that the Tribunal will consider significant.

It was my view that it was unlikely that I had material that was significant.

Q. And you certainly weren't going to do anything like, for instance, reach across the table and pick-up a copy of Mr. Byrne's statement which was on offer from Grace O'Mahoney to inform yourself, were you?

A. I chose not to read the document at that time.

Q. Now, we know then that Mr. Byrne came and gave sworn, and I suggest, careful and detailed evidence to this Tribunal after he had prepared in great detail and great research and put in anything which had been disclosed to him, that after Mr. Byrne gave evidence, it was reported extensively in the newspaper. Would you agree?

A. Yes.

Q. And you would have read it very carefully, I suggest?

A. I don't recall how carefully I would have read the news reports or how accurate they would have been at that time.

Q. Mr. Donovan, I suggest that that it is inconceivable that you as the deputy head of the Central Bank supervision section, where the person immediately senior to you, after considerable preparation and research is giving evidence and is being reported in the newspapers, that you would not have read in detail

what he had said in evidence from the newspapers?

A. As I say, I don't recall in what detail I read the newspapers or what importance I would have attached to them.

Q. When you read what was in the newspapers, did you attach any importance to what was ultimately to find its way into your draft statement?

A. I don't recall any reference in the media to anything to do with the 1988 inspection. The material that was being referred to relating to previous inspections was a revelation to me.

Q. And as regards back-to-back loans, did you know that they were being discussed at the Moriarty Tribunal and how the Central Bank had dealt with them? Did you know that from your reading of the newspapers?

A. In general terms, I expect I would have, yes. I have no clear recollection.

Q. And in your belief, did you have anything of any relevance or significance to say in relation to that matter?

A. I had recollections of the 1988 inspection. The points at that time had seemed significant to me. They weren't apparently significant to others, based on their reaction. It's a matter for judgement as to whether I was right or wrong to decide not to re-open these differences of opinion at that time.

Q. Mr. Donovan, I didn't ask you in relation to what other

people believed. You have identified, I believe, that I have taken you up correctly, that once Mr. Byrne had given evidence to this Tribunal in early March of this year, 2000, you were aware that the issue of back-to-back loans within Guinness & Mahon and how they had been dealt with and considered by the Central Bank had become an issue of some significance and importance. And what I have asked you is at that stage even, did you believe that you had anything relevant or significant to say in relation to the matter? You, did you believe at that stage, that you had anything significant or relevant to say on the matter?

A. I was unsure, but on balance I took the view that no, I did not.

Q. Because if you did, would you accept if you did believe that you had anything of significance or relevance to say on the matter, do you accept that you would have owed it to the Central Bank, you would have owed it to the Moriarty Tribunal and you would have owed it to the good working relations with your colleagues within the supervisory section where you have worked for the last twelve years, to come out and say it, would you agree with that? If you had believed that anything of significance or relevance to say?

A. If I believed that I had any information relevant to the workings of the Tribunal, as I understood them from

the Terms of Reference, I would have volunteered that material to the Tribunal.

Q. But you know because I have set the ground, Mr. Donovan, and I don't want you in some way trying to move it. I have tried to make it clear that by the time you formed the opinion in early March of this year, that you had nothing of significance or relevance to say, you knew that this inquiry was looking into and considering the manner in which the Central Bank had dealt with back-to-back loans within the Guinness & Mahon organisation. You knew that. And against that background you formed the view that you had nothing of relevance or significance. And I have asked you a simple question, that if you did believe you had anything of significance or relevance, do you accept that you owed a duty and an obligation to this Tribunal, to the institution where you have worked for and to good relations with your colleagues, to have voluntarily disclosed it?

A. My understanding was that the focus

Q. I haven't asked you your understanding. Would you just answer the question, Mr. Donovan. It's straightforward

A. I cannot answer it in the form that you have framed it.

Q. I suggest I'd ask you

CHAIRMAN: It seems a manageable question,

Mr. Donovan. Mr. Feeney is essentially asking you on

your state of knowledge at that particular time, after your awareness of fairly intensive work within the Central Bank, to respond to requests from this Tribunal after an internal staff meeting, after Mr. Byrne had given detailed evidence and after there had been very extensive reportage of that, did it seem to you at that stage that before any question of questionnaires arose, that perhaps it might have been then appropriate in the context of your duty to the bank as an institution, to your ongoing colleagues there and to the Tribunal, to make contact with us at that stage?

A. At that stage I gave consideration to my position and I held a view that it was unlikely that anything that I knew about the 1988 inspection would add in any material way to the material which had been provided by Mr. Byrne to the Tribunal. I was aware that the focus was very much on the 1970s and on the inspection reports from that time. It was news to me at that stage that the matter had been dealt with in such detail. It had been put on the record that the scheme such as it was, was still in operation in 1988 and whereas I knew that I could add detail as I have now done in terms of what exactly transpired during the 1988 inspection, it didn't seem to me that anything I could say would materially alter the position that had been put forward by the Central Bank.

Q. MR. FEENEY: Now, in the light of what you have now said, Mr. Donovan, the only other area that I want to ask you about is once the questionnaire was sent to you and you intimated to the Central Bank that you might have details to provide in response to the questionnaire, can I take it that the Central Bank, as was its practice in relation to its dealings with this Tribunal, did absolutely everything to assist you in gathering as much information as possible?

A. I have been facilitated fully in

Q. All documentation was made available?

A. Everything I asked was made available.

Q. You were provided with a separate solicitor and access if the solicitor wanted, to counsel, isn't that correct?

A. That's correct.

Q. You were given as much free time off from your position to consider the matter, amounting to weeks and weeks, to enable you to prepare a statement, isn't that correct?

A. I was given sufficient time by the bank to prepare my statement, yes.

Q. And in every way they could, the bank assisted you in identifying any information or recollection which you might have.

Now, can I suggest to you that inevitably what you then recall in relation to what had happened in 1988 is

going to be significantly affected and influenced by you now having available to you for the first time, the documentation such as the 1988 report, such as the other documentation, and that inevitably twelve years later, your version is going to be affected by that deluge of information which becomes available for the first time in the year 2000. Would you agree?

A. To some extent, that's true.

Q. Because one thing that just, I think, illustrates it and it arose briefly, but you recall being questioned in relation to a statement which you say Mrs. Horan made during the conversation. It's on the bottom of page 15, paragraph 19 of your statement. I just want to use this as an illustration to tease out the final matter that I have dealt with. You see there the very last line: "Mrs. Horan mentioned a relevant reference in previous inspection reports to 'matters not pursued further because of the sensitivity of the matter.'"

Now, what I would have read in this prepared statement is that what is in the quotation marks is the reference within the earlier report. Was that what you intended in your statement?

A. No. I should explain that my approach in preparing this statement, in drafting this statement, was first and foremost, before reading any supporting material, to record my recollections. That was my first step.

Q. And are you saying you recorded twelve years earlier those precise words being spoken?

A. To the best of my recollection, that was how it was phrased.

Q. Why did you put it in inverted commas in your statement, because there is quotations from other people throughout the report where that isn't the case?

A. What I intended there was that that was the piece of text that would appear or was to appear in the report as I recall it. And that to put it into quotes simply to distinguish it from the rest of the words of the sentence.

Q. In the sentence you write: "Mrs. Horan mentioned a relevant reference in a previous Inspection Report to..." And then quotation marks. Wouldn't anybody reading that take that to be, the portion in quotation marks, to be the reference in the previous Inspection Report?

A. If they were, I think I would expect that there would be some sort of cross-reference to the actual quotation, if that's what I had intended, but I didn't include that because I am not saying that that actually appeared in any Inspection Report. It is my recollection that that was the form of words that she used or something similar to that. Now, I cannot say that I am remembering this verbatim, but to the best of my recollection, something along those lines was said.



Q. Isn't that the point, Mr. Donovan, what you have been trying to do is to try and remember conversations which you place significance, which I think you recognise that the people listening to you would have placed less significance some twelve years ago where you have had a lot of information which is inevitably going to have an effect in relation to your recall. Would you accept that? And I suggest that this is an illustration of it.

A. I cannot totally rule that out. What I can say is that my approach was to first and foremost record from my own recollection and only afterwards to read the supporting material. Now, in the process of drafting certainly the subsequent material which I read is reflected to some extent in the material I prepared here. So the best of my recollection, however, the actions and conversations which I record are as they happened at that time based on my recollection of that time and not coloured by other matters. But I am not claiming that this is a perfect exercise in that respect.

Q. Mr. Chairman, there is a number of factual areas where there is a dispute between some of my clients in relation to their lack of any recall of meetings. I don't believe I take it further by saying such and such a person says he has no memory whatsoever of the conversation. I will put it if it is necessary, but I

don't believe it would usefully use up the time. If I could be taken as merely in no way standing back from the statements made by various representatives of the bank in not formally putting their suggestion that they don't have any recall of such conversations, I don't believe we'd get any further by doing it.

CHAIRMAN: Bearing in mind, Mr. Feeney, that this is an inquisitorial rather than adversarial process, although the last 48 hours may be something of hybrid, I certainly am not regarding people as being bound to put every conceivable matter seri a tem.

MR. FEENEY: I think the Tribunal's lawyers have details of statements so they know, in fact, what I am talking about. So in those circumstances, I have no further questions of this witness.

CHAIRMAN: Very good. Thank you, Mr. Feeney.  
Mr. Gordon?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GORDON:

Q. MR. GORDON: Just two matters very briefly, Mr. Donovan. I think at the very beginning of this statement that you gave to the Tribunal, you made it absolutely clear that you appreciate fully that the significance which might have been attached to what you uncovered in 1988 by other people might have been less than what you had thought?

A. Yes.

Q. I think that appears at the third paragraph?

A. That's correct.

Q. I think that you prefaced all of what you say with that caveat?

A. Absolutely.

Q. And I think you believe that the fact that people senior to you may have had other matters on their mind and they may have already had an understanding of the back-to-back issue, might well explain the fact that while you have a clear recollection of these matters because they were then new to you, they may not have such a recollection?

A. Yes.

Q. Tell me, Mr. Donovan, you are now a senior man in the bank. Was it easy for you to put yourself in a position of conflict with your colleagues before this Tribunal?

A. No. It has been a very difficult time. The relationships, working relationships in the Central Bank, are generally very good and very open, and it has been extremely difficult for me to put forward my recollections of the 1988 inspection, which I did, accepting the possibility that some of what I said might be of some value to the Tribunal, knowing particularly in the later stages that my colleagues had different recollections, I didn't do that lightly.

And it wasn't my intention and isn't my intention to make any suggestions as to the correctness or otherwise of the actions of other officers at the time. I can record for the Tribunal my recollections. It's for others to draw conclusions from that.

Q. Thank you.

THE WITNESS WAS FURTHER EXAMINED BY MR. HEALY:

Q. MR. HEALY: If I could just draw a few aspects of your evidence together, Mr. Donovan, and particularly taking up the last point that you have made.

I think that you accepted in response to a question from Mr. Feeney this morning that if you were an examiner today and something was drawn to your attention by a junior or even a trainee examiner, then the experience or inexperience of that person would be a factor in how you would approach what was drawn to your attention, is that right?

A. I believe so, yes.

Q. And I think you accept that your experience or inexperience in 1988 would be a factor in any response any other officer might make to something you drew to your attention?

A. I think that would be reasonable.

Q. Now, I think at one point you have suggested that, or at more than one point either in answer to me or in

answer to other questioners here, you suggested that what you came across in 1988 is something that was new to you but may not be so new to other people; that, in other words, you attached a significance to it because of your newness to this work and this particular bank that other people with more experience at this bank might not have seen as so significant, is that right?

A. That's correct.

Q. Now, you have, I think, had an opportunity of, as you said yourself, in examining newspaper reports of evidence given by other bank officials to this Tribunal, and I think by now you are certainly familiar of the way the Tribunal has approached its examination of the events of the 1970s and 1980s?

A. In broad terms, yes.

Q. And one of the matters that the Tribunal has been anxious to canvass is the extent to which the Central Bank was or ought to have been aware of what was happening in Guinness & Mahon, isn't that right?

A. Yes.

Q. And evidence has been given, for instance, that when the Central Bank asked questions of Guinness & Mahon, they got unsatisfactory responses in the 1970s, and even in the 1980s. You are aware of that evidence?

A. Yes.

Q. And you are aware that in 1979 an undertaking was given by Mr. Traynor to wind down back-to-back loans backed

by Cayman deposits and that this would be done by 1982.

You are now aware of that?

A. I am now aware of the undertaking, yes.

Q. And I think you are now aware also, from what the Tribunal has told you on from what you have heard, that this undertaking was not, in fact, complied with and that back-to-back loans backed by Cayman deposits continued to be given or continued to be operated by Guinness & Mahon after 1982?

A. Yes.

Q. And, in fact, the entire operation which was the subject of concern in the Central Bank in the 1970s continued and indeed burgeoned in the 1980s?

A. Yes. Could I just go back over my previous answer. I was aware, or I have become aware from the work of the Tribunal of the undertaking given, as I understand it, to wind out the arrangement, I am not sure that I was aware that there was a particular date by which that was to be done.

