

THE TRIBUNAL RESUMED ON THE 18TH OF MAY, 1999, AS FOLLOWS:

CHAIRMAN: Good morning everyone.

Any applications before we commence the sitting Ladies and gentlemen. Mr. Coughlan?

MR. COUGHLAN: May it please you Sir.

This opening statement will endeavour to give an indication of the matters with which the Tribunal intends to deal at its public sittings commencing today.

It is envisaged that these sittings will be held over the next week or so when they will adjourn for a period of three weeks and will then be resumed for several weeks.

The likely duration of the resumed sittings cannot be predicted at this stage.

The Tribunal proposes to divide the work to be dealt with at these sittings into three stages. At the first stage it will deal with a carry over of material from its last sittings and with one or two novel matters. Both the carry over and the new material at this first stage will concern those Terms of Reference which pertain to Mr. Charles Haughey.

At the second stage, on the resumption after the break which will last about three weeks, the Tribunal will pass on to those Terms of Reference which pertain to other holders of public office, including, mainly, Mr. Michael

Lowry. In this connection, I should mention that to date the Tribunal has proceeded on the basis that the expression "holder of public office" meant a holder of ministerial office, that is to say the holder of office as a member of the government. In promulgating its interpretation of its Terms of Reference on the 24th day of September, 1998, the Tribunal made it clear that this interpretation was subject to revision as the work of the Tribunal progressed and as more information came to hand. Having considered the position in the light of information now to hand and coming to hand as a result of the Tribunal's continued private investigations, it may be necessary to promulgate a revised interpretation of the Tribunal's Terms of Reference.

When the Tribunal comes to deal with the second stage of its work, a comprehensive outline statement will be made dealing in some detail with the material to be referred to and with any related revision of the Terms of Reference.

It would be both unfair and unnecessary to allude to these matters in detail at this point. This is because it would be inappropriate to refer in any detail to individuals who may be affected by or be or involved in those public sittings when there would be a substantial gap between any public references to the material and any opportunity, any such individual might have to respond either by seeking to examine witnesses or to give evidence.

The third stage of the Tribunal's work will involve a

return to those parts of the Terms of Reference which pertain mainly to Mr. Charles Haughey. It will not however, be concerned exclusively with Mr. Haughey. What is envisaged is that in the third stage the Tribunal's work will involve scrutinising in some detail the various accounts of Mr. Charles Haughey with Guinness & Mahon Bank, that is to say accounts in his own name, accounts he may have held jointly with other persons, and also with the Amiens accounts, insofar as those accounts affected him. The third stage will also deal with a number of other accounts which, from the evidence to date, appear to have involved the holding of funds on behalf of, or the making of payments on behalf of Mr. Charles Haughey. They include the Kentford Account with Bank of Ireland. The Tribunal will also examine in greater detail the Ansbacher accounts and the memorandum accounts.

Dealing now with the first of the three stages proposed by the Tribunal; the Tribunal has already indicated how it came to be interested in Allied Irish Banks: That this stemmed from the fact that inquiries carried out by the Tribunal had shown that in 1979/1980 €750,000 was lodged to Mr. Haughey's account in Allied Irish Banks to clear up a long standing indebtedness. Evidence was given which indicated that this indebtedness was in the region of in excess of €1.14 million in or about the month of December, 1979, and that as a result of a compromise agreement with

Allied Irish Banks, Mr. Haughey was able to sever his relationship with that bank for a payment amounting to what would appear to be substantially less than the full amount due.

The Tribunal has already in the course of its public sittings scrutinised some of the circumstances in which, what appears to be a very substantial indebtedness, was settled. Allied Irish Banks has asserted, and evidence has been given by officials of the bank asserting that the compromise was one which was commercially justified having regard to the protracted and difficult history of Mr.

Haughey's relationship with the bank. Evidence was also given by some of the bank's directors. At the time of the adjournment of the Tribunal's last public sittings it hadn't proved possible to take the evidence of a number of directors of the bank who were involved in its affairs at the material time, that is to say in 1979, early 1980.

Evidence will now be given by a number of other Directors of the bank. From the information made available to the Tribunal by some of those directors, it would appear that they had no involvement in or prior knowledge of any settlement. The Tribunal has been furnished with a statement on behalf of Mr. Patrick O'Keefe, the then Deputy Chief Executive of Allied Irish Banks. It would appear from the statement that Mr. O'Keefe, both as a director of the bank and as Deputy Chief Executive was, together with Mr. Niall Crowley, the then Chairman of the bank, aware of

the settlement, and from Mr. O'Keefe's statement it is clear that he was directly involved in negotiating some of the terms of settlement with Mr. Haughey's then agent, Mr. Desmond Traynor.

The Tribunal has also sought information from Allied Irish Banks concerning the comparative treatment of other borrowers by whom large sums of money had been borrowed in or around the year 1979 to 1980. Analysis of large borrowings by customers of the bank in or around this time shows that as a general rule the advancing of large sums of money, and in the case of non cooperate borrowers, was confined mainly to the agricultural sector. From the information available to the Tribunal there seems to have been no case in which the bank permitted borrowings of the order of Mr. Haughey's borrowings unconnected with any investment such as the purchase of new land or the requirements of the agricultural sector for working capital.

It will be recalled that at the Tribunal's last public sittings evidence was given by Miss Sandra Kells of Guinness & Mahon Bankers, that a bank account was opened on the 11th of December, 1979, the day Mr. Haughey became leader of Fianna Fail, from which ultimately a sum of œ750,000 was debited to fund a number of drafts which were used, it would appear, to discharge Mr. Haughey's indebtedness to Allied Irish Banks. At the request of the

Tribunal, Guinness & Mahon examined all documents retained by it on microfiche for the three month period from December 1979 to February 1980 with a view to endeavoring to identify documents which might be material to the sources of the various lodgements to that special account opened by Mr. Desmond Traynor.

One of the documents which the bank has been able to identify is a copy statement of Guinness & Mahon's own account with the Central Bank of Ireland. This type of statement records, amongst other things, transfers between different banks on their respective accounts held with the Central Bank. From searches carried out by Guinness & Mahon a document has come to light showing that on the 11th of December of 1979, the Guinness & Mahon account at the Central Bank records a debit of €150,000, which is particularised as being with reference to an account known as "Amien SL". This would appear to signify that a sum of €150,000 was received by Guinness & Mahon for crediting to an account in the bank held by Amiens Securities Limited. The particulars on the Central Bank account also referred to the transaction as involving what is described as "Rotunda Branch". This appears to suggest that €150,000 was received from a bank having a branch at the Rotunda, and from inquiries carried out by the Tribunal, there would appear to be only one such bank, namely Bank of Ireland, Rotunda Branch.

The bank has also established that another transaction across the account of Guinness & Mahon at the Central Bank of Ireland may be of relevance. This occurred on the 24th of January of 1980. The documents uncovered by inquiries carried out at the request of the Tribunal by Guinness & Mahon show that on the Guinness & Mahon account at the Central Bank, the following entry appears for the 24th of January, 1980: "Cheques sent for Central Bank funds, account JD Traynor". The date of this transaction matches the credit entry of œ150,000 to the JD Traynor special account. The statements on that account have already been mentioned in evidence at the Tribunal's last sittings.

Therefore, while the Tribunal has been able, with the assistance of Guinness & Mahon, to locate a statement of account for the JD Traynor special account, from information now made available to the Tribunal, it would appear that the bank has been unable to locate any such statement of account for Amiens Securities Limited or for any other Amiens company for the month of December of 1979. This will be inquired into, as it appears to be unusual when it is borne in mind that account statements have been found for earlier years.

As I have just indicated, from the Tribunal's inquiries from the Central Bank, it has not proved possible to date to establish any connection between these movements across the account of Guinness & Mahon at the Central Bank with

any person other than the late Mr. Desmond Traynor.

The Tribunal has learned of arrangements entered into between Mr. and Mrs. Charles Haughey and the Gallagher Group, through Mr. Patrick Gallagher, in the beginning of 1980. As of yet, the Tribunal is not in a position to establish a connection between those arrangements, to which I will refer in detail in a moment, and the funding of Mr. Haughey's settlement with Allied Irish Banks. However, the arrangement will be scrutinised at this stage because of its close temporal connection with the events and also because circumstances of the arrangement give rise to some questions as to whether it ought to be regarded as a payment to Mr. Haughey.

It would appear that in or around the beginning of January of 1980, Mr. and Mrs. Haughey entered into an agreement to sell part of their lands at Abbeville Kinsealy to the Gallagher Group. This information has been provided to the Tribunal by Mr. Laurence Crowley, a chartered accountant, and formally a partner in Stokes Kennedy Crowley. Mr. Crowley has made this information available to the Tribunal as the person who was on the 30th of April, 1982, appointed Receiver over the assets of the Gallagher Group of companies. It would appear that under the agreement the Gallagher Group were to purchase from Mr. and Mrs. Haughey approximately 35 acres of land at Kinsealy, at a price of œ35,000 per acre. This agreement was reduced into writing

and was dated the 27th day of January, 1980. The agreement was signed by "P Gallagher" and it would appear that this is the signature of Mr. Patrick Gallagher who was then a director of the company. The agreement was witnessed by Mr. Paul Gallagher. The agreement had a number of unusual features, and it is these features which attracted the attention of the Tribunal and which have prompted the question whether the payment provided fell under the agreement amounting to a payment within the meaning of the Terms of Reference.

Now I am putting the agreement up and I shall deal with it presently. I will just outline what appear to be the unusual features of the agreement which are as follows:

Although the contract involved the sale of a substantial parcel of land for a total consideration of €1.225 million, the agreement does not appear to have been prepared by a solicitor. Although it involved a substantial parcel of land and contained some unusual clauses, the agreement ran to only seven paragraphs and did not contain any of the usual conditions to be found in most contracts for the sale of land, which are almost invariably along the lines of the standard general conditions of sale of the Incorporated Law Society of Ireland. If I might pause there and just open the agreement.