Q. I understand. I'm telling you now, in any case, and you know now from what I am telling you that an undertaking was given?

A. Okay.

Q. What was happening is that the Central Bank in the 1970s went into Guinness & Mahon and found some things that were disconcerting. They were given undertakings that those would stop. Those things did not stop,

even more disconcerting things occurred, even more concealment occurred during the late seventies and right up to the eighties. You are now aware of that concealment from the Central Bank, that's what I am talking about you are now aware of that, isn't that right?

A. Yes.

Q. You are also now well aware that the Central Bank were relying on an undertaking given in '79 that a certain type of activity would be wound down by 1982, and would you agree with me from that it must follow that Guinness & Mahon should have been fairly happy that the Central Bank were satisfied with their behaviour after 1982, i.e., after a point where they appear to have convinced the Central Bank that they were winding down that type of activity. Do you follow?

A. I follow, yes.

Q. Now, when you drew up this matter with somebody in 1988, would you agree with me that Guinness & Mahon shouldn't have been concerned if, in fact, they were satisfied that the Central Bank was not going to cause any more trouble about their undertakings, if, in other words, they remained convinced that the Central Bank was not going to trouble them about this again?

A. I suppose that's reasonable.

Q. Because all I am seeking to establish at this point is that when you raised this matter with Mr. Lannigan

O'Keefe, whatever about the significance that was attached to this by anyone in the Central Bank, forget about the Central Bank, Mr. Lannigan O'Keefe betrayed a sensitivity, isn't that right?

A. He?

Q. Mr. Lannigan O'Keefe betrayed a sensitivity, touchiness?

A. I thought so, yes. Or at least a reluctance to give full and detailed answers to the questions.

Q. Now, if you had been a senior examiner at that time and if you then had all of the knowledge that you might now have of the full content of previous reports and previous correspondence, you might have taken a different view of Mr. Lannigan O'Keefe's behaviour, isn't that right?

A. It's possible, yes.

Q. Well, isn't it almost certain that if you had all of that knowledge, you'd say, I am not happy with this answer, I want to pursue it further?

A. Not necessarily.

Q. You mightn't have pursued it further?

A. What I am saying is that I cannot assess how other people would have read Mr. Lannigan O'Keefe's answers.

Q. I am asking you, you would have read it. How you would have read it?

A. That's a very difficult hypothetical question because I didn't at that time have the background knowledge. If



I had had the background knowledge, would I have reacted differently to his answers? It really depends on whether I then understood the answers he was giving.

Q. Of course. Would you have understood at that stage that the sensitivity that he was betraying was one that disclosed considerable touchiness on the part of the bank when the bank should have been comfortable that the Central Bank were not going to be pursuing this matter because of an assurance they had given years before and which they thought had been accepted?

A. That's very difficult for me to answer. There was also the possibility that the questions I was asking and the way I was framing them was not very sensible. That may have had an impact on Mr. Lannigan O'Keefe's reply. All I can say is that I, as a trainee, formed an impression that I wasn't being given a full explanation, but the fault may have laid partly with me.

Q. He didn't know you were a trainee?

A. I am sure he would have done.

Q. Oh he would have, would he

A. I'm sorry, I beg your pardon. I imagine he would have done, I can't say for certain.

Q. You think he would have known you were a mere trainee, not wishing to denigrate your personal achievements in any way, but

A. I can't say what Mr. Lannigan O'Keefe would have known,

but I presume he would have known that I wasn't present at the beginning of the inspection. And again it's my speculation now, but it wouldn't surprise me if he was aware of who the normal inspection team would be for Guinness & Mahon. He would have had regular contact with them, I would have expected, whereas he would have had no contact with me.

Q. But he was paying you a lot of attention?

A. I wouldn't put it like that, no. I put questions to him but he answered. I then found myself returning documentation to his office in the normal way and he asked if I had accepted the answer he had previously given.

Q. We now know that, in fact, G&M were covering up what they were doing. They were concealing what they were doing and you were asking questions of a bank that was concealing what they were doing, whether you realised the significance of it or not, isn't that what was happening?

A. I believe so now, yes.

Q. Now, it may be that because of the past history other members of staff of the Central Bank did not attach sufficient significance to the experiences you had which in retrospect we can now see were quite pivotal, because you were a junior, a very junior person in this type of work. Isn't that what I think you have now conceded?

A. Well, we are talking about retrospection. It may not have appeared like that at the time.

Q. Now, when you came ultimately to 19 or to 2000 and the question arose whether you would contribute to the Central Bank's deliberations and how they would respond or how Mr. Byrne's statement would be or what it would contain for the purposes of his evidence to the Tribunal, you had, in the back of your mind, this issue that had been exercising your mind on a number of occasions over the previous twelve years, isn't that right?

A. Yes. I had some recollections from 1988.

Q. And by that time I suppose you could see that whereas there must have been some concern in your mind that what you found out in 1988 and which may not have had much significance for you or for your colleagues at that time was now beginning to assume some significance; perhaps in retrospect only, but beginning to assume some significance.

A. I don't think I would have been conscious that the details, as I could recall them, were likely to be particularly relevant at that stage. My understanding was that there was a particular focus on the 1970s and I hadn't heard any reference

Q. If you had read the newspapers you'd have seen there was references to the seventies, 1982, 1985, 1988, even 1982 I think?

A. I don't recall seeing such references.

Q. Now, what I am trying to get at and trying to find out from the point of view of the decisions the Tribunal has to make in this matter is what might have prompted you not to come forward when Mr. Byrne was making his statement. And what I am trying to canvass is whether, as I think Mr. Gordon put it to you, you didn't wish to become embroiled once again in what seemed to you to be a controversy to some degree, something that had exercised your mind before, something that I suggest to you must have assumed a little more significance now. You didn't want to draw it up again for personal reasons?

A. That was a factor, yes. It was a question of weighing up the potential damage I believed that I could do to working relationships and my working relationships with certain people in the Central Bank versus any relevance that I might have attached to the information from the point of view of the Tribunal. I couldn't see at that time that the information was likely to be helpful, and I think that consideration was still going on in my mind at the point where I heard that the Tribunal was about to contact me. In a sense, that's what my decision was made at that stage.

Q. Can you see now that it is important that the Tribunal should know that you were asking questions in a bank about things the bank wanted to cover up? Can you not

see that that in itself is something of significance

now?

A. I think degree of significance would be a factor in my

trying to answer that question. Again, it's easier

with retrospect to see what the Tribunal is interested

in. I wasn't party to the discussions that had taken

place between the bank and the Tribunal. I had

limited knowledge of the areas the Tribunal was

attempting to cover. So I wasn't sure I could see

Q. I am not asking that you should have brought it to the

attention of the Tribunal, I am not pursuing that

matter at all. I am simply trying to clarify finally,

whether you now agree now, I am not asking you about

your willingness or your reluctance, perhaps because it

was painful to draw up this matter. I am simply asking

you whether you now agree, isn't it, in fact, the case

with the benefit of hindsight, that you were asking

questions of a bank which was trying to conceal

something that was relevant to the answers to those

questions?

A. That is certainly the case, yes.

CHAIRMAN: I think it's an aspect that has been dealt

with in your conversations with Mr. Feeney and with

Mr. Healy, Mr. Donovan, but I think I should finally

explore it as the person who has to come to some

difficult determinations on some of the conflicts that

have emerged in the evidence from your good self and

that we will no doubt hear over the rest of today and perhaps tomorrow.

Now, I appreciate you have stated that you were just giving the evidence as best you recall events at the time in 1988, helped perhaps by the recent furnishing to you of all material papers. And you have said that it is not for you to draw inferences. But to some extent, I do need to know a little bit where you may be coming from or how you may view the likely motivation of your colleagues.

If I am to find in your favour on some or all of the conflicts of fact that seem likely to emerge from the statements of Mr. Byrne and Mrs. Horan, a number of possible views could be taken by a Tribunal. A view could, in the first instance, be taken that perhaps in their anxiety to complete an urgent and important inspection of a bank that was in very considerable trouble over great topical difficulties as regards liquidity, that they had perhaps been unduly hasty in disparaging matters raised by you as a neophyte that have since turned out to be quite important.

On the other hand, and I don't want to phrase this like some cheap parody of a John Grisham novel, it could theoretically be viewed by a Tribunal that the Central Bank perhaps had been arguably indolent in policing

aspects of the back-to-back loans, that they had viewed as sufficiently serious back in the 1970s to at one point describe as being perhaps contrary to the national interest, and that in the course of your involvement, that there remained some degree of ongoing orchestrated conspiracy to silence you as getting too close to embarrassing events.

Now, it was my understanding from your responses to Mr. Healy and Mr. Feeney, that you were not really inviting me to come to that latter and more dramatic view of things. Can I safely assume that?

A. You may assume that, yes.

CHAIRMAN: Very good. All right. Thank you very much. I don't suppose there is a great deal of point in starting the next witness.

MR. COUGHLAN: No, Sir. It's a short witness.

CHAIRMAN: If there is a short witness,

MR. BURKE: Mr. Chairman, might I take this opportunity to seek limited legal representation on behalf of Ms. Elaine Byrne. We didn't have an opportunity to do this yesterday. She was part of this process.

CHAIRMAN: I appreciate, Mr. Burke, she was involved in the process and, of course, fair procedures require that I do give an opportunity to anybody whose

representation may be affected to have all facilities to defend and vindicate themselves, but I would have thought in comparison with the position of Mr. Adrian Byrne and Mrs. Horan on the evidence to date, her involvement has been very peripheral, and I think rather than just automatically accede to limited representation, I will reserve that position for the time being. If something does transpire that puts your client's position much more centre stage, of course I will give you an opportunity to re-open it. But as of now, I am being mindful that I should not automatically accede to a cavalcade of applications for limited representations. I think it's not just yet necessary.

MR. COUGHLAN: Mr. Michael Deacy.

MICHAEL DEASY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thanks Mr. Deacy, please sit down.

Q. MR. COUGHLAN: Mr. Deacy, I think you furnished a memorandum of proposed evidence for the assistance of the Tribunal and I will just take you through that. I think in paragraph 1 you say that you were head of IFSC and fund supervision in the Central Bank of Ireland and in 1988 you were deputy manager of the banking supervision department, is that correct?



A. That is correct.

Q. And I think you were asked to give evidence with reference to a draft or memorandum prepared by the last witness, Mr. Donovan, isn't that correct?

A. Yes, that's correct.

Q. And I think in response to that you say that in paragraph 26 of his draft statement, "Mr. Donovan states that he asked me for guidance as to whether it would be best for him in the circumstances he describes to seek a transfer from Banking Supervision to another department of the Central Bank. He also stated that at my request, he provided me with some indication but not a detailed account as to his concern re Guinness & Mahon and his earlier conversation with Mr. Adrian Byrne. He further stated that I asked him not to take further steps regarding seeking a transfer until I had an opportunity to consider the matter and that I reverted to him within a day or two to indicate that I had raised the matter with Mr. Brian Halpin, manager Banking Supervision, who would contact him directly."

A. That is correct.

Q. That is what you ascertained from Mr. Donovan's draft or memorandum?

A. It is indeed.

Q. And I think that having considered that, the evidence that you can give is that you have no recollection of any of the events described?

A. That is correct.

Q. Now, I just want to be clear about this because the Tribunal has to make findings of fact here, Mr. Deasy. Your position is that you just have no recollection.

You are not asserting that they did not occur?

A. I am not asserting that at all, I just cannot remember it happening.

Q. Thank you.

CHAIRMAN: Nobody got anything to raise as a result of that? Thank you very much for your attendance Mr. Deasy, and you are, of course, excused and we will resume for the next substantive witness at ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1.50PM:

MR. COUGHLAN: Mrs. Horan.

ANN HORAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

Q. MR. COUGHLAN: Mrs. Horan, I think you are at present the managing director of Bank of Ireland commercial finance and you were formerly a senior bank examiner with the Central Bank of Ireland, isn't that correct?

A. That's correct.

Q. I think arising out of a draft statement which the Tribunal received from the last witness, Mr. Donovan

where mention or reference was made to you, that was furnished to you by the Tribunal and you were asked for your views or comments in relation to it, is that correct?

A. Yeah, that's correct.

Q. And I think in that regard, you furnished to the Tribunal a document dealing with various matters by reference to the paragraphs in Mr. Donovan's draft statement, isn't that correct?

A. That's correct.

Q. And I think you have also had the benefit of hearing Mr. Donovan give evidence yesterday and today. And taking all that into account, I am going to take you through what you have furnished to the Tribunal, and I appreciate that some of the emphasis which you made in relation to Mr. Donovan's written document may not be as significant now in light of some evidence which you may have heard over the last day and a half. Is that all right?

A. Okay.

Q. Now, I think you say that you do not remember any of the events described in Terry's statement, is that correct?

A. Yes, that's correct.

Q. That you have very limited recall in relation to the 1988 inspection, although you do remember certain aspects of the earlier inspection of 1986.

A. That's correct.

Q. That is an inspection which you conducted at Guinness & Mahon in 1986 as well.

A. Yes, that is right.

Q. You say that if the event as described by Terry Donovan were an accurate reflection of the course of events surrounding the 1988 inspection, you are confident that you would remember them?

A. Yes.

Q. You say that they are quite extraordinary and are not consistent with the conduct of inspections as you remember them. Is that right?

A. That's correct.

Q. You have informed the Tribunal that you were disturbed by the tone of Terry Donovan's statement which seemed to range from the possibility that you unwittingly ignored his stated concern to the more serious possibility that you deliberately tried to keep reference to 'Hypothecated Deposits' out of the report due to sensitivities concerning Guinness & Mahon.

A. Yes.

Q. And you say that Terry Donovan I'll come back and deal with that because that is a matter that Judge Moriarty, the Chairman of the Tribunal, I think raised at the very end with Mr. Donovan, and you heard his response to that.

A. I did.

Q. I think that you say that Terry Donovan also refers to documents including a note and author and contents unknown which has not been located during the recent searches of the Central Bank's files relating to Guinness & Mahon?

A. That's right.

Q. Again, I'll come back and deal with that in a moment.

You have informed the Tribunal that you are and always have been a conscientious individual. You would not ignore reasonable suggestions that something was not right or indeed needed further investigation. If you felt that his suggestions were not reasonable, you would have explained this to Terry Donovan. You refute suggestions that you might have deliberately kept information out of the report or refused to follow-up. You were not aware of sensitivities regarding Guinness & Mahon nor of any institutional reason to protect Guinness & Mahon. You were as keen as anyone to prepare a comprehensive report and not to miss anything of relevance. In fact, it can be seen that the 1988 report is particularly detailed and is more comprehensive than the previous report on Guinness & Mahon.

You say that you have not spoken to Terry Donovan or any of the individuals named in his statement, but you note that Terry Donovan's version of events does not appear in Elaine Byrne's statement which was supplied

to you by the Tribunal. Elaine Byrne was present throughout the course of the inspection.

You do not recall where you were located while on-site in Guinness & Mahon. However, you would normally have been located together in a meeting room and it is likely that Elaine Byrne was present during any discussions which took place both between Terry Donovan and yourself and between the inspection team and personnel from Guinness & Mahon. In the Central Bank you shared an office with Elaine Byrne and she would have been party to conversations and events which took place when you returned to the office.

A. Yes.

Q. Now, I think you then deal specifically with matters which Mr. Donovan dealt with in his draft statement and if I just go through this.

You say that in paragraph 2 of Mr. Donovan's draft statement that the Guinness & Mahon reports which are contained in the Central Bank registered files are not signed. In this context a suggestion that Terry Donovan was being forced to sign the report against his will is unusual.

Now, that is an interpretation you took from the written document. I think you heard him give oral evidence on that and I think that that does not arise.

A. Okay.

Q. You accept that.

Now, I think dealing with paragraph 3. You say that you were surprised at his description of the approach by Brian Halpin and his reluctance to go on an inspection without reviewing the file. The normal practice was for examiners to learn on-the-job and a junior examiner would be guided by a more senior examiner until they were comfortable with the role.

You then deal with paragraph 5. I just want to go through this because there really are only a number of net issues which I wish to address to you in a moment, but I want to deal with everything you have dealt with.

You deal with paragraph 5 of Mr. Donovan's statement and you say: "The use of the word 'Instructed' does not describe your usual approach to work." I take it by that you mean that you don't give orders. You ask people to do things. Would that be correct?

A. Yes.

Q. You deal with paragraph 6 of his statement and you say you find it difficult to understand how Terry Donovan would have formed the view after a brief meeting with Martin Lannigan O'Keefe that: "Full information was not being provided to the Central Bank by Guinness & Mahon." And that is just an observation you make on a view Mr. Donovan was expressing in his opinion, isn't

that correct?

A. Yes, that's correct.

Q. Paragraph 7 you say you were sure that you have explained to Terry Donovan that this issue having discussed before, if he had expressed concern I think that's the issue of "Hypothecated Accounts" and the back-to-backs.

A. Yes.

Q. Paragraph 9 you say that your recollection of the conduct of inspections is that the team would have been assigned a room with the telephone and given a contact name, which in this case appears to have been Martin Lannigan O'Keefe. The contact person would have been telephoned if files were needed and these would have been brought down to the office. You find it unusual that Mr. O'Donovan would have visited Martin Lannigan O'Keefe's office to return files or that he would have met Mr. Pender on his own. The practice in the Central Bank was that officials did not attend meetings on their own. This was to ensure that they would not be compromised in any way through their dealings with personnel in licensed banks." I think there is no dispute or difficulty in relation to that; that is the practice and policy of the bank, but there can be, I think you would accept, an unusual situation where somebody could find themselves on their own or there could be a practice where somebody may talk to somebody



on their own for the purpose of obtaining information which may not be more readily available at a formal meeting?

A. Yes, I agree.

Q. That is really a question of practice and policy of the Central Bank.

A. Mm-hmm.

Q. Now, you then deal with paragraph 10 of Mr. Donovan's draft statement and you say you find it unusual that where the issue of 'Hypothecated Deposits' had already been discussed on a number of occasions in the past with the Central Bank, Guinness & Mahon would react to a junior examiner who asked for an explanation of the term."

And then you say in relation to paragraph 12: "Given your role as a senior examiner, you do not imagine that you would have wanted Terry Donovan to discuss matters relevant to the inspection with Adrian Byrne without you being present."

Then dealing with paragraph 13 and the reason I am going through it in this way at the moment, Mrs. Horan, is that the record will have described the evidence of Mr. Donovan and dealt with it in paragraph form, so I want to address it for the record at this stage.

A. Okay.

Q. Paragraph 13 of Mr. Donovan's draft statement. You

said that if the conversation had taken place with Adrian Byrne, you believe that Adrian Byrne would have discussed it with you.

Then dealing with paragraph 14 of Mr. Donovan's draft statement. You are sure that if this meeting had taken place with Adrian Byrne, he would have explained to Terry Donovan that the Central Bank was already aware of the existence of 'Hypothecated Deposits' in Guinness & Mahon and that they were not unduly concerned about them.

At paragraph 17 then of Mr. Donovan's draft statement you say that if this paragraph suggests that Terry Donovan was assigned a substantial work load with the intention of keeping him away from the 'Hypothecated Deposits', it does not accord with your recollection of Central Bank practices. I don't think Mr. Donovan was making that assertion in the witness-box. So I don't think anything arises on that.

Paragraph 18 you say that given the Central Bank was already aware of the existence of 'Hypothecated Deposits' and no new information had been uncovered, you are unclear what Terry Donovan wished to include in the report.

At paragraph 19, the items which Terry Donovan referred to in this paragraph happened before you joined Banking

Supervision Department. You were not aware of them at the time. In March of this year you were given an opportunity to read Adrian Byrne's statement to the Tribunal and this was the first time you became aware of the discussion which took place between Guinness & Mahon in the late 1970s regarding the 'Hypothecated Deposits' and the potential for tax evasion. You could not have had this conversation with Terry Donovan.

At paragraph 20 of Mr. Donovan's draft statement you comment: "This comprehensive description of the prudential issues relating to back-to-back loans appears to me to be inconsistent with Terry Donovan's earlier description of himself as an untrained examiner." I think Mr. Donovan, in fairness in the course of his evidence, did, I think to Mr. Feeney, indicate that the language which he was using now was language which he had gained over the years to address an issue which he didn't understand so well in 1988.

A. Okay.

Q. And you say that, dealing with Mr. Donovan's paragraph 24, you believe that if Terry Donovan had felt strongly about the report it would have prompted you to take action or at least discuss his concerns fully with him.

Paragraph 26: You were sure that at least one of the senior people that Terry Donovan claims to have talked

to would have alerted you to the fact that there was a potential problem in relation to the Guinness & Mahon report. Had somebody come to you and stated that they felt strongly about the issue and that they were considering requesting a transfer, you'd have taken this matter seriously. You were not aware of Terry Donovan's concerns.

Paragraph 27 of Mr. Donovan's draft statement you comment: "I do not know what was in the note and why it does not appear on the Central Bank files."

Now, if I could just take that final matter first.

There has been evidence of Mr. Donovan to the effect that you were in his working area at some short time after the inspection occurred, that you had a document in your hand. You waved it and you used words to the effect that you had to deal with this and it was all your fault or you had to deal with it because of him.

Do you have any recollection of that happening?

A. I have no recollection of that.

Q. Did you, apart from the report and the working papers which would have been used for the purpose of compiling the report, to your recollection, produce any other document independently of the report dealing with back-to-back loans at Guinness & Mahon or to use the term, 'Hypothecated Loans'?

A. I have no recollection that I did. The only notes

that I can think of that I would have prepared after the Inspection Report would have been perhaps briefing notes if there were meetings coming up, something like that, but I have no recollection of a note on that.

Q. Could you have prepared any portion of the report as a draft like dealing with an issue?

A. No. Everything was in the report.

Q. Everything was in the report. Now is it that you have no recollection of such a document or are you saying that there was never such a document, Mrs. Horan?

A. I have no recollection of such a document and I find it very strange that I would prepare a document but not put it in the report. I can't imagine that that happened. But I have no recollection of such a document.

Q. Could you have prepared a document for file?

A. I don't know. I would have prepared a document on 'Hypothecated Deposits' because the only information I knew on them is in the 1988 report.

Q. Very good. Well, if I go back to the beginning so

A. Okay.

Q. and deal with the issues. And could I just ascertain this from you for the moment. There is no suggestion, or is there, that Mr. Donovan bears any ill will against or is in any way malicious in respect of you?

A. No, there is no such suggestion.

Q. Now, Mr. Donovan's evidence was that he was thrust on you. You were down in Guinness & Mahon when he arrived to the supervisory department of the bank and he was sent down to learn on-the-job. Would that be your recollection of events?

A. I don't actually remember him, but, yes, but it sounds very reasonable and I see his name on the report, so.

Q. And yourself and Elaine Byrne were the inspectors for the Central Bank carrying out the examination of Guinness & Mahon?

A. Yes.

Q. And Mr. Martin Lannigan O'Keefe would have been the contact person in Guinness & Mahon?

A. Yes, I believe he was.

Q. Now, do you have any recollection of Mr. Donovan asking you about the term 'Hypothecated Accounts'?

A. No, I don't remember that.

Q. Do you accept that that could have happened?

A. It could have happened, yes.

Q. Now, I just want to ask you this from your experience, because Mr. Feeney was putting it to Mr. Donovan this morning that the term 'Hypothecated Accounts' is one that would be very well-known in banking or Central Banking circles and Mr. Donovan said that it is a term which he was not familiar with at the time and it is a term which he has not seen often subsequently.

A. Mm-hmm.

Q. What was your experience?

A. I would agree with Mr. Donovan on that one.

Q. It's an unusual term or it's not a term that's used regularly, would you agree?

A. Well, not in my experience, but I suppose I should point out I did leave the Central Bank almost twelve years ago, so my experience was limited to a three-year period.

Q. In fact, this Tribunal first came across the term in American documents which arrived seeking letters rogatory in respect of examining accounts at Guinness & Mahon, but it's not your experience, anyway, that it was a term that was widely used?

A. No.

Q. So that if somebody in the Central Bank were to ask you about it, it might not be unusual in that in your experience it wasn't a widely used term?

A. That seems fair.

Q. Now, Mr. Donovan also expressed the view that he couldn't understand Mr. Donovan wondered if these accounts were cash-backed, why they should appear on the liability side of the accounts at all, I think.

Did you hear him give that evidence yesterday?

A. Yes, I didn't fully understand it though, to be honest.

Q. Well, he said that the position that was being asserted to him by Mr. Lannigan O'Keefe was that they didn't constitute any risk because they were cash-backed, as I

understand it.

A. Okay.

Q. And he found it unusual that something that would be a loan would appear on the liability side of the bank's accounts. Did that of the balance sheet. Did that have any effect on your mind at the time?

A. No. I just heard Terry Donovan referring to it yesterday. I was a bit puzzled by it.

Q. But whilst you have no recollection of Mr. Donovan asking you to explain the term 'Hypothecation' or 'Hypothecated Accounts', I take it you accept that it could have happened?

A. Yes, I do.

Q. And again you have no recollection of you and Mr. Donovan having any conversation with Mr. Martin Lannigan O'Keefe for a greater explanation in relation to it, but I take it you accept that that could have happened also?

A. Yes, I do.

Q. Now, you say you know nothing about Mr. Donovan seeing Mr. Lannigan O'Keefe on his own, that is, for the purpose of returning documents or to fetch documents; your comment on that is that the usual practice was that there was a telephone in the room and you asked for them.

A. Yes.

Q. But you are not saying it didn't happen?



A. No, I can't say it didn't happen.

Q. And again you have no direct knowledge of Mr. Donovan being taken to see Mr. Pender, isn't that correct?

A. That's correct.

Q. You have no recollection of Mr. Donovan coming to speak to you around a lunch time, a lunch time when this inspection was taking place and bringing matters to your attention in relation to back-to-back loans?