At paragraph 1: This agreement made between C J Haughey, Mrs. Maureen Haughey, Abbeville, Kinsealy, County Dublin,

hereinafter called the Vendor and the Gallagher Group Limited, Sean Lemass House, St. Stephen's Green, Dublin 2, hereinafter called the purchaser.

2: Gallagher Group Limited have agreed to purchase the area identified and ringed in blue on the attached map of approximately 35 acres at €35,000 per acre.

3: The above agreement is subject to the condition that the purchaser will provide the vendors with a stud farm of at least sixty acres of land with appropriate stables and within a radius of twenty miles of the General Post Office, preferably in North County Dublin. The new stud farm and the cost thereof will have to be met with the approval of the vendors. The cost of the new stud farm will be deducted from the purchase price.

4: The transaction will be completed within six months of the vendors indicating in writing their approval of the new stud farm. The balance of the purchase price will be subject to interest at five points above the Associated Banks treble A rate for any period after the stipulated completion date during which completion is delayed.

5: A deposit of €300,000 has been received and is hereby acknowledged. The balance of the purchase price will be payable on the completion date.

6: In the event of the transaction not being completed

before the 31st December, 1985, the deposit of €300,000 will be non refundable but Gallagher Group Limited will then have no further obligation under this agreement.

7: Should the events set out at No. 6 come into effect the vendors agree to grant the Gallagher Group Limited the rights of first refusal for a further period of two years from the 1st January, 1986.

And it is dated the 27th of January, 1980. It is signed Charles Haughey and it is witnessed, it is signed Maureen Haughey and it is witnessed and it is signed P Gallagher and it is witnessed.

What the Tribunal wishes to inquire into is that because of the unusual form of the agreement it appears even more curious when it is borne in mind that the land at €35,000 an acre was being sold without the benefit of planning permission and was in fact at the time in an area zoned for agricultural use.

One of the conditions of the agreement was that the purchaser, namely the Gallagher Group, would provide Mr. and Mrs. Haughey with a stud farm of at least 60 acres of land, with appropriate stables within a radius of 20 miles of the General Post Office and preferably in the North County Dublin area. But the new stud farm and the cost thereof was to be met with the approval of the vendors. This provision appears to have left the vendors with an

enormous degree of discretion as to how the agreement should be completed, as to whether it should be completed at all and the agreement contained no mechanism as to how any dispute between the parties over the satisfaction of this condition could be resolved. This would appear to be all the more unusual when it is borne in mind that the deposit under the agreement was to be non refundable in the event of the transaction not being completed. This deposit of €300,000 was acknowledged in the agreement as already having been received. It would appear to be a substantial deposit, and in a contract where the deposit was non refundable, amounted to nearly 25% of the total purchase price. From information available to the Tribunal it would appear that the more usual deposit in the contract for the sale of land of this size would be in the order of 10% of the total purchase price and usually refundable.

From information provided to the Tribunal by the Receiver of the Gallagher Group, it would appear that there is no record in the group's files of any steps having been taken in furtherance of the agreement. In other words, the Group's files appear to contain no record of letters by the Group or by the Group's solicitor to Mr. and Mrs. Haughey, seeking to have the agreement enforced. Nor do the files contain any record of any attempt by Mr. and Mrs. Haughey to enforce the agreement by calling upon the purchaser to take any of the steps in the conditions. The contract for sale was never in fact completed, and therefore Mr. and

Mrs. Haughey had received œ300,000 which they were not obliged to refund; and were after the period stipulated in the contract released from any obligation to give any land to the Gallagher Group. Although this is something which will not be dealt with at this stage of the Tribunal's public sittings, it should be mentioned that eventually the transaction was treated by the Revenue Commissioners as a gain by Mr. and Mrs. Haughey which, at the appropriate time, was subject to a charge to tax and that was paid.

In an effort to enlarge on its understanding of this transaction the Tribunal, apart from communicating with Mr. and Mrs. Haughey's solicitors, has also endeavored to make contact with Mr. Patrick Gallagher. The Tribunal has been in contact with solicitors acting for Mr. Gallagher, and whilst initially there didn't seem to be a likelihood of procuring at this stage the attendance of Mr. Gallagher, it now appears that Mr. Gallagher may be available to give evidence. Until the Tribunal establishes whether Mr. Gallagher, is prepared to provide a statement and if so, to give notice of the statement and of its contents to affected persons, it would not be appropriate to say anything else at this stage in relation to the matter.

Mr. Charles Haughey had a loan account with Agricultural Credit Corporation going back over a considerable number of years. Each year he borrowed a substantial sum in the bank in the form of what has come to be known as a "stocking

loan". This is a form of facility advanced each year by ACC to farmers, in Mr. Haughey's case usually in the fall of the year, or in or about August or September. This type of loan was initially advanced to Mr. Haughey in the mid 1970's and at the time one of the bank's agricultural inspectors visited Mr. Haughey's farm for the purpose of validating his farming activities. It would appear that there were no further validation of the farming activities from this day onwards, but this does not appear to be in anyway unusual.

In the period under review in the Tribunal's Terms of Reference Mr. Haughey took out a number of loans commencing on the 11th of September of 1979 with a loan of €35,000. Mr. Haughey's loans were paid off in or about August or September of each year, with two exceptions, to which reference will be made later, and in each such year a new loan was drawn down for a sum slightly in excess of the amount of the previous year's loan together with the amount of interest due in respect of the previous year. By 1984 the amount of money being drawn down on Mr. Haughey had increased to €90,000. In 1985 that loan was not repaid but rather with the agreement of the Agricultural Credit Corporation the interest only was repaid. This amounted to €12,554.08. The loan was rolled over until the following year. Once again in the following year the loan was not repaid. The interest amounted to €15,901 and that was

paid. The loan was rolled over and in the following year, in 1987, the loan together with the interest which had accrued due was discharged by payment of €105,000. That payment has already been referred to in the course of the evidence given and in the Report of the McCracken Tribunal. From that Report on page 44, it appears that on the second of December, 1987, a draft of €105,000 was drawn on Amiens Investments Limited, a company owned and controlled by Mr. J Desmond Traynor, payable to Agricultural Credit Corporation. On the 3rd of December 1987 it appears that this draft was lodged with the Agricultural Credit Corporation and was applied by them to clear Mr. Haughey's loan. The McCracken Tribunal concluded that this all appeared to have been done in anticipation of the receipt of funds from Mr. Bernard Dunne.

Over the period between 1979 and 1987 Mr. Desmond Traynor and Mr. Haughey between them shared the management of this indebtedness in as much as Mr. Haughey made contact regularly with Agricultural Credit Corporation concerning the drawing down of the loans and the manner in which the loan would be secured. In each year the loans were repaid by accounts in the name of Mr. Traynor. Those accounts were reimbursed with the amounts used to pay Mr. Haughey's loan by similar amounts from accounts in the name of Mr. Haughey. Mr. Haughey's accounts were of course, in overdraft and on each occasion that these payments to Mr. Traynor's accounts were drawn down, Mr. Haughey's overdraft

increased.

Special arrangements were put in place at Mr. Haughey's request to ensure the confidentiality of his dealing with the Agricultural Credit Corporation. From information made available to the Tribunal by Mr. Michael Culligan, the then Chief Executive of ACC, those arrangements were put in place as a result of a request to him by Mr. Haughey in the 1980s. Mr. Culligan did not regard the request as in anyway improper or unreasonable in the circumstances for a person of Mr. Haughey's high profile, and he has informed the Tribunal that for the protection of the borrowings and accounts of senior management staff, the Agricultural Credit Corporation already provided internal confidentiality in order to deter unwelcomed curiosity or even malicious interest and a coding system was used whereby numbers as opposed to names were applied to the accounts of such persons. Mr. Haughey, however, appears to be the only person dealing with ACC other than it's senior management, to whom this special type of confidentiality was applied.

Borrowings from the ACC were usually secured, inter alia, by a form of chattel mortgage over the borrowers stock. In order to be effective, such a chattel mortgage had to be registered. Mr. Culligan has informed the Tribunal that around 1982, Mr. Haughey asked him not to register a chattel mortgage, which he had then executed, and according

to Mr. Culligan this was because Mr. Haughey felt that it would make his private affairs open to media comment. The ACC's Chief Executive thought that this request was understandable in view of Mr. Haughey's good record of repayment and the sensitivity of his political position, and he felt that it was neither a part of, nor a breach of, ACC policy and that it was merely an appropriate use of a discretion in highly unusual circumstances.

Mr. John Hickey, the retired Deputy Chief Executive of the ACC, and a person who was familiar with Mr. Haughey's record of dealing with that bank, has provided information to the Tribunal and has also referred to the non registration of this chattel mortgage and with a number of subsequent chattel mortgages, but points out that the bank's file discloses a pre-existing registered chattel mortgage for present and future advances.

The question to be inquired into and which arises, is whether the granting of this indulgence to Mr. Haughey was in the nature of a benefit in kind, in as much as the bank's borrowings were not secured, at least as far as Mr. Haughey was concerned, and perhaps as far as the law was concerned.

I am now moving on to a different matter and a slightly new matter. It was dealt with in part in the last public sittings of the Tribunal and the question is of Mr. Bernard

Dunne and the question of the lodgement of bearer cheques to a bank account at Guinness & Mahon.

In the course of evidence given at the Tribunal's last sittings, a number of queries were addressed to Mr. Bernard Dunne concerning the cheques known as the "bearer cheques". Six of these "bearer cheques" in all were lodged to an Amiens Securities Limited account number 10407014, at Guinness & Mahon. The cheques were lodged on two separate days in two tranches. The Tribunal was not in a position in the course of the evidence, to ascertain how these cheques came to be lodged. Since that date the Tribunal has obtained further information from Mr. Dunne concerning the cheques, and it is his belief that there were only two persons who would have received "bearer cheques" in any of the amounts comprising either of the two lodgements or in an amount equal to the total of the six cheques. Mr. Bernard Dunne has informed the Tribunal that only he, Mr. Bernard Dunne himself, or Mr. Noel Fox, would have obtained "bearer cheques" in either of those amounts.