A. No, I have no recollection of that.

Q. But it could have happened?

A. It could have happened.

Q. And you have no recollection of Mr. Donovan and you having a conversation, the upshot of which was that he should talk to Mr. Adrian Byrne?

A. I have no recollection of it. I suppose I just find it strange that they would want him to go to Adrian Byrne, but I have no recollection.

Q. And that could have happened?

A. It could have, yeah.

Q. Of course, you would not have been a party or privy to a conversation which may have taken place between Mr. Donovan and Mr. Byrne, so you can't help on that, isn't that correct?

A. That's true. I suppose other than to expect that Mr. Byrne would have raised it with me.

Q. Would have raised the matter?

A. Yeah.

Q. But again, if this was something which wasn't exercising your mind greatly and you don't have a clear recollection of matters surrounding the 1988 inspection, it could have happened but you just don't have a recollection?

A. It could have, I don't have a recollection.

Q. I think we have dealt with the issue of signing the report and not signing the report. I don't think Mr. Donovan is making any suggestion that he was being urged or forced to sign any report and nor did he refuse to sign any report. I think he made that clear, very clear this morning in his evidence, isn't that right?

A. Okay.

Q. I think we have dealt with the question of a document, and you have no recollection of anyone raising an issue with you, that is Mr. Halpin or Mr. Deasy or anyone of that nature, of Mr. Donovan thinking about a move?

A. No, no.

Q. So on the facts as has emerged in evidence at this Tribunal, can we take it that you accept that the facts as set out by Mr. Donovan of various events occurring, could have occurred, would that be fair to say?

A. I think individually I can accept that each of them could have occurred. I think if you take them in total, I find it very hard that I wouldn't remember them. But it is possible.

Q. I am just trying to see where any differences do arise and I am trying to avoid controversy insofar as that is possible, Mrs. Horan.

A. Okay.

Q. As the inspector in charge of the examination of Guinness & Mahon in 1988, can we take it that you would have, in the normal course of events, prepared yourself to conduct that particular inspection of the bank?

A. That's correct, yes.

Q. And to that end you would have had to identify areas where you were going to concentrate your inspection, isn't that correct?

A. That's correct, yes.

Q. Always bearing in mind that the Central Bank is concerned with prudential matters?

A. That's correct.

Q. And that is an area where the inspectors direct their attention?

A. Yes, that's correct.

Q. There are larger considerations for the Central Bank in relation to a personnel of banks but that is not primarily the function of the inspectors, that is something that may be taken up perhaps at a more senior level in the Central Bank?

A. Generally, yes, it would be at a more senior level.

Q. Now, in preparing yourself for this particular 1988 inspection, did you read the 1985 report?

A. I can't say for definite whether I would have done, but my normal practice would be to read the previous Inspection Report and to read the most recent registered files as background material, and I would expect to see everything I needed to know on those.

Q. Would the registered files contain the correspondence between the Central Bank and the bank under inspection?

A. Yes, they would.

Q. Going back over the years?

A. Yes, they would, but I suppose I probably would have read only back so far. I wouldn't have gone back

Q. The normal I don't know what other correspondence would be on the registered files, but certainly after each inspection the practice of the Central Bank is to write to the bank that has been inspected and to set out the concerns of the Central Bank, how they might do one thing or another, tidy up their position or whatever, isn't that correct, that's the way it's done?

A. That's it, yes.

Q. The report remains in the Central Bank?

A. It does, yes, only that goes to the bank.

Q. And when you carried out the 1988 inspection or indeed the 1986 inspection, were you aware of the concerns the Central Bank had in relation to the 'Hypothecated Accounts' at Guinness & Mahon; that is, accounts which were backed by Cayman funds?

A. No, I was not aware of those concerns.

Q. I think as a result of the evidence given by Mr. Adrian Byrne to this Tribunal and your opportunity of studying a draft of his statement, you are now aware that the Central Bank had serious concerns about that?

A. I am now, yes.

Q. And these concerns were directly related to prudential matters because the tax implications of these particular accounts affected, in the Central Bank's view, the free resources ratio of Guinness & Mahon, isn't that correct?

A. I am not sure about that.

Q. Because in 1988 Mr. Feeney put it to Mr. Donovan that there was a major concern in the Central Bank about the liquidity of Guinness & Mahon.

A. Yes, I think it was the solvency.

Q. The solvency?

A. Yes.

Q. And if you had been aware of the previous concerns of the Central Bank in relation to these accounts, how would you have viewed them in dealing with a potentially insolvent bank?

A. I am not sure I can answer that at this stage.

Q. I appreciate the difficulty in relation to that. But could I ask you this: It is certainly a matter which would have at least exercised your mind and exercised it greatly probably at the time?

A. Yes, I guess if the security that was backing the

deposits seemed to be unsafe for some reason, yes, it would have been a concern.

Q. Can I take it that it was your understanding and belief in 1988 that the security in relation to these particular loans was reasonably safe?

A. Yes, I think that's fair.

Q. And if you had been aware of the serious concerns the Central Bank had back in the from the mid-1970s on about these particular 'Hypothecated Loans', can I take it that even if a mere trainee raised an issue with you that he felt that the response he was getting was causing him concern or appeared unsatisfactory, it is a matter that you would have pursued?

A. Yes.

Q. Thank you very much indeed, Mrs. Horan.

CHAIRMAN: Mr. Feeney?

MR. FEENEY: I have no questions.

CHAIRMAN: Mr. Gordon?

MR. GORDON: Just a couple of questions, Sir.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GORDON:

Q. MR. GORDON: When did you become a senior bank examiner?

A. I would say around about 1987 maybe, '87 or '88.

Q. '87 or '88?

A. Yeah.

Q. And what status did you have in the course of the 1986

A. I would have been a junior bank examiner. I was in a very similar position to Terry Donovan in that it was my first inspection.

Q. That was your first inspection?

A. It was, yes. I was working with a senior inspector.

Q. I was going to ask you what was your first inspection, so that was it?

A. That was it.

Q. I take it that you have a particular recollection of your first inspection?

A. I remember parts of it, yes. I would remember it better than the 1988 one.

Q. Would you agree that people would tend to remember their first inspection particularly?

A. I think you probably would, yes.

Q. It's a fairly exciting event in the life of an inspector, their first outing?

A. I am not sure.

Q. Some of us mightn't regard it as exciting but for those involved in that particular end of banking, it's a fairly exciting thing?

A. It's interesting.

Q. Interesting, yes. It's challenging, it's new, and you are going to entirely new territory?

A. Yes.

Q. If, on your first couple of days on the job in this exciting new role, you found that the bank that you were inspecting had an unusual exposure to back-to-back loans or an unusual number of back-to-back loans, amounting, as I understand it, to something like one-third of the bank's liabilities, would that make an impression on you?

A. Well, the issue of 'Hypothecated Deposits' did make an impression on me in the first inspection.

Q. Of course it would.

A. And I certainly I asked the senior examiner what they were about. At the time I considered, you know, I suppose I was thinking Central Bank, so I thought would they have had exchange control implications and I asked about that and I seem to remember having a look at an exchange control manual myself just to try to follow-up on the point. But I was satisfied once I had discussed it with the senior examiner. He explained them to me, and also the fact that they were covered in the report and they were discussed with the general manager of Guinness & Mahon. I didn't have any suspicions over and above that.

Q. So on your first outing in 1986 when you encountered the back-to-back loans, they made a big impression on you and you followed the matter up?

A. They made some impression.



Q. I suggest to you that the impression they made on you that you have just described is quite similar to the impression that it appears to have made on Mr. Donovan in 1988?

A. Perhaps.

Q. So that you are not surprised when Mr. Donovan tells the Tribunal that he found this a matter of some significance and sought to take it further?

A. I am not surprised that he found it of some significance. I suppose I am surprised at the lengths to which he length or the degree of suspicion that he had around them and the answers being given by people like myself.

Q. And as I understand it, of the questioning by Mr. Feeney this morning, he painted a rather dramatic picture in this regard, there was a real apprehension that this bank might fail at the time of the inspection in 1988?

A. I felt that was overemphasised actually this morning.

Q. I see. It's just that I assumed that was correct because that's the position being adopted by counsel for the Central Bank.

A. Okay. But I don't remember it as being that much apprehension. I think it was one of the more marginal banks and, you know, there would have been some concern but I don't remember it as quite as strong as Mr. Feeney put it.

Q. It's a marginal bank and there was some concern?

A. Mm-hmm.

Q. So would it be correct to say that whatever else it was, the inspection in 1988 was not a routine inspection?

A. Well, there were other marginal banks. The issues, as far as I was concerned, were relatively routine. I suppose the degree of importance on them was more than normal because the bank was more at risk perhaps.

Q. So the bank was more at risk, there were more important issues?

A. Yeah. Okay.

Q. So then this was not a routine inspection?

A. I don't remember.

Q. You don't remember? It's just that if I am in my first couple of days on the job like Mr. Donovan was, and I encounter this unusual feature of a large amount of back-to-back loans and I am in the midst of an inspection which I understand is a serious one, I am going to take it very seriously, aren't I?

A. Yes, I think you would. I am not too sure that there was as large an amount of loans as is suggested. I don't actually have that evidence, but it's not my memory that they were that significant in terms.

Q. Mr. Donovan's statement tells us that there was they accounted for something like one-third of the bank's total liabilities, and I haven't heard anyone suggest

otherwise.

A. I wondered was it retrospection on that point, it wasn't brought up this morning, so...

MR. COUGHLAN: Sorry, Sir, perhaps in case there is confusion, maybe I'll just clarify. I think the ultimate understanding is when the internal auditors' report in 1989 in relation to Guinness & Mahon, that the deposits accounted for a third of the deposits. In fairness, I think that in the inspection, what Guinness & Mahon disclosed to the Central Bank did not indicate that it was at that level.

MR. GORDON: I see. I am sure what Mr. Coughlan says is entirely correct.

Q. In relation to your preparation for this inspection, you tell us that you would have looked at the 1986 report.

A. Yes, I believe that I would have looked at the previous report which listed all the items arising in previous inspections and I would have looked at the most recent registered files.

Q. When you say most recent registered files, how far back would you go, or do you know?

A. I honestly don't know, but I imagine probably back to around the time of the '85 report. I assume that I would be trying to cover the period from then on.

Q. And in 1985, I think just for accuracy, the inspection, in fact, took place in 1986, but it was dealing with events up to the end of 1985?

A. That's correct, it was January '86.

Q. Had you read back at that time to the previous reports?

A. No, because I doubt very much I had, because I was very new at that stage, I had just joined the department and I was asked to assist Liam Kennedy on an inspection.

Q. So you went into the 1988 inspection armed with nothing more than a review of the 1986 report plus the more recent correspondence?

A. Yes, but the 1986 report or 1985 report, whichever you want to call it, lists all the previous issues raised in previous inspections with Guinness & Mahon in the front page. So I would

Q. Does it deal with the unease expressed by the bank in relation to these 'Hypothecated Loans' in the 1970s?

A. No, it doesn't, I don't believe.

Q. Does it deal with the fact that an undertaking had been given in relation to ceasing that type of business?

A. I don't believe it does. I can check. No, it doesn't, because it didn't have it.

Q. Were you aware of the undertaking which had been given?

A. No.

Q. Would it have been relevant to you in 1988 to have known that?

A. Well, I suppose the fact that it was understood that

this had been complied with in 1982 probably means that  
in 1986 I didn't need to know.

Q. So you didn't regard it as relevant?

A. I didn't know about it.

Q. But if you had known it, would you have regarded it as  
relevant?

A. I suppose it would have been helpful for me to know,  
yes.

Q. Mr. Donovan describes himself as having a very good  
working relationship with you in the short period that  
you worked together in the course of his evidence  
yesterday. Have you any recollection of your working  
relationship with Mr. Donovan?

A. I remember that we worked well together. I don't  
remember that much working with him on any individual  
inspections, but we were part of a small team and I  
would have described us as friends.

Q. And would you describe the quality of his work as of  
the highest standard?

A. Yes, I believe it was.

Q. Thank you very much.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. HUNT:

Q. MR. HUNT: Just a couple of brief points, Mrs. Horan.

I think one of the concerns that you expressed since  
this morning's and I think you adverted to this in  
reply to Mr. Gordon. I think you felt that Mr. Healy,

in some of his questions to Mr. Donovan at the end of morning session, somewhat overstated the condition or the state that Guinness & Mahon was in at the time of the 19 it was Mr. Feeney

A. Yes.

Q. To make it clear I apologise to Mr. Healy. You have made it clear on more than one occasion, and again in response to Mr. Gordon, any conversations that took place or assurances or undertakings that were given to officers of the Central Bank at whatever level were not something that appeared on files or were brought to your attention either in 1985/6 or in the context of the 1988 inspection?

A. Yes. I would like to make it very clear that the conversations that took place in the 1970s that I wasn't aware of them.

Q. They were not brought to your attention?

A. No.

Q. What I think it is relevant to observe, and again I think you have referred to this, is that an Inspection Report very early on will contain I have the 1988 one here, it contains main points of inspections going back as far as 1976, isn't that right?

A. That's correct, yes.

Q. And that provides, that would provide guidance for somebody who is coming to it at a later stage?

A. Yes. Plus the previous report.

Q. Plus the previous report. Indeed, you had albeit again probably at the same level as Mr. Donovan when he was starting off, you had direct knowledge of Guinness & Mahon from your participation in the earlier inspection, isn't that correct?

A. Yes, that's correct.

Q. And you have referred to the fact that I think the 'Hypothecated Deposits' issue appears in the earlier report, isn't that right?

A. It does, yes.

Q. But not alone, that you have some recollection of that catching your attention and some further work being done on it?

A. Yes, I did find it unusual at the time.

Q. So in the context of 1988, whereas it may have been and I think Mr. Coughlan raised this with you whereas it may have been unusual in the wider context, within your experience it was something that had certainly happened once before, admittedly in relation to the same bank, it was a term with which you were familiar?

A. I had seen it before, yes.

Q. Again, the context of the 1986 inspection, this was something you were also anxious to emphasise this.

You were a junior trainee, as Mr. Donovan was in terms of the earlier inspection?

A. I was, that was my first inspection.

Q. I think you didn't have much involvement with Guinness & Mahon after that until the time of the 1988 inspection?

A. Yes. I think I became involved maybe late '87 again.

Q. I think that you are satisfied that on the basis, I think that there are certain priorities set out in the introduction to the report of 1988 which specify the areas that the examiners were to concentrate on; namely, the loan portfolio with particular attention to bad debt provision. That's the first concern that's expressed. And secondly, Guinness & Mahon's investment business.

A. Yes, that's correct.

Q. Obviously, you look at the overall situation but they are specified as areas of particular concern within the context of that inspection, is that correct?

A. They are, yes, and they are probably the areas that I was asked to focus on.

Q. That was my next question. Where did those priorities come from?

A. I suppose they would have come from two things.

Probably, first of all, from my review of the files before I went out and also possibly from a discussion with Mr. Byrne in terms of what we should focus on. I don't actually remember that conversation, but it's likely to have happened.

Q. You are unlikely, even as the chief examiner, to derive



the points of emphasis on your own. It would be a discussion with your superiors?

A. Probably a bit of both, but I would suspect particularly when you are going out for the first time to lead an inspection, yes, you would

Q. But they are particular concerns that were set out as being specific objections and specific concerns of that investigation, isn't that correct?

A. Yes, that is correct.

Q. I think you want to make it clear that your position in relation to that report is that you are satisfied that it is a comprehensive report and it reflects fully the investigations carried out by you, Ms. Byrne, and indeed Mr. Donovan insofar as he may have participated in relation to same?

A. Yes, absolutely.

Q. It's a report of considerable number of pages and considerable number of appendices?

A. It's actually quite a lot longer than the previous report.

Q. You pointed that out in your statement. You felt it was a more comprehensive report than the earlier one?

A. Yes.

Q. I think that your difficulty arose with inferences you drew, whether it's right or it's wrong, your difficulty in relation to this matter has arisen from interpretations or inferences that you feel Mr. Donovan

was drawing in relation to your conduct of this investigation?

A. I think very much from the language of his statement.

I think I felt it didn't reflect the way I would normally approach work and I was upset by it.

Q. You felt that he was implying that he was at best ignored, but that at worst there was something other than that going on that, in fact again, I don't want to get into overdramatic terms of cover up or things of that type?

A. I felt that a reader of the statement could perhaps draw some kind of conspiracy theory from it.

Obviously, I was very very worried and upset by that.

Q. Your particular concern was to refute any suggestion that you had behaved in such a manner either by neglecting to raise or to deal with any concerns that were raised or by something more sinister than that.

A. Absolutely.

Q. By not pursuing matters as a result of sensitivities which were said to exist?

A. Absolutely.

Q. I think you were particularly concerned and again the quotation that Mr. Donovan uses in his statement has been explored on a number of occasions. You were particularly concerned that Mr. Donovan was putting you in a position whereby you seemed to be saying something, that it was your position that you couldn't

possibly have known?

A. Yes, I think that was in relation to paragraph 19 perhaps. There was a reference in inverted commas, which is not my wording. I have never heard of it before.

Q. And your evidence is that you would not have used that wording and could not have used that wording at that time?

A. I am not clear where that wording came from, but I am not sure it's from Adrian Byrne's statement or from a previous report, but it's not a statement I am aware of.

Q. Your position is, I think, although you said to Mr. Coughlan and properly so, that you accept that many things that Mr. Donovan may have said may have happened. Your position is that given the unusual features of some of the things that he said, you feel that you may well have recollected them if they had been brought to your attention?

A. Yes. I think so. I still think the totality of events is something I should have remembered. And I also it's very much just around his interpretation of events. His language and just his suggestions of how I might approach work that I found hard to take.

Q. Although, again, as Mr. Coughlan may have alluded to, perhaps some of those concerns have been allayed by the actual evidence that was given?

A. They have, yes.

Q. One last thing. I think that in 1988 you were the examiner in charge of this investigation, but you had, I think, two or possibly three years experience at that time, is that right?

A. That's right, yes, '86 two years.

Q. The report is compiled and it is then sent on up the line, and I think some senior person in the Central Bank is the one who writes to the institution concerned setting out the bank's concerns as a result of that inspection?

A. Yeah, the reports tended to be reviewed by the deputy manager and the manager. As far as I can remember the letter actually went out from the general manager of the or the title at that time was general manager.

Q. So they go up the line and well up the line before they go outside the Central Bank?

A. Yes, and they are open to being changed or having the language tightened or whatever.

Q. Thanks very much, Mrs. Horan.

A. Thank you.

CHAIRMAN: Something Mr. Donovan said, Mrs. Horan, indicated to me there might be some uncertainty about how complete a bank's inspection file might have been about 1988. Was there any binding practice that effectively insisted that all historic reports on the bank be contained in the file and that only very rarely

would something be taken out to be looked at by an examiner, or can you just assist me with how definite the practice was of having a very full and thorough file or otherwise?

A. My memory is that registered files contained anything of importance, so it would all all correspondence, I think they included the inspection reports as well. I don't remember clearly what happened to the inspection working papers, but from Terry Donovan's evidence it seemed that they were kept together in box files in the possession of the examiners. But anything of relevance should be on the registered file.

CHAIRMAN: I see. Thank you very much, Mrs. Horan, for your assistance.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Adrian Byrne please.

ADRIAN BYRNE, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

Q. MR. HEALY: Mr. Byrne, you have provided the Tribunal with a further Memorandum of Evidence in the form of a statement in fact. Much of it deals with material that you have already covered. And unless you or your counsel wishes me to go into all of it, what I am going

to do is deal with what I think are the aspects of your statement that are more germane to what now seem to be the outstanding issues of fact, and I suppose interpretation arising from the evidence that has already been given.

A. That's fine.

Q. If that's all right with you.

If you go to paragraph 6 of your statement, you say this is in leaf 11, Sir. What I am trying to concentrate on here mainly is the protocols for setting up inspections.

The general protocol for an actual inspection was that the examiner in charge would be responsible for the pre-planning of the inspection. This would amount to ensuring that any advance information required was sought from the institution concerned. Prior to the commencement of the on-site work, the overall position from the supervisory point of view of the institution concerned and the general approach to the inspection would be discussed with the deputy manager or manager of the Banking Supervision Department. Other members of the inspection team would be briefed on the main focus of the inspection by the examiner in charge.

While on-site, the examiner in charge would determine the detailed nature of the work to be done and would arrange interviews and discussions on relevant subjects

with senior management of the institution concerned. Bearing in mind the topics which would generally be expected to be included in the final Inspection Report of the institution concerned.

The format of such reports was to an extent standardised and the headings covered mainly those subjects affecting or which effect compliance with the bank's licensing and supervisory requirements at the time. The primary focus of such inspections was of a prudential supervisory nature; that is to say, to verify the solvency position of the institution concerned and to assess any risks that might impinge adversely on the solvency position in the future.

Issues which did not have a direct prudential supervisory impact would normally be dealt with outside the inspection processes and would generally be handled by bank personnel at a higher level than that of examiner level.

An inspection manual was formally adopted in 1997 by Banking Supervision Department. You then go onto the background to and the report on the 1988 inspection of Guinness & Mahon.

You say the list you are referring now to, I think, the Inspection Report, isn't that right?

A. Yes.

Q. The list of contents is on page 3. The main findings

are on pages 8 to 10 and the list of appendices of the 1988 Inspection Report indicate the format and scope of the contents of the report on Guinness & Mahon. The examiners were, as we know, Mrs. Horan, Ms. Byrne, Mr. Donovan. Ordinary examiner worked a group of two people including a senior bank examiner and a bank examiner would have been the full complement for an inspection. You say that you are aware that Mrs. Horan, Ms. Byrne and Mr. Donovan had given statements to the Tribunal as to their respective recollections of matters arising in the course of the inspection.

You go on to say: "I have no recollection of the events and the meeting with myself to which Mr. Donovan refers in his draft statement. I note that I am reported as having confirmed that he should continue with the work on the back-to-back loans on which he was engaged. It does not appear, and Mr. Donovan does not suggest, that any information of which he became aware was, in fact, new to the bank. I am fully satisfied that the 1988 inspection of G&M was carried out in a proper, responsible and thorough fashion. It does not appear that anything was known to Mr. Donovan as reportedly communicated or relayed to his superior officers that was of a nature that can be now recollected by them or that caused or that there is



reason to think ought to have caused them to look more closely at the back-to-back loan deposits. There is no reason why I or any officers of the Bank would take steps to inquire into anything Mr. Donovan said that appeared to be of any supervisory significance. I note that Mr. Donovan acknowledges in his statement that he now knows that the key information new to him about the back-to-back loan arrangement was not new to the Bank and as a result the material might not have had the same significance for other officers of the Bank as it did for him at the time and that he did not have and has no reason to believe that any other member of the inspection team had any knowledge or suspicion of the bank-within-a-bank or bureau system as conducted within G&M."

Now, in relation to some of the events described by Mr. Donovan in his evidence which involved meetings with you or exchanges with you, either in 1988 or at any time since that date, are you saying that these things did not happen or that they may have happened but that you have no recollection of them?

A. I certainly have no recollection of them and having said that, I can't, you know, say whether they did or they did not happen. There is certainly no evidence in the bank on any file that we have searched and we have searched the bank upside down on files for any evidence to support anything Mr. Donovan has been

saying and we have not been able to come up with it.

So there is no supporting evidence of any kind in the Central Bank to support what he is saying.

Q. Well, of course that works both ways, Mr. Byrne.

A. I agree, but I am just saying there is no evidence of what he is saying there on the files.

Q. You mean there are no documents that you have been able to find?

A. Or notes or pages or whatever.

Q. I want to come to what you describe as the general protocol for an actual inspection, and I think in your earlier lengthy evidence to the Tribunal, you have gone over some of this and we have been through it in relation to the individual reports of the individual years from '76 onwards.

You talk about the advance information or advance briefing of the actual on-site examiners who are sent out to do the field work. You say that the format of reports is to an extent standardised and that the headings covered mainly those subjects affecting or which affect compliance with the bank's licensing and supervisory requirements at the time and that the primary focus of such inspections was of a prudential and supervisory nature, i.e., to verify the solvency position of the institution concerned and to assess any risks that might impinge adversely on the solvency

position of the institution. You go on to say:

"Issues which do not have direct prudential supervisory impact would normally be dealt with outside the inspection process and would generally be handled by a bank personnel at a higher level than that of examiner level."

Just to clarify how the issues we're canvassing now fit into one or other of those rubrics. Would you tell me how you would classify the type of response that Mr. Donovan described as having been given by Mr. Lannigan O'Keefe to his queries on the back-to-backs? Is the fact that he was getting an unsatisfactory response a prudential issue or an issue that should be dealt with higher up? Which is it?

A. It's a prudential issue.

Q. It's a prudential issue?

A. Yes.

Q. So it is something within the ambit of the report then?

A. Yes. It is a prudential issue insofar as

Mr. Donovan's job was to determine, ascertain whether those loans were recoverable, whether the bank will get their money back, and it was his job to make an assessment of that position to find out if those loans would be recoverable or if provision against them was needed; and in doing that, he would have to satisfy himself that the security against those loans was satisfactory.

Q. Meaning that he'd have to satisfy himself that what he was being told or what he was being shown in terms of the security actually existed and was in fact recoverable?

A. He would need to satisfy himself that the security was there and that it was available to cover the loan.

Q. That the bank would get its hand on it?

A. Yeah.

Q. That would mean not be the ordinary way in most banks.

You'd either have equitable mortgage of title deeds, you might have guarantees, you might have a straightforward property mortgage, mortgages of property?

A. You might have a cash-backed loan.

Q. You might have a cash-backed loan. But if you had, for instance, an ordinary mortgage, you'd want to check that there was a proper valuation of the property that was being used as a security for a loan. What's the point of a mortgage if a  $\frac{1}{2}$  million loan was being secured by a  $\frac{1}{2}$ 100,000 property. So you'd check valuations and so forth?