He himself, is able to say that to the best of his recollection he did not make any lodgement of those cheques to the account of Guinness & Mahon, nor did he, as far as his recollection goes, hand those cheques to anyone who may have made such a lodgement.

I should also say that Mr. Bernard Dunne has informed the Tribunal nor does he have any recollection of handing those

cheques to Mr. Noel Fox.

Turning now to what were referred to at the last public sittings of the Tribunal as the "Carlisle cheques", that is the Dunnes Stores Grocery Account cheques which were routed through Carlisle Trust and eventually found their way somewhere else; in the course of the Tribunal's last sittings evidence was given concerning three cheques drawn on a bank account of Dunnes Stores signed by Mr. Bernard Dunne, which were credited to an account of Carlisle Trust Limited and ultimately credited to an account of Celtic Helicopters on the one hand and a company known as Kentford on the other hand. The late Mr. Desmond Traynor was instrumental in channelling the three Dunnes Stores cheques through Carlisle Trust.

In the course of evidence given at the Tribunal's last sittings, Mr. Bernard Dunne indicated that he had a vague recollection that he may have given these cheques to Mr. John Barnicle. In his evidence Mr. John Barnicle stated that he did not receive the Carlisle cheques from Mr. Dunne. Since that date the Tribunal has been informed that in or about 1991, Mr. Bernard Dunne was approached by Mr. John Barnicle seeking the financial assistance of Mr. Bernard Dunne in connection with the purchase of, the proposed purchase by Ciaran Haughey and John Barnicle of a parcel of land at Dublin Airport. The financial assistance was provided by Mr. Dunne and ultimately the amount

borrowed was repaid and the transaction was carried through in the ordinary way, along ordinary commercial lines. The Tribunal is of the view that this evidence should be adduced in order to complete the picture of the relationship between Mr. Bernard Dunne and Celtic Helicopters Directors, having regard to the features of the relationship referred to in the McCracken Tribunal report and the recollection, however vague, of Mr. Bernard Dunne and the additional features of their commercial relationship which has now come to light in the context of Mr. Dunne's recent information.

Turning now to Mr. Seamus Purcell and Celtic Helicopters: reference has already been made in an earlier outline statement and in the evidence given to the Tribunal of payments by Mr. Seamus Purcell to Celtic Helicopters. Mr. Purcell has provided the Tribunal with a Memorandum of Information in which he states that he was approached by a representative of Mr. Haughey in 1986 and 1987 to invest in Celtic Helicopters and that he gathered that an investment was being sought from a number of people at that time; he has informed the Tribunal that he agreed to make a payment of €12,000 and that he was asked to pay this sum to the late Mr. J Desmond Traynor. Mr. Purcell has informed the Tribunal that when he was asked to make the payment of €12,000 to Mr. Traynor, he knew Mr. Traynor, because he had had business dealings himself with Guinness & Mahon. As in the case of other persons contributing to Celtic

Helicopters in or around the time of the setting up of the company, the Tribunal will wish to establish whether this was in the form of an indirect payment to Mr. Charles Haughey.

Turning now to Mr. Mike Murphy and Mike Murphy Insurances and Celtic Helicopters. Mr. Mike Murphy, through his insurance company, was involved with Celtic Helicopters in a number of ways. He was firstly involved as the company's insurance broker. He was also involved as a person through whom the company hoped to organise finances in 1992. He was, in addition, involved as the person by whom a cause of action which the company asserted it had assigned to Mr. Desmond Traynor was being processed. He was also involved with the company as the person by whom a loan for the payment of the company's insurance premium was effectively repaid in 1992 and 1993. Mr. Mike Murphy has already given some evidence concerning the approaches by Mr. Barnicle, Managing Director of Celtic Helicopters, to him in 1992, concerning the company's requirement for new investors. Mr. Murphy has already given evidence that he introduced, as an investor, a Mr. David Gresty. In addition to the evidence he has already given, he has also provided further information to the Tribunal and has informed the Tribunal that in September of 1992 he inquired from Mr. David Gresty as to whether he was interested in investing in Celtic Helicopters; that Mr. Gresty agreed to the investment and

that he directed Mr. Murphy to procure the investment for him, and to pay for the same from monies held by Mr. Murphy on Mr. Gresty's behalf. Mr. Murphy has already informed the Tribunal that he was to hold the shares obtained on foot of the investment in trust for Mr. David Gresty.

Evidence was given that an investment consisting of a cheque from the Carlisle Trust in the sum of €100,000 was paid into an account of Celtic Helicopters and at the time Celtic Helicopters were under the impression that this represented the investment of Mr. Murphy. Mr. Murphy has informed the Tribunal that he was not aware that his cheque for the sum of €100,000 sent to Credit Suisse in London was used to fund an Ansbacher account held for the benefit of Mr. Charles Haughey.

So far as his dealings with Mr. Gresty were concerned Mr. Murphy has informed the Tribunal that he indicated to Mr. Gresty that for a sum of €100,000 he could acquire eight percent of the company, that he was happy that the company could trade out of its position, and that it had potential, due to contacts, to obtain air/sea rescue contracts and potentially other State contracts.

He says, that having made clear to Mr. Gresty the status of the company as he knew it, he, Mr. Gresty, was happy to proceed with the investment as Mr. Murphy had arranged it.

He has also informed the Tribunal that he made a commercial decision that under no circumstances did he want to be

known as the person responsible for the collapse of Celtic Helicopters and that this was due to its obvious association with Mr. Charles J. Haughey.

He says, that it was for this reason and primarily for this reason alone, that he assisted the company with the payment of their insurance premium, but he has also said that it was an important factor in his mind when discussing the matter of investment with Mr. Gresty. He, in addition, has informed the Tribunal, that he Mr. Murphy, guaranteed that Mr. Gresty would not be at a loss as a result of his investment.

From information made available to the Tribunal, Mr. Murphy has indicated that he provided finances to Celtic Helicopters, to enable it to pay its premiums in respect of aviation insurance in 1992/1993. He says that he did this primarily so as to avoid the collapse of the company. His information to the Tribunal is to the effect that the sums collectively loaned by him to Celtic Helicopters have been substantially repaid.

The Tribunal will nevertheless wish to examine these statements in evidence with a view to ascertaining whether Mr. Murphy directly provided benefit to Celtic Helicopters and indirectly to Mr. Charles Haughey by financing the insurance premiums of the company and whether or not this has now been repaid in full, and further by guaranteeing a third party investment in the company.

The public and the press should be aware that this is merely an opening or outline statement. It is not evidence. The matters referred to must be examined in evidence and only then will they have a status.

CHAIRMAN: Thank you. Thank you Mr. Coughlan. Mr. Gilhooley?

MR. GILHOOLEY: May it please the Tribunal. Mr. Chairman, I appear for Mr. David Gresty with Mr. John Coyle, instructed by Giles J Kennedy & Company. I am making an application for limited representation and the Tribunal will be aware of the matters in which Mr. Gresty is interested, arising out of Mr. Coughlan's opening statement.

Mr. Gresty is anxious to provide the fullest possible cooperation to the Tribunal and has already supplied an outline preliminary statement. I expect to be in a position later today or early tomorrow to provide a full statement with more supporting documentation, and Mr. Gresty also will have an interest in the evidence of a number of other witnesses, principally Mr. Murphy but also I think Mr. Ciaran Haughey, Mr. Barnicle and some others.

CHAIRMAN: Yes; and is it your application that there be limited representation accorded to Mr. Gresty in these circumstances, Mr. Gilhooley?

MR. GILHOOLEY: That is my application, Sir.

CHAIRMAN: Well, I accede to that Mr. Gilhooley, as on previous occasions, on a basis that I am not intimating any guarantees in relation to ultimate cost adjudications.

These are matters which will have to be discussed and ruled upon in due course, but on a basis of the evidence already heard and the further possible evidence alluded to by Mr. Coughlan in his opening statement just given, it does appear to be desirable that representation be accorded on a limited basis; and I would ask you to liaise with Mr. Coughlan to ensure that you and your colleagues aren't needlessly here for portions of the evidence that don't relate to the Celtic Helicopters and other ancillary issues in which obviously Mr. Gresty and Mr. Murphy have an interest.

MR. GILHOOLEY: Very well. I am obliged Sir.

CHAIRMAN: Thank you very much.

MR. COUGHLAN: Mr. Michael Kennedy please.

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

CHAIRMAN: Thank you for your attendance again Mr. Kennedy. You are already of course sworn, from an earlier stage of the sittings.

A. That is correct, Sir.

CHAIRMAN: Will you please sit down.

Q. MR. COUGHLAN: I think the Allied Irish Banks have requested that Mr. Kennedy be permitted to return to give further evidence Sir and I think in that regard they have furnished a second supplemental statement. Mr. Kennedy, I think you have that statement in front of you; is that correct?

A. I have. That is correct.

Q. Yes. Now, in that statement I think you refer to a handwritten note which you have annexed to the statement; isn't that correct?

A. Yes.

Q. And you also have that handwritten note?

A. I have, yes.

Q. I think you have informed the Tribunal that this note was in your handwriting and appears to be a draft of a letter which was to go to the manager of Dame Street Branch, Mr. Michael Phelan to Mr. Haughey and which appears to have been typed up as a letter, a copy of which is at Tab 8, page 245 of the main Tribunal Allied Irish Bank Book; isn't that correct?

A. Yes, that's correct.

Q. And I think it was referred to briefly at one stage during the during the last public sittings of the Tribunal, but wasn't opened in detail; isn't that correct?