A. Indeed.

Q. So you'd check the security file to see if it makes any sense to the context of the amount of money being handed out?

A. That's correct.

Q. Or if it involved a foreign security you might wish to

ensure that the bank had a proper, as it were,  
documentary trail they could follow to get their hands  
on a foreign asset?

A. Correct.

Q. Now, I want to now approach what Mr. Donovan described,  
not in terms of the significance that was attached to  
it by anyone at the time because if, although no  
official has a recollection of Mr. Donovan approaching  
them, if Mr. Donovan approached any official and  
assuming that no official would fail, as I don't think  
anybody is suggesting, to take account of some matter  
brought to his or her attention by a junior official,  
if they took no account of it, it must be because they  
saw no significance in it. I want to put that aside  
and I want to approach the matter on the basis that we  
now know that Guinness & Mahon were, in fact, trying to  
conceal things from the bank right up to and including  
1988.

A. Correct.

Q. And we know from past experience, from evidence that  
you have given this Tribunal and from the enormous  
volume of material made available by the Central Bank,  
that Guinness & Mahon were very slow to answer  
questions and very loathe, I think, refused from time  
to time to make documentation available and required  
the Central Bank examiners to rely on assurances that  
everything was in order. Isn't that right?

A. That's correct.

Q. And we know that eventually a point was reached where the Central Bank were unhappy with the nature of the arrangements that Guinness & Mahon had put in place to secure some of their loans?

A. Correct.

Q. It wasn't to do or it wasn't specifically to do with the documentary trail, though that was a feature of it, I accept. It was also to do with the fact that there was an objection to it, whether it was evasion or avoidance, I am not getting into that controversy now.

A. Right.

Q. If you approached this matter focusing on it the way the Tribunal have done, and the Tribunal's focus has been exclusively, I suppose, on not exclusively, but to a very significant degree on back-to-backs, every document provided by the Central Bank to the Tribunal has been examined in the context of the Ansbacher operation. But there is no doubt that if you look at the entire Central Bank file and if you look at the reports and you are aware that I certainly in questioning you have criticised some of the reports for failing to reflect the concerns of Central Bank examiners, but if you look at the entire file you see a concern about back-to-backs, about the Ansbacher operation and about lack of information, if you examine the entire file, isn't that correct?

A. That is correct.

Q. And what I want to suggest to you that if you looked, in 1988, or if you were going into G&M in 1988 and you had taken the time, and there may not have been time but if you had taken the time to examine the entire file, and if as a senior examiner or an experienced examiner, you had asked the questions Mr. Donovan was asking, you would begin to be dissatisfied with the responses you were getting, would that be right?

A. I don't want to go back into the history of these back-to-back loans, but you will recall that it was way back in '76/'78 that this first emerged. Our whole concern about it was more or less on the back-to-back deposits held by residents and that was where the taxation issue arose with the bank, had people been trying to evade or avoid tax, that was the issue. The understanding we had with Guinness & Mahon was that those particular resident accounts would be run down. That, we believed, they did. We were quite aware that the deposits and the back-to-back arrangements with non-residents continued in place, but that was something which we could live with from a prudential point of view because we believed that those loans were adequately secured by a deposit in the Cayman Islands. And I might say that, subsequently, none of those loans proved to be bad. They all were recovered. So from a prudential point of view, it wasn't a problem.

Q. But you are aware, of course, that I don't want to go over all of this the Tribunal has also examined this from the point of view of your qualitative analysis of the conduct of bank staff. How reliable bank directors were, isn't that right? We had this discussion before.

A. Absolutely, yes.

Q. I don't want to go into all of that, but that is another factor?

A. Absolutely.

Q. To what extent you can rely on what bank directors tell you.

Now, what I want to focus on is the fact that we know that the questions that were being asked by Mr. Donovan in 1988 did, in fact, elicit something new. We now know that. In the year 2000 we know that Mr. Donovan was touching a nerve which shouldn't have been raw in 1988, isn't that right?

A. Well, I don't know. Mr. Donovan talked about the fact that there was some sensitivity to his questions, that he wasn't getting full and proper answers to his questions; that they were sensitive to discussing this issue. Now, had he said that to me back in 1988, I could well understand that in the light of the history of these back-to-back loans, that they would be sensitive to being questioned by a junior trainee about



these loans. I'd be very surprised if they weren't sensitive.

Q. Why should they be sensitive if the whole matter had been sorted out?

A. Because they didn't want to go back over the whole history of the business to him as a junior inspector when, in fact, this had been thrashed out with the Central Bank for a number of years earlier.

Q. But sure, don't we now know that they were, in fact, concealing the truth from the bank?

A. We now know that.

Q. But at the time they should have been satisfied that this was a matter they needn't have troubled themselves about because according to what they had told you in 1982, this was history?

A. But if in 1988 he had come to me and said they seem to be a bit sensitive about these things, I would have said I am not surprised.

Q. Why should they be sensitive in 1988 if you had buried the problem?

A. Because I would have thought that it had related to the history of these accounts.

Q. I don't imagine

A. I just believe that that's what I would have thought.

Q. I just want to approach this properly. I don't imagine that Mr. Donovan would have come to you and said, look, they are a bit sensitive. I think he'd

have put it in more, how shall I put it, mundane terms.

We are approaching it from the point of view now of what we are describing as a sensitivity because we are all aware of all of the facts. But I am not so sure that what Mr. Donovan said was that he came to you and said to you, "There is a degree of sensitivity"

A. He said he came to me and expressed his concerns. I am not quite sure what they were.

Q. I don't think he used the word sensitivity. I think that is the word he is now using to describe

A. I think he does mention sensitivity. I think I am right because if you go to page I think somewhere anyway he talks about, in fact

Q. I can refer you to the part of his statement where he uses the expression if you like. Paragraph 19.

A. It could be, yes, that's right.

Q. "I formed the impression that there was a degree of sensitivity."

A. Yes.

Q. Yes, that's how he is now describing the impression he formed. I don't think that's what he said to you. I think he went to you and explained that he was in the course of examining back-to-back files and I think he presumably, from his evidence, indicated to you that he was having difficulty in understanding or in getting answers to his questions?

A. Well, I think what he said to me and I don't know

what he said to me so, you know, it's difficult to answer because I don't know what he said to me.

Q. What I am suggesting to you is this, is that if Mrs. Horan had an opportunity of examining all of the file as the members of the Tribunal team have had, if everything that was in the minds of the Tribunal legal team was in her mind in 1988, she too would have recognised and Mr. Donovan would have recognised that this sensitivity was misplaced in 1988, bearing in mind that the issue was supposed to have been buried in 1982?

A. I just don't know. I mean, as far as I am concerned

Q. It was a very serious issue in 1982.

A. Mr. Donovan did not include any reference to any of that in his report. He did not make any reference to the fact that provisions were needed

Q. I am not suggesting he did, Mr. Byrne, and I am not blaming anyone for not doing anything about it. I am suggesting whatever he said to you, and I am conceding that whatever he said to you, I don't imagine for one moment that if he said anything serious to you or that you thought was serious, you wouldn't have taken up on it. I am putting that aside. Whatever he said to you failed to convince you at the time for whatever reason, perhaps he was junior or whatever, that it was sufficiently significant for to be taking notes and

giving him specific directions. You simply said, according to him in any case, go back to what you were doing?

A. Whatever he said, if he said.

Q. Do you accept you told him to go back to what he was doing?

A. I don't remember him saying it to me, so I can only say if he said it to me.

Q. Can I also take it that if he said something to you that alerted your suspicions, you would have given him other instructions?

A. Well, the instruction I am allegedly to have given him is to go back and continue

Q. Don't mind that for a moment, I don't think you are prepared to stand over that. If he had said something to you which alerted you to the view or the possibility that the bank were concealing information, I think you might have taken a different view?

A. Of course.

Q. So whatever he said to you didn't

A. Didn't trigger any

Q. Didn't trigger any concern like that on your part?

A. No.

Q. So what I want to do is put it aside. What I am suggesting to you is that having listened to the preparation that was made for this and other inspections, having listened to the evidence about the

way files were put together, I am suggesting to you that whatever time pressures that were on people going into this inspection, and whatever else caused or whatever else informed the degree of knowledge they have, the people going into the inspection did not have a complete picture of the relationship between G&M and the Central Bank going back to 1976 in the detail that this Tribunal has?

A. That would appear to be the case, yes.

Q. And what I am suggesting to you is that if somebody had that level of appreciation of the relationship, including the particularly sensitive period between '78 and '85, they might have taken a different view.

They may have taken more interest, let me put it that way, in whatever Mr. Donovan was saying to them?

A. You can speculate. That could have happened.

Q. Isn't it as likely that has to be the explanation?

A. I don't know, it's speculation.

Q. In any case, you do accept that there doesn't appear to be any evidence that anyone going into that inspection was aware, Mrs. Horan wasn't aware, Mr. Donovan wasn't aware, I am not sure of Ms. Byrne, weren't aware of the full history of the slightly troubled relationship between G&M and the Central Bank?

A. It sounds like that.

Q. And wouldn't it have been far better if they had been?

That's all I am saying.

A. In hindsight, yes.

Q. Now, just one final matter and it's only a question of nomenclature. Mr. Donovan is described as a trainee.

I certainly have described him as a trainee as a result of evidence given today. He was, nevertheless, a full member of the team, wasn't he? He signed or rather his name is contained in the report.

A. Yes.

Q. And he was undoubtedly seen, therefore, in the bank, as being responsible perhaps to a lesser degree than the other members of the team for the contents of the report?

A. I agree, yes.

Q. And whatever view other members of the team or other members of the bank staff may have taken of whatever it was of whatever he said to them, it's not unreasonable that with his name on the front of the report, he shouldn't have felt a degree of responsibility for what was contained in the report?

A. I would have thought he should take some responsibility.

Q. A degree of personal responsibility?

A. Absolutely, yeah.

Q. Mrs. Horan said in her evidence, she says today, I think, in fairness to her, I don't think she is talking about anything she remembered at the time, that she was surprised at the lengths that Mr. Donovan went to and

the degree of suspicion he had. Can there be any doubt that he was right?

MR. FEENEY: That's not a fair question.

MR. HUNT: It's what he said

MR. FEENEY: I mean, it's simply, Mr. Chairman, playing with games in relation to hindsight in relation to saying

MR. HEALY: Hindsight is what we are at.

CHAIRMAN: Hindsight has to be done in relation to the Tribunal. I think I can do my own work on that

MR. FEENEY: That's precisely what I was trying to say. It's up to the Chairman.

A. It's quite amazing some of the recollections he does have, but that's by the way.

CHAIRMAN: Now, what sequence? I think, Mr. Hunt

MR. HUNT: I have no questions, Mr. Chairman.

CHAIRMAN: Mr. Gordon.

MR. GORDON: Just a couple of questions.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GORDON:

Q. MR. GORDON: I think that you very fairly have said today, Mr. Byrne, that you have no recollection of the

exchanges with Mr. Donovan which he described in his statement but you are not saying that they didn't happen?

A. I can't say they didn't happen because I can't remember one way or the other.

Q. I understand. I take it you would agree with me, Mr. Byrne, that for a young inspector on his first inspection, if he encounters 'Hypothecated Loans' on the scale in which they existed in G&M, that they will immediately alert him to further inquiry just as Mr. Donovan describes. Do you agree with me?

A. Sorry, I didn't

Q. If as a young inspector on your first inspection, you encounter these back-to-back loans, you know nothing about the history of them.

A. Yes.

Q. They are absolutely new to you.

A. Yes.

Q. Will they not prompt you to further inquire about them?

A. Oh yes. I would expect so.

Q. You would have expected, just indeed in fairness as Mrs. Horan said not a half an hour ago, that Mr. Donovan, in this first couple of days in the new job would have been immediately affected by what he encountered and would have made further inquiries?

A. I expect he would have, yes.

Q. And wouldn't the natural route for his further



inquiries be to Mrs. Horan and ultimately, if necessary, to you?

A. Yes, yes.

Q. And wouldn't he have been performing at less than the standard you would have expected of him if he hadn't done that?

A. I think so, yes.

Q. He now enjoys what was then your job?

A. Yes.

Q. I take it that he received that promotion because his superiors in the bank held him and continue to hold him in the highest esteem?

A. That's correct.

Q. Because the quality of his work is regarded as exemplary?

A. Very good, yes.

Q. You are still his superior?

A. Yes.

Q. So didn't he do no more and no less in the February of 1988 than you would have expected of him?

A. Absolutely.

Q. Thank you.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FEENEY:

MR. FEENEY: Mr. Chairman, just a few questions.

Q. Mr. Byrne, if at any stage prior to you making your statement in February of 2000 and giving evidence here

in March of 2000, if at any stage anybody within the Central Bank had given any indication to you they had information which might have been relevant to this Tribunal, what would you have done?

A. I would have considered it and put it in the report if I considered it necessary in consultation with the people around me.

Q. And did Mr. Donovan bring any such information to your attention prior to you making your statement and giving evidence to this Tribunal earlier this year?

A. No, he did not.

Q. In relation to questions which you have been asked, do you have any knowledge, as you give evidence here today, of what concerns Mr. Donovan raised or might have raised with you in 1988 in relation to the Guinness & Mahon inspection?

A. I have no recollection of

Q. In those circumstances, are you or would you be in a position to say whether those concerns are or were right or wrong?

MR. COUGHLAN: Sure he objected to that question

Q. MR. FEENEY: Are you in a position to answer that?

A. That the concerns he raised

Q. You know what concerns were raised.

A. I know what concerns were raised. Oh, I don't know what concerns were raised with Mr. Donovan.

Q. No, those circumstances, were you able to comment on those concerns?

A. No, I am not.

Q. Because this is the important point. If any concern was raised to you in 1988 which was of significance either then or now, do you believe you would have recalled it?

A. I believe I would have, particularly as I was very familiar with these 'Hypothecated Accounts' for a long number of years.

Q. You had good knowledge in 1988 of those particular loans, accounts?

A. Yes, right back from '76, yes.

Q. So if anything in 1988 of significance indicating a real or genuine concern was raised, how do you believe you would have acted?

A. In 1988 I would have ensured that they were followed through completely.

Q. Do you believe that it is possible that a significant concern would have been raised in 1988, and something of which you had personal knowledge, which you would have ignored or not treated seriously?

A. I certainly would not have ignored it. I was the person who uncovered those in 1976. I was particularly interested in their progress and had something emerged in 1988, I certainly would have followed it through.

Q. Thank you.

A. I might also add that Mr. Donovan had an opportunity in 1992 to advise the inspectors going out on the '92 inspection of the concerns of '88. He didn't do so as far as I am aware. When Guinness & Mahon were being acquired by Irish Permanent in 1994 that acquisition had to be approved by the Central Bank. Mr. Donovan would have been aware of that acquisition and of the paper being sent to the Board for approval. He did not come forward with any concerns and could have allowed Guinness & Mahon or Irish Permanent to be landed with any problems that were still in Guinness & Mahon. He did not come forward at that time either. So he had a number of opportunities to air his concerns after 1988 and he didn't avail of them.

CHAIRMAN: It's fair to recall, Mr. Byrne, I think with your own work back in the 1970s on the back-to-back loans in Guinness & Mahon, you, in fact, were the person who had been disposed to actually put the stronger term of evasion rather than avoidance at one stage.

A. That's right.

CHAIRMAN: Can I just briefly ask you about the practices in relation to seniority in the Central Bank as you would recall them from twelve years ago before the more recent protocol which was mentioned yesterday

for dealing with differences between inspectors?

Mr. Hunt referred to it being somewhat hierarchial, would that be accurate or otherwise?

A. I suppose probably there is. There is a clear chain.

CHAIRMAN: Would it be fair, I am just trying to take an analogy from the legal profession, which is the only one I am familiar with, to say that if the most junior member of the inspection team, the trainee, had a serious reservation about some aspect, he should feel utterly free to raise it with his seniors but that perhaps in face-to-face meetings with the bank being inspected, he would be expected to keep rather a back seat.

A. He certainly would have access to his seniors or his bosses within the Central Bank and he certainly would be invited to attend any meetings with the licensed bank.

CHAIRMAN: But he would not be expected or, I dare say, encouraged to be particularly loquacious at those meetings.

A. Probably not. But certainly if he had something to say, nobody would say he wasn't to say it. He was free to speak his piece. There was never any restrictions put on people to keep their mouths shut.

MR. HEALY: Just one date, Sir, I want to clarify.

Q. I think you said, Mr. Donovan, in answer to I think it was Mr. Feeney, I am sorry, Mr. Byrne, in answer to Mr. Feeney, you said that I think you said that Mr. Donovan would have had an opportunity in 1982 1992, when the 1992 inspectors were going out to draw to their attention to any views he had. I understood from his evidence that he said he had nothing further to do with Guinness & Mahon from the time that he ceased his work in connection with the 1988 inspection. Could you explain to me how the 1992 inspection would have gone out?

A. Because he would have still been working in the department. It's quite well-known what inspections are going on. There is a monthly work programme prepared for senior management and on that are listed all the inspections in progress, so as a senior person he would read that. He would have been aware that there was an inspection going on in Guinness & Mahon. The inspector of the day was Elaine Byrne who was the inspector with him in 1988. He had every opportunity to go to her

Q. Well, in 1992 I think she had left. Elaine Byrne, I beg your pardon

A. Elaine Byrne. He had every opportunity to go to her on or off the record and say to her, listen, I had some concerns back in '88, they are weren't followed up.

Q. That's all you were talking about. There is no formal

way of, as it were, handing over the file from one set of inspectors to the next?

A. No, I am just saying he had an opportunity.

Q. Thank you.

CHAIRMAN: Thanks very much.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Halpin.

BRIAN HALPIN, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS  
BY MR. COUGHLAN:

Q. MR. COUGHLAN: Now, Mr. Halpin, I think you prepared a memorandum for the assistance of the Tribunal in your giving evidence, isn't that correct? And I think you say that you were the Assistant Director general of the Central Bank of Ireland responsible for resource management, and in 1988 you were manager of the Banking Supervision Department, is that correct?

A. Yes.

Q. I think you were furnished with a copy of Mr. Donovan's draft statement, isn't that correct?

A. Yes.

Q. And I think you were asked to comment on matters which made reference to you which you may have had knowledge of in that particular draft statement, isn't that correct?

A. That's correct.

Q. That's how you came to prepare your memorandum and why you are giving evidence, isn't that correct?

A. Yes.

Q. Now, you have informed the Tribunal that you have no recollection of the meetings with Mr. Donovan to which he refers to in connection with the inspection in 1988 of Guinness & Mahon Limited. You can say that if you were approached on his behalf by Mr. Deasy in the manner outlined, you were sure that he would have discussed his concerns with Mr. Donovan at the earliest opportunity. Is that portion of Mr. Donovan's statement which deals with him going to Mr. Deasy in relation to seeking a transfer?

A. Yes. If Mr. Deasy had approached me, and said that Mr. Donovan had concerns, I'd have spoken immediately to Mr. Donovan.

Q. Now, you say that with reference to paragraph 26 of Mr. Donovan's draft statement: "Wherein he said that he continued to be concerned about the 1988 report you say that while paragraph 26 of Mr. Donovan's draft statement gives his recollection of responses by me including specific questions, it does" "include specific quotations" I beg your pardon "it does not say what specific concerns he raised with me. I must presume that I am satisfied that any concern which he may have raised in relation to the inspection were



being adequately addressed by the officers in charge of the inspection and that there was no reason why he should seek a transfer out of the Banking Supervision Department."

You say that you would not have seen him as responsible for the inspection on the ongoing supervision of G&M and your primary objective in asking him to assist the G&M inspection team so soon after his assignment to the bank's supervision department would have been for him to gain experience of inspection procedures and techniques at the earliest opportunity.

I think you then said that you are satisfied that the Inspection Report, a copy of which was provided to the Tribunal and has already been the subject of evidence by the Central Bank contains all material findings of the inspection conducted in 1988. Loans secured by 'Hypothecated Deposits' in a Cayman bank were on the books of G&M in the normal manner were the subject of correspondence by the bank following previous inspections and were included in the 1988 Inspection Report.

"From his account, Mr. Donovan's concerns regarding these loans related to the quality of their security.

At the time of the meeting with Mr. Pender, the managing director of G&M, he apparently had not been aware of the previous correspondence with the bank on

the subject and in effect, Mr. Pender appears to have suggested that Mr. Donovan check the record of correspondence."

You say that: "The inspection team had pressing prudential concerns regarding other loans in the G&M loan book which were as much at much greater risk of default than the back-to-back loans in respect of which it does not appear that Mr. Donovan was raising any new issues."

"In addition to concerns regarding the prudential quality of the loan book, the bank had a very material supervisory concerns regarding the ownership and continued viability of G&M. It was now a subsidiary of a UK subsidiary of a New Zealand holding company, Equicore, after a recent hostile take-over and the bank had not yet received a letter of comfort in respect of G&M from their new parent group."

In conclusion, you would wish to confirm that like Mr. Donovan prior to the McCracken Tribunal, at no stage were you, or as far as you were aware any member of the Central Bank, in possession of information which would reasonably indicate that some form of bank-within-a-bank arrangement may have been conducted from the premises of G&M or otherwise in 1988 or at any other time or definitive evidence of any instance of

tax evasion.

Now, Mr. Halpin, could I ask you this: You are the Assistant Director General responsible for resource management?

A. Yes.

Q. Are you responsible for promotions within the bank?

A. At this stage, yes, I am, in my present position, yes.

Q. Mr. Donovan was promoted in the last year or so to a senior position, isn't that correct?

A. Yes, he had been promoted in the past year.

Q. And as far as the Central Bank is concerned, they are satisfied with Mr. Donovan both as an officer and with the standard of his work?

A. At all stages, I was very satisfied with Mr. Donovan's performance.

Q. And there is no suggestion that Mr. Donovan bears any ill will towards any individuals or towards the Central Bank, isn't this correct?

A. I have no knowledge of that.

Q. Now, all other witnesses who have given evidence here

A. If I could just clarify one point. I would not have direct authority in respect of promotion to deputy manager.

Q. I appreciate that.

A. But I would obviously have an involvement.

Q. I appreciate that.

A. Thank you.

Q. But all of the other witnesses who have given evidence here who have been mentioned by Mr. Donovan have been careful to say that they are not saying that Mr. Donovan is telling lies about what happened.

A. I have no nobody has said that, no.

Q. What people have said is that they have no recollection and they accept that it could have happened?

A. I am sorry, I beg your pardon.

Q. People have said that themselves have no recollection. It could have happened, but they may be expressing some surprise, would you agree?

A. Yes, I would agree with the implication of possibly over-interpretation on something.

Q. Can I take it that Mr. Donovan could have spoken to you, Mr. Deasy could have spoken to him on your behalf and you just don't remember it?

A. The bank is quite an informal institution. The department is quite small and we were you know in daily contact with all the individuals.

Q. Now, I think you were head of the supervisory department at the time of this inspection?

A. Yes.

Q. And Mr. Feeney, in his questioning this morning of Mr. Donovan and you in the memorandum you have furnished to the Tribunal, have pointed out that there were serious prudential issues surrounding this

particular bank in 1988?

A. Yes.

Q. And if my understanding of Mr. Feeney's questioning is correct, and I accept that I could be in error, and if my understanding of your particular memorandum here, there seems to be a suggestion being made by the Central Bank that this question of 'Hypothecated Accounts' was of little significance to the Central Bank in 1988 in viewing the prudential aspect of Guinness & Mahon. Is that correct?

A. The way I would put it was that the high the back-to-back loans were arguably the best part of the loan book, and I mean, there were bigger exposures in other parts of the loan book and the biggest concern we have had of the issue would have been ownership and parental support of the organisation. It was not making adequate return on the capital, the question of the support from the owner. And as I say, the concern about the security and the quality of the ability to realise the security in the event of default in these back-to-back loans would have been down the list of prudential concerns.

Q. Well, is that because, as Mr. Byrne has said, the view at that stage was that Guinness & Mahon had complied with the undertaken they had given way back in 1979 to run down the loans to residents based on funds in Cayman and that the loans which remained on their books

now in 1988 were to foreign residents?

A. The bulk of those loans were foreign currency loans to non-residents, backed by foreign

Q. As disclosed to the Central Bank?

A. Yes, sorry, as reported to the Central Bank, I beg your pardon.

Q. Now, of course if the Central Bank had been aware of the true position in 1988, that, in fact, Guinness & Mahon were concealing from the Central Bank loans which were secured by offshore deposits, that would have had a huge effect on the Central Bank's thinking in relation to the prudential nature of these particular loans, isn't that correct?

A. I don't wish to be too technical here, I don't think the back-to-back the bank-within-a-bank concept relates loans which were secured against

Q. I understand that fairly well, Mr. Halpin.

A. In other words, it wasn't loans. It was the ability it was actually the understanding of the internal banking unofficial banking arrangement was that they were allowing people operate as a bank.

Q. I understand

A. And draw money from deposits, from offshore deposits.

Q. I understand entirely, Mr. Halpin, so does the Tribunal.

A. I beg your pardon.

Q. That isn't the issue. The issue is back in 1976

Mr. Byrne discovered these 'Hypothecated Loans' and what caused the Central Bank concern about them was that there was a huge tax implication potentially in relation to them, that is in that they related to Irish residents?

A. Yes.

Q. It amounted to either tax evasion or tax avoidance, I don't want to get into the debate on that now, but there was a big tax implication and, therefore, the security was at risk.

A. I think the bank's concern was the direct involvement of Guinness & Mahon in arranging this.

Q. They had two concerns, Mr. Halpin. Take it from me

A. It wasn't purely the prudential issue.

Q. That was a significant aspect and there were other issues. Now, are you saying to me that if the bank, Central Bank in 1988, knew that there were Irish residents with back-to-back loans with Cayman backed money, that that wouldn't have affected the thinking in relation to this particular bank? You were head of the supervisory department?