A. I couldn't be sure of that now. I don't recall.

Q. Now, perhaps I think you have informed the Tribunal that it is unclear whether this letter was ever actually sent. It may have been prepared against the possibility that there would be no follow-up by Mr. Traynor to the meeting with him on the 17th of December, 1979 in Dame Street Branch, which you attended together with Mr. Phelan; isn't that correct?

A. Yes.

Q. Now, perhaps you would read the draft letter. The handwritten draft?

A. "I write to advise you that your accounts in the books of the bank have been recast and the position is now as quoted above (plus interest to date). The ruled account represents an amalgamation of the Abbeville Account". I am very sorry, but my writing is so bad I am hardly, I am not able to read it at this remove.

Q. Okay?

A. "The wages account represents the accumulation of wages payments since the account was opened as an interim measure to allow you operate while the proposals which were initiated in September were being developed. As I understand from Mr. T that these proposals are no longer being developed and the only proposal at present is that the bank would accept œ600,000 in full and final settlement (which is of course totally unacceptable).

I have to advise you that any further cheques which you draw can only be paid if funds are provided beforehand to

meet them. Therefore, if next weeks wages are to be met by drawing on the wages account you must ensure that funds are provided to meet them before they are presented.

Similarly, no further cheques can be drawn on the Abbeville working account unless funds are provided beforehand to meet them". Now, this is this sounds strange it is obviously just a suggestion of what Mr. Phelan might put in the letter. " Some jem about how vital it is in his own interests that he come forward with acceptable proposals for dealing with the debt at the earliest possible date as I have to submit a full report to my Head Office which will be placed before the main board of the bank for consideration at their February meeting". (Tuesday the 12th of February).

Q. Yes?

A. "Please regard me as being available at any time for further discussions etc. with you personally or with Mr. T or jointly".

Q. Yes?

A. Then I have jotted down some notes.

Q. Yes?

A. Over the heading "Maureen's guarantee for œ350,000. As I see it we are not covered. If he died where are we? Half proceeds plus œ350,000 is all we would get out of Abbeville. Should we send him a guarantee form or something? Her guarantee should be for œ600,000 at least.

How about the collateral situation? Is it additional to his debt? Is the guarantee held in Dame Street?" Then I have something down about "Haughey Boland and how does he address him"?

Q. Yes. Now I think you in your statement say that your attention has been drawn specifically to the second page of this handwritten note which was not incorporated into the letter and which is headed "Maureen's guarantee for œ350,000". Guarantee refers to guarantee and you have in your statement included that portion of the handwritten draft; isn't that correct?

A. That's correct, yes.

Q. And I think you have informed the Tribunal that from this handwritten note you can say that the question of the adequacy of the security held by the bank received consideration by you in December 1979 and January 1980?

A. That is correct.

Q. And while you cannot, at this remove, remember writing this note, it seems reasonable to you to suppose that the assessment of what might constitute a reasonable settlement with Mr. Haughey, the question of what might, be realised from the security in the event of a further sale?

A. Forced sale.

Q. Force sale or indeed Mr. Haughey died, was taken into consideration?

A. Yes.

Q. That was by you?

A. That's right, yes.

Q. Did you seek the advice of the Group legal office on that question yourself?

A. No, not that I can recollect.

Q. Did you bring that to the attention of Mr. O'Keefe?

A. No.

Q. This was just your own musings effectively?

A. It was for Mr. Phelan, you see the securities would have been held in Dame Street Branch. Dame Street Branch looked after it's own securities.

Q. Yes?

A. As distinct from having them looked after in Head Office which was the situation for the great majority of branches. What I was writing down there were questions which I would probably, I can't be, I cannot be positive at this stage, it is much too long ago, which I would have probably have asked Mr. Phelan to look into and examine and see what the situation was.

Q. I see?

A. Whether he did or not or whether I pursued it or not I cannot remember. Events may have been overtaken by the settlement. I just do not remember. But I was quite obviously concerned about the value of the security.

Q. Yes?

A. To us, to the bank.

Q. Certain doubts had arisen in your own mind or questions had arisen in your own mind?

A. Yes. That seems obvious, yes.

Q. You noted them down, that would appear to be so; isn't that correct?

A. Yes.

Q. That is your note?

A. Yes.

Q. You would have brought those to the attention of the branch manager?

A. That is most likely what would have happened, yes.

Q. And of course the branch manager I take it, you would accept would have to seek advice in relation to those matters if you haven't the answers? It is unlikely that Mr. Phelan, the branch manager himself would be able to proffer an answer to you, to respond?

A. Yes. Mr. Phelan was a very very experienced manager, a very senior manager, very experienced and would have been extremely well versed in such matters himself. He would have of course, access to the actual securities because they were actually held in the Dame Street Branch.

Q. Yes?

A. So I can't say at this remove whether or not any of that happened. I just do not know.

Q. I see. In the opening paragraph of your handwritten draft, now you are unsure as to whether this was ever incorporated into anything or sent; isn't that correct?

A. Well, it some of it may have been incorporated into the typed letter, which is on record from what Mr. Phelan

prepared.

Q. Yes?

A. That is all, that is as far as I can go with it. It may have been.

Q. Yes. Now, you say that in the opening paragraph that you write to advise this is your proposal and this should be sent to the customer, Mr. Haughey?

A. By Mr. Phelan, yes.

Q. Yes "I write to advise you that your accounts in the books of the bank have been recast and that the position is now as quoted above plus interest to date"?

A. That would assume that the heading of the letter would have a recycle of his accounts as they stood.

Q. Yes, so that letter would then have shown the indebtedness of standing in the region, outstanding in the region of 1.14 million?

A. Yes it probably would, yes.

Q. With interest?

A. Yes. Yes. But I think that the letter which was typed, eventually which may or may not have been sent, showed the indebtedness at 1.075 million if my recollection is correct. I don't think, I don't think that the actual typed letter added in the interest which had accrued from the previous September.

Q. Yes.

CHAIRMAN: Was this, Mr. Kennedy, the draft registered letter that Mr. Phelan proposed but which wasn't in fact

ultimately sent to Mr. Haughey?

A. Was the letter; sorry, it was the letter dated the 7th of January wasn't it? Which Mr. Phelan may or may not have sent. There doesn't seem to be any evidence that it was actually sent Sir.

CHAIRMAN: Yes.

Q. MR. COUGHLAN: Then you were concerned that in the event you were concerned about the securities and you were concerned about the event of Mr. Haughey's demise how the bank would be fixed on his wife's security; isn't that right?

A. Yes. I mean because of the fact that the guarantee was for 350.

Q. Yes?

A. €350,000.

Q. But also, you know, you were talking about approximately 250 acres of land there; isn't that correct, at Abbeville?

A. Yes.

Q. And a residence, and whatever stock was on it, plus the guarantee for €350,000?

A. I don't think the stock would have been captured as part of the security.

Q. I see. But you were talking about even half the land plus the €350,000?

A. Yes, of course, but at all times I think we were talking about a forced sale or envisaging a forced sale because I

think it was pretty obvious that Mr. Haughey wasn't going to incorporate with the bank.

Q. In any event, no matter how it transpires, these were questions which arose in your mind?

A. Yes.

Q. And you brought those to the attention of the branch manager?

A. Yes, that is as far as I can go with it.

Q. Yes, but the ultimate settlement appears to have been secured by Mr. O'Keefe, isn't that correct?

A. Yes, it would appear that it was because Mr. O'Keefe asked me to draft a letter.

Q. And he involved the law agent as well, it would appear?

A. Apparently so, yes, I am not aware. It looks as if he did.

Q. And perhaps the Chairman?

A. Yes, there seems to be some evidence of that.

Q. And from the evidence it would appear that the law agent had no certain about the securities himself?

A. Pardon?

Q. From the evidence given it would appear that the law agent himself had no concern about the securities, it didn't seem to be something that greatly exercised your mind, or are you not aware of that?

A. I wasn't aware of the law agent's evidence.

MR. CONNELLY: I have no questions.

CHAIRMAN: Anything Mr. Sheridan?

THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. SHERIDAN:

Q. MR. SHERIDAN: Just one question Mr. Kennedy. From the note it appears that as a matter of fact the adequacy of the bank's security was something which was taken into account at the time that the settlement of the reached?

A. Yes, it would certainly seem to have exercised my mind, yes.

CHAIRMAN: Thank you for coming back to give that further evidence Mr. Kennedy. You are of course excused now.

A. Thank you again Sir.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Thank you indeed.

MR. HEALY: Dr. Michael Smurfit, please.

DR. MICHAEL SMURFIT, HAVING BEEN SWORN, WAS EXAMINED BY MR. HEALY AS FOLLOWS:

CHAIRMAN: Thank you Mr. Smurfit, please sit down.

Q. MR. HEALY: Thanks Dr. Smurfit. You have been in correspondence with the Tribunal and I think arising from that correspondence the Tribunal has informed you that it has prepared a memorandum of information from what is contained in your letters. Have you ever seen that memorandum before, have you?

A. First of all the Tribunal was in touch with me, I wasn't in

touch with the Tribunal, I responded to the Tribunal's request.

Q. Absolutely. You gave the Tribunal certain information. Now I think you may be aware of the fact that the Tribunal has converted that information into a memorandum, and if you look at the document you have just been handed, it is headed "memorandum of information provided by Dr. Michael Smurfit".

A. Correct.

Q. And have you read that document before?

A. This document?

Q. Yes?

A. I presume it is in my files.

Q. Well, in any case it is based on the letters you sent. I propose to take you through it. If there is any difference between what is contained in the memorandum and what you believe to be the information furnished to the Tribunal, you can correct me. I think what you have informed the Tribunal is that you have no knowledge of the settlement agreed between Allied Irish Banks and Mr. Charles Haughey, or at least that you had no knowledge or you may be aware of it now from press reports, but you had no knowledge as a director; is that right?

A. That's correct, yes.

Q. And you don't recall the matter being discussed with you either formally or informally at any time?

A. Quite correct.

Q. And you don't recall anybody bringing the matter to your attention, again of course other than for the purposes of responding to the queries from the Tribunal?

A. Correct.

CHAIRMAN: I suppose Mr. Healy, we should establish the actual period in which Dr. Smurfit had been a Director with AIB.

Q. MR. HEALY: Yes Sir. These events occurred in 1979 and 1980. And I think you were a Director of the bank in both 1979 and 1980 and indeed some time prior to that; is that right?

A. That's right, yes.

Q. Did you in fact become a Director of the bank in 1978?

A. I assume so, I don't have the record in front of me.

Q. I can assist you either record, I am sure Mr. Sheridan will assist me if I am wrong. As I understand it you would have been a Director of the bank from 1978 onwards. Are you still a Director?

A. No.

Q. When did you cease to be a Director; do you remember?

A. Many years ago.

Q. It would have been in the mid 80's; isn't that right?

A. I don't have the date of my resignation from the bank.

MR. SHERIDAN: Documents supplied to the Tribunal will show it was in 1983.

Q. MR. HEALY: I have a document which shows that you were in attendance at board meetings up to April of 1983 Dr.

Smurfit. Certainly you would have been a Director up to then in any case, but you seem to have ceased being a director at this time or either shortly afterwards. So that you were a Director then during the last two years of the seventies and in the first few years of the 80's.

Now I just want to go on to another part of your statement where you say that, in your memorandum where you say "you do not recall seeing what is described in the memorandum as the newspaper article in February of 1983". Now this is a reference to a newspaper article referring to the indebtedness of Mr. Haughey to Allied Irish Banks and a subsequent statement by Allied Irish Banks refuting that suggestion.

A. Yes, I never saw that before.

Q. And you knew nothing about it until it was drawn to your attention by the Tribunal; isn't that correct?

A. Nothing whatsoever.

Q. And you said this would not necessarily be surprising to you as even then you spent a large, or the bulk of your time, 70 percent of your time travelling?

A. Correct.

Q. You also say that you don't recall any member of the bank staff or any third party discussing the matter with you and I take it that you are referring to the statement in 1983?

A. Yes.

Q. Now, you go on to say that you have no knowledge of Mr. Haughey's bank accounts with Allied Irish Banks over any period, and in fact you can't recall even being aware that Mr. Haughey had a bank account with Allied Irish Banks?

A. That is correct.

Q. So therefore you couldn't have any knowledge of any of the proposals that had been mentioned in evidence here to settle his indebtedness or to deal with his indebtedness?

A. Yes.

Q. And you had no knowledge of any applications by Mr. Haughey for advances at various times during the 1970's or applications rather, made on his behalf?

A. It wasn't the policy of the bank to give directors that information for anybody.

Q. Very good. Now, are you aware since this Tribunal commenced its public sittings, either from your general knowledge or from anything Mr. Sheridan or the bank may have brought to your attention of the actual nature of Mr. Haughey's account with the bank during the 1970's?

A. Yes. I am fully au fait now with the situation and with the workings of the Tribunal in regard to the Allied Irish Banks as it affected me as a director for the period.

Q. Yes; and you are now aware that Mr. Haughey's account was an enormously difficult one over the 1970's?

A. It certainly appears so.

Q. Yes; and at the end of the seventies Mr. Haughey as a personal borrower, owed the bank over a million pounds

which by any standards was a large sum of money for any borrower in those days other than cooperate borrowers engaged in very very large investments?

A. Yes, I think that would be a correct view.

Q. Now, since the Tribunal commenced its sittings it has taken evidence from a number of directors and are you aware that it would appear that some of the directors appear to have had some knowledge; different or differing degrees of knowledge of Mr. Haughey's indebtedness?

A. Yes. Mr. Sheridan informed me of that fact when I asked him what was in the minutes and what was in the record and what was informally discussed. I didn't remain around after board meetings, I didn't go to most of the luncheons either.

Q. Right?

A. I would have anticipated that probably I would be one of the people that might not have wanted to bring something like this to attention because I was a little bit of a turk on the board and I was interested in getting the facts so I would have probably asked some questions.

Q. Right. Are you aware that in fact questions were asked at a board meeting, at which you were not present, I hasten to add, concerning the details of Mr. Haughey's settlement and that the answers were less than complete. That in other words the type of answers that, as you put it, somebody who might be regarded as a turk, this was Mr. Greyston, I hasten to add, was asking who has given evidence that he

was present when questions were asked by Mr. Aliaga Kelly and answers were not forthcoming. Were you aware of that?

A. No, I wasn't.

Q. Now, at the time Mr. Haughey was one of the major political figures in the country, whether in opposition, in government as a minister, or ultimately in 1979 as An Taoiseach the Prime Minister. Do you think that if you had heard, even informally, of the enormous difficulties the bank was having with the Prime Minister, a man who would have had enormous power, and quite lawfully enormous power, that you would have wanted to know the details of what those difficulties were?

A. Well, you are asking a conjecture question and

Q. Yes. Yes?

A. It is a bit difficult, because I figured that you might ask those questions, how to answer it. I think firstly as a Director of any institution you have a duty if you are in knowledge to do something about that knowledge, and I imagine what I would have been focusing on would have been "how did it happen", but get it behind us as best we can, and make sure it, that the institution has procedures in place so that it would never happen again.

Q. Yes?

A. That would be what would be where my focus was.

Q. Would one of the things that would have exercised your mind in considering how or how to take steps to prevent this thing happening again, would it have been or would it be in

your mind that where a very powerful figure, such as Mr. Haughey, then has a very large indebtedness to the bank and an account which is causing trouble, that that is a matter which should come to the Board regardless of any threshold for the board's consideration of indebtedness?

A. I think that would be a correct assumption.

Q. Um hum. Would it also be your view that where members of the Board were dealing with this indebtedness, whether they were executive members or non-executive members, those dealings should be brought to the notice of other directors, that you shouldn't have directors if you like off, on a detour of their own without the main board knowing what they were doing, in a case such as this now I mean, and not any other case?

A. Well firstly I think we had a the board were very fortunate to have an extraordinary Chief Executive named Paddy O'Keefe, a man who I have got great respect for by the way, and I imagine he was dealing with an extraordinary difficult situation, something that had grown topsy and turvey on top of him and he was sort of faced with a situation that he had to deal with, and he may have felt it was in the best interests of the bank to handle the man in the way in which he did, that would be my perception.

Q. And your perception would be and indeed this is one that seems to be shared by a number of other executives and directors who have given evidence, that this relationship must be severed. The relationship with the Prime Minister

must be severed. It has become, if you had known about it, your view must have been that it must be severed and we have to avoid a relationship like this occurring in the future?

A. Yes, precisely what I said.

Q. Now, if you look at the terms of settlement, you will see that they involve Mr. Haughey severing his relationship with the bank up to a point, but they do involve his continuing to have some relationship with the bank; in other words he continued to be a debtor of the banks. I can remind you of the term if you like, if you don't have it in front of you

A. I have it here, yes.

Q. The term of the settlement that I am referring to is the one which refers to Mr. Haughey's outstanding indebtedness of €110,000. I will put it up on the monitor so that we will know what I am talking about, if you go to the end of that page of the first page of the letter, you will see that what it says is: "It is to be further understood that as part of the above arrangements the remaining debit balance of €110,000 will out stand free of interest in Head Office ledgers of the bank at Bank Centre, Ballsbridge Dublin, with no transaction say for reductions in clearance".

Now, my understanding of that and correct me if I am wrong, is that Mr. Haughey was to continue to be indebted to the

bank in the sum of €110,000, that no further interest was to be charged to that debt. That the debt

MR. SHERIDAN: Sorry Sir, I think Dr. Smurfit has given evidence that he was not aware of the detail of the settlement, and I just wonder, it would seem to me if Mr. Healy is now to ask him about a particular term of the settlement, that given the evidence that Dr. Smurfit has given, that that wouldn't appear to be a fair to the witness.

MR. HEALY: I hadn't envisaged asking Dr. Smurfit about the term as such, it is about the consequences of that term, that the consequences of that term as I see it, Mr. Chairman, and I am certainly happy to be corrected either by you Sir or by Mr. Sheridan or by Dr. Smurfit; is that Mr. Haughey continued to have a relationship with the bank after the period, after the date of the settlement. It is not the term as such, it is the consequences of it, as I understand it. That is what I want to ask Dr. Smurfit about in view of his earlier views. It is an opinioned view I am looking for.

CHAIRMAN: Well Mr. Sheridan, I wouldn't propose to allow an indeterminate series of conjectural questions but I think in the context of Dr. Smurfit having attended as a director at the time and obviously as his is public knowledge as an accomplished and senior businessman in the State for many years, it is not unreasonable that perhaps

this one query be made of him in the context of his appraisal of that particular term.

Q. MR. HEALY: Now, Dr. Smurfit what I was saying was this €110,000 would continue to be a debt due by Mr. Haughey to the bank free of interest. The debt is one which would be held, or if you like recorded solely in the Head Office ledgers. In other words, as I understand it, nobody at Head Office would know about that now while you continued to be a Director of the bank up until 1984 you were never aware of the fact that the Prime Minister had an account, nor were you aware of the fact that there had been a settlement with him and that he continued to have an unusual indebtedness with the bank, again what I am asking you is whether that was an appropriate way to deal with the matter?

A. Well, again .

Q. I am asking to you speculate. I fully accept that I am asking you for your opinion for the benefit of the Sole Member who may wish to express a view in due course?