A. The undertaking was that they would be reduced as I understand it.

Q. The undertaking was that from '79 they would be reduced and would be more or less gone by '82 or thereabouts. Now, if I come back to the question I was asking you. Was the lack of concern or the lack

of now, you say in your statement that the question of the 'Hypothecated Loans' was way down the order of priorities the Central Bank had in 1988 because there were other prudential issues. There were other loans which were more

A. The security risks on those loans was perceived as low, yes.

Q. And your view of the 1988 back-to-back loans as disclosed by Guinness & Mahon was that they were in respect of non-residents and, therefore, were all right?

A. There were no tax implications from the Irish perspective because they were non-resident ones.

Q. If there had been a tax implication, that would have affected security, isn't that correct?

A. I am really finding it difficult to put my mind back to 1988. We would have been concerned.

Q. Mr. Halpin, we had days of evidence in this Tribunal that the Central Bank at the highest level took this issue up with Guinness & Mahon back in 1979 and had huge concerns about the tax implications.

CHAIRMAN: Isn't it clearly the case, Mr. Halpin, that had the Central Bank known in '68 that, in fact, rather than reducing and ceasing the Irish offshore deposits, that in fact this had continued, had you known the true facts it would have been of considerable concern to the



supervision department?

A. We were outraged when we found out. There was being breaches of the basic banking legislation in addition to the taxation question.

Q. I am only dealing with the taxation, the prudential side at the moment. Now, what the Tribunal is concerned about is protocols for inspections and matters of that nature. I am not getting into any debate about the issues surrounding 1988. Mrs. Horan was not aware of the discussions which had taken place between the Central Bank and Guinness & Mahon back in 1979 or thereabouts about these 'Hypothecated Accounts' and the implications for the solvency of the bank.

A. Yes.

Q. She has said herself, if she had been and if Mr. Donovan or anyone else had informed her that they were getting an unsatisfactory response, that it is something which she would have at least inquired into.

You would accept that?

A. Yes.

Q. So the Tribunal is more interested in, if you like, the protocols which should be put in place for the purpose of enabling a meaningful inspection take place, do you understand me?

A. Mmm.

Q. And for whatever reason, whether it be time constraints, the concern about this bank or the amount

of documentation which may have to be assimilated or filed in one location, it didn't occur on this particular occasion, I take it you would agree?

A. No, it did not.

Q. Thank you, Mr. Halpin.

CHAIRMAN: Thank you very much, Mr. Halpin. Well, there seems no reason why we shouldn't did you wish to raise something Mr. Hunt?

MR. HUNT: Perhaps just one matter, Mr. Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. HUNT:

Q. MR. HUNT: When Mrs. Horan was going out to, as appears in the 1988 report, there and you heard me mention these to her, in the introduction or in an early portion of that report, there are specific areas that were concentrated on in the context of that report, namely the loan portfolio with particular reference to the adequacy of the bad debt provisions and secondly the conduct of the investment business. Are those matters that would have been identified in advance and the examiners would have been directed in that particular in those particular directions?

A. I have to say I would presume so because I would not have given them direct instructions. Mr. Byrne would have been the experienced the deputy manager

Q. Insofar as they appear in the introductory section to

the report, they identify what the priorities at the particular time may have been?

A. I really can't say on this specific occasion whether priorities would have been identified. Mrs. Horan had been involved in the previous inspection, was familiar with the bank and would have been going in with the knowledge of it.

Q. That he was familiar with the 'Hypothecated Deposits' because they had arisen before. I won't say that they were old hat, but as far as the bank was concerned on the information that was disclosed, there was no new feature there which justified anything else?

A. It was only if the quality of the loan, if the security of the loan was questioned.

Q. Thank you.

CHAIRMAN: Thanks very much, Mr. Halpin.

THE WITNESS THEN WITHDREW.

CHAIRMAN: There seems no reason why we shouldn't conclude the last witness.

MR. COUGHLAN: Ms. Elaine Byrne.

ELAINE BYRNE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Ms. Byrne, I think you are an Authorised Officer of the Central Bank, isn't that

correct?

A. That's correct.

Q. And I think you come to give evidence today because you were asked to comment on a draft statement prepared by Mr. Terry Donovan in relation to the 1988 inspection at Guinness & Mahon carried out by the Central Bank, isn't that right?

A. That's correct.

Q. And I think that you were part of that inspection team, isn't that correct?

A. Yes.

Q. Mrs. Horan and Mr. Donovan then joined the team?

A. Yes.

Q. Sometime into the inspection. Now, I think you have informed the Tribunal that the inspection field work commenced on the 8th February 1988 and was completed 8th February and was completed on the 18th February. Mrs. Horan allocated and supervised the work carried out during the inspection?

A. That's right.

Q. And best of your knowledge you recollect that you were requested by Mrs. Horan to review a sample of loan files. The sample would have comprised a section of loan files from the top 20 loans, the loans with provision and a sample of other loans reviewed. You'd have also required to take notes of meetings conducted by Mrs. Horan with G&M officials, employees during the

course of the inspection and two, post-inspection meetings which are set out at pages 54 and 64 of the Inspection Report. Is that correct?

A. That's correct.

Q. You recollect that you were requested by the manager of the Banking Supervision Department, Mr. Halpin, to carry out a spot check on the work of the foreign exchange department which was referred to on page 36 of the 1988 Inspection Report. The object of this spot check was to determine that the procedure and controls in place in this area were being complied with in practice. You note that the date of this spot check is not specified in the report. You recall it was carried out after the inspection field work was completed and that the inspection as the Inspection Report page 36 refers to a review of the daily inspection reports for the 1st March 1988, this would indicate that it must have been carried out after the 1st March 1988.

To the best of your knowledge, Mrs. Horan reviewed the lending functions which included a review of the loan portfolio, bad debts provision and lending departments controls and the area of financial data, capital adequacy, profitability, investment business and other areas. Mrs. Horan may have requested you to assist her with some aspects of these reviews.

To the best of your knowledge, Mr. Donovan was requested by Mrs. Horan to carry out an analytical review of the balance sheet of G&M and to review which of G&M's largest loans, which was not performing satisfactorily. Is that correct?

A. Yes.

Q. And I think that you say that you refer to the statement of Mr. Terry Donovan, a copy of which had been provided to you by the Tribunal. You refer to paragraph 23 and you say that you were involved together with Mrs. Horan in the preparation of the Inspection Report. This is quite likely that Mr. Donovan passed some of the material which he had worked on to you for inclusion in the report. You refer to paragraph 6 of Mr. Donovan's statement and you say, it was the usual practice that bank inspections that an official of the bank would be assigned to assist us in our queries. During the 1988 inspection of Guinness & Mahon, Mr. Lannigan O'Keefe gave you such assistance; many meetings took place in the room in which you were working at which he dealt with various queries raised by the team. Is that your recollection of the 1988 inspection?

A. Yes.

Q. Do you have any recollection of Mr. Donovan coming to you and Mrs. Horan around lunch time one day saying that he had had a meeting with Mr. Lannigan O'Keefe or

that he was concerned about anything?

A. I don't remember specifically. I note that he refers to a meeting with Mr. Pender and I don't recall specifically what might have come up at that meeting, but I do have a recollection of him referring to a meeting with Mr. Pender.

Q. Around that time?

A. Yes. And the reason that I would recollect him just him saying meeting with Mr. Pender would be the fact that I would have thought, as a junior examiner as well, that I would be glad that I wasn't in a position to I had to meet Senior Manager

Q. In the bank?

A. Yeah.

Q. So that made some impression on you at least?

A. Yeah.

Q. And in relation to anything else in Mr. Donovan's draft statement which you have looked at, have you heard the evidence over the last two days?

A. I have. I received a copy of Mr. Donovan's statement on Friday afternoon and I have looked through it.

There is one other matter, in paragraph 27, and I have studied this and thought about it where there is a reference to an internal note prepared, and I have also listened to the evidence which he gave on it and I have tried to think if I can remember anything on that.

Now, I have a recollection and I don't know if this is

of any assistance or relates to this or not, but I have a recollection of being in Mrs. Horan's office, and I don't know for what reason, whether it was something I was specifically dealing with on the report with her or not or I could have been dealing with other matters.

I didn't actually share an office with her at the time as I think was mentioned in her statement. I didn't share an office until later in 1988, but at that time I would have reason to go round to her office from time to time on routine matters and I have a recollection of being there and Mr. Donovan being there, I don't know before or after I arrived, and something about her making a reference to a note that I thought maybe something on back-to-back deposits. Certainly it's something I thought that he was working on on the inspection that was of relevance to him and it wasn't being addressed to me. Now, I know he referred to seeing such a note and that during the evidence he mentioned in the open plan area where we were sitting, I don't recall the event that he described, but I do this has come to my mind. As I say, I don't know if it is the note that's been referred to there or if it is of any relevance to this point but that is a recollection that I have.

Q. I see. So you do have a recollection, vague as it may be, of yourself, Mrs. Horan and Mr. Donovan being present, you think, in Mrs. Horan's office.



A. Yes.

Q. And a reference being made to a note, is that correct?

A. Yes.

Q. Did you actually see a note or do you remember?

A. I saw a note and I am not too sure, but my best recollection is that I saw a typed note of maybe a page or slightly over a page.

Q. I see. And there was some discussion or words

A. Yes, I can't recall, but I gather it was something along the lines, that it was something to do with the 1988 Inspection Report and that it was relevant to something that he may have been working on. It wasn't being addressed to me or being discussed with me as being anything relevant that I was working on.

Q. And can you remember the tone of the conversation by any chance?

A. No, I can't.

Q. And you do have a recollection, again it may be vague, of Mr. Donovan saying something which affected your mind relating to Mr. Pender?

A. Yes. Not the specific the content but the fact that he had met with him because I knew I hadn't met with him and I just remembered it because I was thinking, I would not like to be in that position.

Q. That is how you remember it because it impressed you that way.

A. Yes. I was just putting myself in that position.

Q. Thank you very much, Ms. Byrne.

CHAIRMAN: Anyone?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. HUNT:

Q. MR. HUNT: Ms. Byrne, in relation to the transaction involving Mrs. Horan, Mr. Donovan was quite specific in his evidence this took place in an open-plan work area and he described the distance between where you are and where I am, that doesn't seem to tally with the incident that you have described just now in response to Mr. Coughlan. That took place in an office, isn't that right?

A. Yes, I have described an incident that I remembered. As I say, I don't know that it has anything to do with what he mentioned. I do not recollect this specific incident that he was talking about.

Q. He was also quite specific, Ms. Byrne, in terms of describing a document being waved at him or offered to him or disclosed to him but not offered to him for to be read. You heard him describe something to that effect.

A. Mmm.

Q. That doesn't seem to tally with the incident that you have described, is that right?

A. I don't know if he was reading the document. I know that there was a document that Mrs. Horan had in her

possession, but I really can't be any more specific.

Q. Was she standing up or sitting down?

A. My recollection is that she was sitting down, that I was standing on one side of her desk and that he was standing at the other side of her desk.

Q. Because, as I, perhaps I am incorrect on this, I will be corrected if I am incorrect, my recollection of the evidence that Mr. Donovan gave is that they were both standing up and Mrs. Horan was holding a document and had expressed some annoyance and had expressed that something was Mr. Donovan's fault. That doesn't seem to form part of your recollection of that incident?

A. As I say, I don't recollect what it was described as yesterday, but I am putting forward this as something that I recollect occurring in Mrs. Horan's office. I don't know if it's a separate event.

Q. It wouldn't be the all in fact, can I suggest to you that it probably, very probably, is a separate event because the features don't tally. But more than this, Ms. Byrne, it would not be uncommon or indeed be probable that in the course of a person who had worked in the investigation, that he would have had dealings with Mrs. Horan in her office in connection with the compiling of the report?

A. Yes.

Q. That would happen in the ordinary course?

A. That would happen, yes.

Q. There would be nothing sinister in relation to that?

A. No.

Q. And in fact, you refer to a typed the document you recollect being typed. There is, of course, in the report a typed reference to 'Hypothecated Deposits', descriptive material, to use Mr. Donovan's phrase, and there is also a typed appendix which sets out details of those, isn't that right?

A. Yes, that's correct.

Q. Could that be the material?

A. It's possible.

Q. It's probable I would suggest to you.

A. I don't know, but it is possible.

Q. Thank you.

CHAIRMAN: Anything, Mr. Gordon? Mr. Feeney?

Mr. Burke, I haven't give you representation to date, but if there is anything you wanted Mr. Coughlan to ask, I'll give you an opportunity to put that to them. There is nothing you want to raise arising out of your client's evidence. Whilst I stated it didn't seem necessary to give the granted limited representation, I take it you and your solicitor have had input in preparing the statement in assisting the Tribunal and I had stated at a much earlier stage that this is an aspect that can be borne in mind in respect of limited grants.

Thank you very much for your attendance, Ms. Byrne.

That concludes this short phase of the Central Bank evidence, Mr. Coughlan.

MR. COUGHLAN: We will give notice, Sir, it may be later this week, we'll give notice of the next day on which there will be public sittings.

CHAIRMAN: There are other aspects that are being vigorously pursued along with the preparation of further evidence. Very good, we will adjourn on that basis. Thank you.

THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.