A. Your Honor said I should so. I will give you my opinion for what it is worth. I think the settlement in looking at it in the harsh light of today or indeed any time, was the worst of all settlements, because it didn't actually sever the situation. It didn't clean up the issue, whatever it was, we continued with the problem. But again, I didn't have all the relevant facts that Paddy O'Keefe had available to him nor did he seek my advice on the matter,

which I find unfortunate, because I think it was a matter that the Board should have been fully aware of and totally au fait with, and a party to the solution, because we did have the ability on the Board, I think, to give him better advice than he ended up with.

MR. HEALY: Thanks very much Dr. Smurfit.

MR. CONNELLY: No questions Chairman.

CHAIRMAN: Nothing you want to raise Mr. Sheridan?

MR. SHERIDAN: No.

CHAIRMAN: Thank you very much for your attendance Dr. Smurfit and for dealing with the correspondence with the Tribunal. Thank you further.

THE WITNESS THEN WITHDREW.

MR. HEALY: Sir, one of the difficulties the Tribunal has encountered in arranging its witnesses for today is that one of the witnesses may be indisposed and it does look like the Tribunal is not going to be able to deal with a further witness until the afternoon. I am not quite sure what time in the afternoon, but it may, it would appear that there will not be a witness available until half one or a quarter to two.

CHAIRMAN: Yes; and there is no other aspect that can be conveniently slotted in at this juncture?

I think in the context of utilizing the time to the maximum, probably what we should do is resume at half one or as close as possible as the witness may be available to that time, and perhaps to sit somewhat longer in the afternoon so to see what progress can be made, until such evidence as may be available today can be disposed of.

Half past one so.

THE HEARING WAS THEN ADJOURNED FOR LUNCH

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

CHAIRMAN: Good afternoon.

MR. COUGHLAN: May it please you, sir. Mr. Denis Murphy, please.

DENIS MURPHY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

Q. MR. COUGHLAN: Thank you Mr. Murphy. I think Mr. Murphy, you are a director of AIB and you have been a member of the board since January of 1977; is that correct?

A. That's correct.

Q. And I think you were a member of the board of the Provincial Bank of Ireland Limited from the 13th of January of 1970 until the 31st of December of 1971, and you were a member of the Cork Local Board of Allied Irish Banks from the 3rd of March, 1970, until that board ceased to function

ultimately in 1989?

A. Correct.

Q. Now, I think you have been asked to respond to certain questions put to you by the Tribunal, and you have prepared a document which contains the questions and the answers isn't that your replies to those questions?

A. That's correct.

Q. You have that before you?

A. Yes.

Q. So in the first instance what I intend doing is to take you through the various statements, to query your replies thereto and ask you some questions that may arise?

A. Right.

Q. Now, the first query which was posed by the Tribunal was, to provide details of your knowledge of the settlement reached in December 1979/January 1980 between the bank and Mr. Haughey, whereby Mr. Haughey's indebtedness to the bank then standing at and 1.14 million was reduced to œ750,000 in certain terms, that's the first query?

A. Yes.

Q. You have informed the Tribunal that you cannot say if these figures are correct because you do not recall the figures in this case ever being discussed at the main board, is that correct?

A. That's correct.

Q. You also have no recollection of any discussion at the main board of the settlement, is that correct?

A. Right.

Q. And it was not, in any event, a matter for the main board and nor were other settlements to which you will refer to later, matters for the main board?

A. That's right.

Q. I think you have informed the Tribunal that you recollect being told at a meeting of the Cork Local Board one day that there was good news, that Mr. Haughey's account had been settled and had been taken over by Guinness & Mahon; is that correct?

A. Quite right.

Q. I will come back to that later. Now, I think the second query was you were asked to provide details of your knowledge of the issuance by the bank of a statement, apparently through its public relations department in or around the beginning of February of 1983, whereby the bank stated that the suggestion that Mr. Haughey was indebted to the bank in the previous year in the amount of 1 million pound or so, was outlandishly inaccurate, and you have informed the Tribunal that you have no recollection whatever of the issue of the press statement, or the newspaper report which you were told prompted the release of the press statement?

A. Correct.

Q. Now, I think the third query was that you were asked in providing a response to these queries, what is required is your knowledge of any board discussion of the matter,

whether formal or informal, any knowledge you have of the bank's dealings with the matter, whether the matter was formally or informally raised at the board, or whether your knowledge came to you through contact with other members of the bank staff or through contact with third parties unconnected with the bank? I think you informed the Tribunal, I think it might be helpful here if I was to set out the different roles of the different board entities in the sanctioning and monitoring of advances.

"In provision the Bank of Ireland Limited, the board had no role whatever in the sanctioning of the advances. This was a matter dealt with between the Chairman of the bank and the Chief General Manager. When the Cork Local Board of Allied Irish Banks was established in 1970 it had a function in relation to the sanctioning of advances, and at that time these would have included sanctions and settlements from each of the constituent banks. In 1974 a Group Advances Committee with discretion in excess of €250,000 in the case of the bank and €100,000 in the case of the two main subsidiaries with a limit of €500,000 in respect of new advances, and one million pound in respect of renewals was established".

Is that what you have informed the Tribunal?

A. Yes.

Q. "This Committee was to comprise of such senior executives of Allied Irish Banks as the board might subsequently

decide, together with the Chief Executive of the two major subsidiaries, and was to be chaired by the Chief Executive of Allied Irish Banks or his nominee. Advances in excess of the limits for the Group Advances Committee were to be considered by a committee of the main board, generally known as the Board Advances Committee. All members of the board had the right to sit in on this committee, which met on a weekly basis. Presentations to this committee on various cases were made by the responsible executives.

A summary of applications considered by the Group Advances Committee was submitted to the weekly meeting of the Board Advances Committee, for information. This ended the involvement of the local boards in the sanctioning of the advances".

I think you have also told the Tribunal that since attendance at the weekly meeting of the Board Advances Committee was difficult, it was, however, agreed that directors based outside Dublin would still meet weekly in their local areas, and that at such meetings a summary of the application considered by the Group Advances Committee and the main board committee, together with the decisions made thereon, was to be tabled for the information of the members of the local board, is that correct?

A. Quite right.

Q. "The purpose of these meetings was to afford an opportunity of considering developments affecting the local progress of

the bank and to allow the relevant Area General Manager, the opportunity to consult with local directors on matters upon which he wished to have their advice". Is that correct?

A. Correct.

Q. "It was intended to phase out the local boards at the end of 1976. It should be remembered that they had been set up in the context of the original coming together of the three constituent banks and the need to balance the interest of those banks and the interests of different geographical areas. The integration of the three banks had made considerable progress by 1976. Proposals were formulated in 1976 in the context of the proposal for the phasing out of the local boards, for the establishment of advisory boards in Belfast, Cork and Dublin, and it was accepted that a situation could possibly arise in exceptional circumstances where an Area General Manager might wish to seek the guidance of the Local Advisory Board in difficult cases".

A. Quite right.

Q. "In November of 1976 it was agreed that in the light of the strong representations which had been made in the various areas, that the local boards should be reconstituted in a new form from the 1st of January of 1977 to consist only of main board directors resident in the various areas and that those directors would meet weekly to consult with the Area General Manager on the implementation of general banking

policy. At such meetings a summary of applications considered by the Group Advances Committee and the main board committee with the decisions made thereon, was to be tabled for information.

While such directors meetings locally were to have no advance decision making function they were, where possible, to be informed of applications being submitted to the Group and the main board Advances Committee.

These weekly meetings were to afford members the opportunity of considering developments affecting the local progress of the bank and to give the relevant Area General Manager the opportunity to consult the directors on matters upon which he wished to have advice.

It was also agreed to institute the Local Advisory Boards with effect from the 1st of January of 1977 with membership comprising of main board directors resident locally, and existing local board directors, other than retired executives of the bank.

The non main board members of the Local Advisory Boards were to have a representational advisory function and to meet on a monthly basis with the local main board members, under the Chairman of the main board Director, in Cork and Dublin, and joint Deputy Chairman, with an agenda prepared by the Area General Manager.

The Local Advisory Boards were to have no advances function

but the Area General Manager was to be free to seek their guidance in difficult cases". Yes?

A. When you were reading out that there, I don't know whether this is going onto the record, but you read it differently than it was in the statement.

Q. Please correct me if I have

A. Sorry, it was just, it says; "Under the Chairmanship of a main board director (in Cork or Dublin the Joint Deputy Chairman)", because there was a Deputy Chairman in Dublin and Cork.

Q. Sorry. I beg your pardon. I think you have also informed the Tribunal that in 1976 the membership of the Group Advances Committee was fixed as including any main board director who wished to participate, together with the Chief Executive, Deputy Chief Executive, General Manager of Banking and Central Advance Controller of AIB, together with the Managing Director and Assistant General Manager of Allied Irish Finance Company Limited and the Managing Director and Banking Director of Allied Irish Investment Bank Limited, is that correct?

A. Correct.

Q. "The Committee was to be chaired by the Chief Executive of AIB or his nominee. At the same time the membership of the Board Advances Committee was agreed as consisting of all main board directors, and certain executives to be members ex officio of the Committee. These were the Chief Executive, Deputy Chief Executive, and General Manager

Banking of Allied Irish Banks, together with the Managing Director of Allied Irish Finance and Managing Director of Allied Irish Investment Bank Limited. The Committee was to be chaired by the Chairman of the bank, or failing him the Deputy Chairman, or failing him by election from those present.

The relevant account executives would also be present.

This committee was to have discretion in excess of €500,000 in respect of new advances and one million pounds in the case of renewals.

There were accordingly four possible forums in which the directors or a director might have heard something concerning Mr. Haughey's accounts. I thought it important to set these out, these in context, in view of the difference in recollection between various of my colleagues and former colleagues on the board.

They would not in normal course, these would not in normal course be surprising given the lapse of time that has occurred but are, I think, even more understandable in the context I have outlined. I certainly do not believe that the matter of Mr. Haughey's account was ever discussed at a main board meeting at which I attended.

My recollection of, as I recall it, fairly regular discussion, discussions is at the Cork Local Board and in the context of a copy of a "Mark Up" which had come before

either the Group Advances Committee or the Board Advances Committee.

Much pressure was exerted at these meeting to seek to have the account regularised. It may be relevant for me to point out Dr. Liam St. John Devlin and Mr. Christopher Aliaga Kelly were members with me at the Cork Local Board from the 3rd of March, 1970, and Mr. Tom Kavanagh joined that body on the 1st of May, 1979". I will come back to deal with that in a moment, if I may?

I think then you were asked by the Tribunal to provide a general account of your knowledge of the operation of Mr. Haughey's bank account over the period from 1974 to 1980, and you have informed the Tribunal that you have "nothing further to add to what I set out above", and which you come back to that.

You were then asked by the Tribunal; "Please state what you know of the various proposals put forward by Mr. Charles J. Haughey to clear or reduce his indebtedness to the bank and the bank's responses to these queries?"

You have informed the Tribunal; "I cannot say that I recall any of the proposals put forward by Mr. Haughey to clear or reduce his indebtedness or the bank's response to those queries".

Then finally you were asked by the Tribunal to provide

details of your knowledge of the various applications by Mr. Haughey for further advances in the period '75 to '79, and you have informed the Tribunal that you were afraid that you have no recollection of such applications. "I would not in any event have expected any such applications to come to the main board which had no function in these matters, as the account was never within the limits proper for consideration by the main board".

Now, if I may just deal with that last matter first. Of course, if I may; you are now I think you are now familiar to some extent with the whole situation which pertained to Mr. Haughey's account; isn't that correct?

A. Yeah.

Q. It is true to say that in terms of advances it was not in excess of a half a million pounds and on a renewal, it was never treated as being a renewal in excess of one million pounds, so formally it would never have come to the various bodies you have described for sanction, isn't that correct?

A. That's correct.

Q. But you were aware that there were, in general terms, that there was some difficulty with Mr. Haughey's account, isn't that right?

A. Yes, because the mark ups from the Group Advances and from the Board Advances, used to come to the local boards.

Q. I see.

A. And on some Wednesdays they would be that height, (Witness indicating), because they deal with every account right

through the whole bank. So in reading those, people went in a half hour earlier, could go through them or read them afterwards. It was there, that we saw, the board directors, Mr. Haughey's account, I am talking about long before it was 1.154 or whatever we are talking about, it was 750 or 650 or something like that. It was at the local board that this was brought up.

Q. I see.

A. That was where it was seen.

Q. Could I just ask you, you were a member of the Cork Local Board, is that correct?

A. Yes.

Q. So you would have known, you would have had some general knowledge from some documentation you saw at the Cork Local Board. Mr. Aliaga Kelly was a member of that board; is that correct?

A. Mr. Aliaga Kelly was.

Q. Dr. St. John Devlin and Mr. Kavanagh at a later stage, in fact it wasn't until 1979 or towards the end?

A. Yes.

Q. So if we leave Mr. Kavanagh out of it for the moment, the other three directors would have had some familiarity in general terms over a period of time?

A. I can tell you, and unfortunately because he would have, I am sure, valued to be here at this inquiry or this Tribunal. Mr. Aliaga Kelly was the man who really brought this up at the local board and insisted that it be dealt

with, and pursued the matter aggressively, unfortunately he died a month ago, but in actual fact it was Christopher Aliaga Kelly that pursued this and insisted that action was taken.

Q. Yes. Now, we have had evidence from a director that, at the main board meeting, subsequent to the completion of the settlement with Mr. Traynor, that Mr. Aliaga Kelly raised a query at the main board meeting, were you present at that meeting or do you have any knowledge? You may not have been, I will just check that in a moment. In any event, would that have been consistent with your understanding of Mr. Aliaga Kelly's interest in having this matter resolved?

A. Not alone Mr. Aliaga Kelly but other directors would have been as interested to get this account in order. But it would certainly have been a very important part of Mr. Kelly's agenda, to ensure it was sorted out.

Q. Yes.

A. Now, as I say I know, and I definitely have definite recollection of when I heard it, and I heard it at a Cork Local Board meeting, that the account had been settled and it was Guinness & Mahon had paid it. We weren't told the details of it, we were told it was finished and we washed our hands and it was great, I don't mean wash your hands in a Pontious Pilot way, but it was considered, it was good news.

Q. Yes.

A. That was not told to the board, main board meeting, it was

told at a local board meeting.

Q. Yes. Were you aware that when the matter had been compromised with Mr. Traynor, that Mr. Haughey continued to remain indebted to the bank to the extent that €110,000 was brought into the bank centre and there was a gentlemen's understanding in relation to the resolution of that indebtedness?

A. No, we were told it was settled, but what I have said to you earlier, every week there would be, I mean as you will appreciate in a bank the size of AIB the number of applications going through from managers to boards to all these other things, or to advisory boards and group boards and all this; that there are hundreds of them. And today I can tell you, there are millions of them.

Q. Yes.

A. So in actual fact, they just weren't discussed, they weren't dealt with. This year in the accounts, this year AIB wrote off bad debts last year of 90 million. And over the last five years I think we have written off bad debts of 500 million, it is our business

Q. Yes.

A. I am not saying it is our business to write off bad debts but unfortunately it occurs, mind you we would be a lot stronger if we had none, and we spend a long time trying to avoid them. It happens. Mr. Haughey would have not been treated any different in the system and the fact that

Q. Is that correct, do you think? Mr. Murphy? First of all it wasn't a bad debt in the books of the bank?

A. I must say it was, it was we were told the account was settled as far as, let me say the forum I was at, all these forums mentioned here, I was told the account had been settled and it was paid off by Guinness & Mahon, so as far as I was concerned that was the end of it.

Q. Could I just

A. I never heard until the Tribunal or whatever came up afterwards.

Q. When you heard that the account had been settled did you understand that it had been settled appropriately, if I might put it like that?

A. When I told you we wrote off 90 million last year, "appropriate" is a question in banking that is peculiar.

What answer you get to appropriate I don't think in actual fact we were finished with Mr. Haughey's account and that was good news.

Q. That's understandable, I suppose. What I want to ask you is this; as you say, as directors whether fulfilling that function at local board or main board level, the obligation was to the shareholders of the bank, isn't that correct?

A. Absolutely.

Q. And I take it that prudent bankers don't go writing off a debt as being a bad debt where there are sufficient securities to support the debt, would I take it that would be prudent banking?

A. That would be prudent banking, but let me, can I add to that?

Q. Yes, of course.

A. I would like to add to that, that as far as non-executive directors are concerned, and I was at an AIB Bank board meeting this morning, and the size of the bank is such that the non-executives obviously cannot deal with we employ very well paid executives

Q. Absolutely.

A. I hasten to add, they may not think they are well paid but they are very well paid, executives to do a job. We look after policy, we can not possibly under any circumstances interfere with the management, if they don't do their job properly, it is the board's responsibility to fire them, but they manage the bank.

Q. I wasn't suggesting for a moment

A. May I say, I would like to add this, I am sure it has no bearing on this matter; they manage the bank very effectively seeing the size of the success of AIB.

Q. There is nobody here calling them into question at all.

And there is nobody suggesting for a moment that members of the board should be dealing with individual accounts other than those which require sanction at its various levels, but what I want to ask you, this was an unusual account, isn't that correct?

A. I hate to say this, I really hate to say this in this Tribunal, but it was no more unusual than maybe and I

will say, all the businesses that were in trouble, maybe all the senior counsellors getting into problems; we just do not and cannot deal with these problems. We don't know them, it is not our business to know them. In actual fact because of the problem of do China walls exist, we are all in business in our own right and that sort of thing, it is not our business and it was taken as a decision as you can see that I mention there the Provincial Bank, whose headquarters was just down the road here when I joined it, never at the board did we deal with advances. I must say when I joined the board at 34 or 35 I thought I would be seeing everybody's account but they were never discussed at the board. The ethos of the former Munster and Leinster Bank, I hate to say this, they used to nearly have a board meeting about someone who wanted money for a bicycle, there are two ways of running a bank.

Q. I know Mr. Murphy, just bear with me for a moment in respect of this account now. The Tribunal has had sight and proffered in evidence the various internal memoranda of Allied Irish Banks relating to this account. It was the account of an extremely influential public figure, and it was causing huge difficulty, to such an extent that the internal memoranda are replete with reports of the account holder indicating that he could be a difficult adversary, and that no steps, no steps were being taken by the account holder in respect of the account.

Did that mark it as being just an ordinary account in the bank or did it have, in your opinion, any extraordinary characteristics?

A. For the reasons that I have mentioned, for lots of the reasons I have mentioned, for all we know as non-executive directors similar sort of things can be going on because of the kind of way the bank was run. But I am saying this, that they were, at that time they were probably first of all, every man whose account is in trouble probably threatens all sorts of dire destruction on the bank or whatever else they do. That happens, I am not saying this wasn't a special one, of course it was special, but it was being dealt with at the level it should have been dealt with, it wasn't a matter for the board

Q. It was ultimately dealt with, Mr. Murphy, by the Deputy Chief Executive of the bank, Mr. Paddy O'Keefe, who was effectively the Chief Executive of the banking side?

A. That shows how seriously he took it.

Q. Absolutely. And the Chairman, the Chairman. So it was, I take it, you would trust their judgement?

A. I simply stated that as far as

Q. Just bear with me for a moment now, just bear with me for a moment; are you telling the Tribunal that this was just an ordinary account that had run into difficulties or did it have any extraordinary characteristics? What are you saying?

A. I am simply saying that as far as I am concerned where I

thought that the account was settled, was paid for by Guinness & Mahon and that was the end of it and that was good news, that is what we were told.

Q. But, Mr. Murphy, you were a director of the bank. You now know, you now know that the interest was written off on the account, isn't that right?

A. That happens every day of the week.

Q. You now know this, you now know?

A. It happens every day of the week.

Q. Listen to the facts as they are at the moment, you can then comment. You now know that. You know €110,000 was maintained as an indebtedness on the bank's books, but taken into bank centre, in fact kept in a safe in Mr. Scanlon's room, nobody else knew. You as a board member never knew that, isn't that right?

A. Nor would I expect to know it, my business is policy not management.

Q. Could we deal with the facts first of all. You as a board member did not know that, isn't that correct?

A. No.

Q. And you didn't know it until this Tribunal started its business perhaps, is that correct?

A. Possibly, I mean I can't remember when I

Q. Okay. You as a board member did not know that the interest had been written off, did you?

A. Not until I say

Q. Yes, of recent times. You as a board member were unaware

of the securities which were potentially available to the bank to clear the account holder's indebtedness, isn't that correct?

A. I don't know how many times I have to say it, but I do want to say this; we did not deal with advances.

Q. Could you answer the question I asked you?

A. Could I have the question again so please?

Q. You didn't know about the interests being written off? You didn't know about the continuing indebtedness? Can I take it that you did not know about the potential securities to clear the indebtedness?

Now, did you know any of those three things?

A. Chairman, may I say this; I think I have said it to you four times, I didn't know it because it wasn't our business to know it.

Q. MR. COUGHLAN: You didn't know it?

A. It was not our business to know, I want that put in as well.

Q. And you were informed that the indebtedness or the account was closed and that the matter was settled, isn't that correct?

A. Exactly.

Q. And as a board member what did you understand that to mean, Mr. Murphy?

A. As far as I was concerned it was of very little relevance

Q. I see.

A. to me.

Q. I see.

A. The fact was we were told it was a local board meeting in Cork that Mr. Haughey's account was settled, paid for by Guinness & Mahon. It was transferred to Guinness & Mahon. As far as we were concerned that was good news. May I add to that, under the circumstances today I think it is very good news.

Q. Yes. Well now, let me just ask you a question as a director of a bank. What would your view be of an executive who had an indebtedness, we will take for example of, an account holder had an indebtedness of a million pounds and had substantial assets, and if the executive decided to write that off at say, €700,000; what would your attitude be to that executive, when this was potentially, capable of being recovered?

A. I know it sounds peculiar for me to say, but I have already said that we have written off 900 90 million this year and 500 million over the last five years.

Q. You didn't write that off in 1979, Mr. Murphy?

A. As a non-executive director of this bank if I had to go into every detail of what a manager does or doesn't do I may as well work in the bank 24-hours a day. I want to say this

Q. If it was brought to your attention, Mr. Murphy, that there were sufficient assets to meet an indebtedness and an executive wrote off a considerable portion of that

indebtedness, what would your attitude as a board member be to that?

A. I am trying to explain to you, it was not a matter for the board to deal with these matters.

Q. I am not asking about that specific

A. I have already said we have very highly paid and very highly qualified and very efficient executives to do their job.

Q. What would you say to the executive if it came to your attention that this had happened?

A. How would it come to my attention?

Q. This has come to your attention, something else could come to your attention in a different way. You could find out at local board?

A. I already said it may be happening at this minute.

Q. What would you do if it came to your attention, would you ask a question of the board about it?

A. As far as I am concerned it is not our business.

Q. So you think it is not the board's business to know what the executives are doing in relation to the forbearance in respect of indebtedness?

A. As I say 90 million, we do not discuss the terms. There is probably 10,000 people that wrote that 90 million, it is not our business.

Q. It is not the business of the board of the bank to know or to find out it may not always be possible but that an indebtedness may be forgiven where there are sufficient

assets to meet that. Are you saying that that is not the business of the board of a bank?

A. I in simple form, I am trying to say to you that the policy, the business of non-executive directors of the bank is on matters of policy.

Q. Yes.

A. Not of management.

Q. Okay. Well

A. Our business is policy, and may I say again, the policy seems to have worked very well.

Q. Right. Well, let's deal with the question of policy.

What would the policy of the bank with, the policy of the bank be, where an account holder who had a large indebtedness to the bank had sufficient assets to meet that, what would the policy be? What would, what policy or instruction would be given to the executives in general terms in respect of that?

A. Well maybe we should have a board meeting to discuss that.

Q. Well, you have been a member of the board since when, 1970, you have been a bank director I am just asking you in general terms what is policy, policy doesn't relate to the individual, what is the policy?

A. Mr. Chairman, you are trying to trick me and I am simply saying, I have listed out the way it happened. I have listed out the way it works, I have listed out are you trying to get me to condemn my own bank? Are you trying to get to me to condemn my own executives or the executives of

the bank? Are you trying to get me, by your words to twist me around the answer? Chairman, I refuse, I can't refuse I don't know whether I can refuse or not

CHAIRMAN: Look, Mr. Murphy, I am sure it isn't Mr. Coughlan's intension, it certainly can't be mine, that you be treated in anyway unfairly. From the memoranda of the bank that were opened there were references in letters to Mr. Haughey and internal memoranda in the early to mid 1970's long before the indebtedness reached a million or Mr. Haughey became Taoiseach; there are references and proposals that this will have to be brought before the main board of the bank to be dealt with. Are you effectively saying that was misconceived, that could never have happened?

A. I might not be able, Chairman, to take credit for a lot of things, but one of the things in my 30 years as I pointed out, as a director here, I was to object until they stopped doing it. Probably most people in the room will remember when you applied for a hundred pounds overdraft or a hundred million they will say it is "at the pleasure of the directors" or "the pleasure of the board", but at a certain point when it was the Munster Leinster Bank, the Provincial Bank never dealt with advances the board eventually it reached a point where it is obviously much too big, the board couldn't deal with them, that was decided for a number of reasons. One, the China walls, that people can

see other people's business. The second is it is physically impossible to do it. Therefore letters in those days that might have said "The board object, we will do with the board", that was that has all changed, the whole system has changed. There are no longer letters which say "the board refuses the £100 for your holidays", but it used to in those days.

Q. Mr. Murphy

A. Yes, sir.

Q. I have asked you, and I will ask you again, what is your understanding of policy where an account holder is indebted to the bank and appears to have sufficient assets to meet that indebtedness, what's your understanding of policy in those circumstances?

A. This morning we spent an hour and a half discussing risk management in the bank, since 19 whatever it was, things have changed mightily. And as far as we were concerned with all the computers that exist today and all the electronics and everything that exists today, last year we wrote off 90 million, regardless of the advances that were made in technology and everything else with regard to risk management. As I say this morning we had a presentation on risk management. And all the rules are laid down and all the observation are done, but we still wrote off 90 million last year. That what I am saying is there are functions for managers and there are functions for boards. As far as I am concerned a judgement was taken by may I

say by Paddy O'Keefe, a function, an action was taken by Paddy O'Keefe who was an absolute first class Chief Executive of Allied Irish Banks, an excellent man. If he did that, he did it for a reason. That was his job and he did it. If in the process Mr. Haughey or Mr. Anybody else gets his debts forgiven, in the end of the day our business is banking and banking is bad debts and I know maybe this is going to sound facetious, Mr. Chairman; when I heard Mr. Dunne had given Mr. Haughey 7, whatever he gave him, we don't know, but I felt like saying the AIB should have said to Mr. Dunne "well done big fellow". It could have been his money that paid off this debt for AIB, because where would we be? That's what is going to come out of this Tribunal, but the fact of the matter is this; from the banking point of view it seems like a very good deal was done. I know other directors have come to this forum and said the same thing.

Q. Yes. Now

A. I would say everybody in this room knows of situations where people have had their accounts worked out for reasons of sympathy, for reasons of business development, whatever other reasons they are given. It is not our business I can tell you, our business is to make sure we run a good bank, and we do that.

Q. Mr. Murphy, I asked you a question and you have now given a very long answer and you haven't answered the question?

A. There is no answer to your question.

Q. Mr. Murphy, is there policy in is there no policy?

A. Of course there is policy, I tried to explain to you

Q. No, but I am asking you, it must be a very simple thing to enunciate what the policy of a bank, of Allied Irish Banks, the bank in which you have been a board member for an awful long time in relation to

A. The management are told to do the best under circumstances they deal with.

Q. So are you saying that

A. I am saying there is no difference between Mr. Haughey and God knows how many other people over the years, their accounts were straightened out.

Q. I just want to get it very clear. I want to get it very clear now; you are telling this Tribunal that first of all, that there is no policy

A. That's nonsense, of course there is policy.

Q. Well then, would you tell us what it is?

A. Policy with regard to what?

Q. I will ask you again. The policy, the policy of the bank, the board lays down policy, what is the board's policy where there is an account holder indebted to the bank and the account holder appears to have sufficient assets to satisfy that indebtedness? What is the policy of the bank on that? We will then discuss the management side of Mr. O'Keefe.

A. It is obviously, it is obvious that the policy of the bank is people pay their debts, end of story.

Q. Yes, yes, that's what I would have thought it was, Mr.

Murphy. Now let's continue from there?

A. Yes.

Q. You as a board member did not know until recently about the arrangement which had occurred in respect of this account holder's account, isn't that right?

A. You see, I don't

Q. Is that right?

A. I am not saying it is right, I don't think when I became aware of what actually happened, because there had been recently, you are going to have to qualify recently if you want me to answer that question. Because there has been plenty in the newspapers over the last couple of years by various people about Mr. Haughey's accounts, so recently is recently six weeks or six years? . I can tell you this, it is relatively recently over the last number of years. It could have been a number of years ago that I heard about what happened.

Q. I see. Whenever you found out, did it not occur to you that there may have been a breach of policy here?

A. When I have heard it I stated it here, I am certain I think a very good deal under the circumstances, as the days go on I think as a matter of fact a great deal was done.

Q. Do you think the matter should have been brought to the main board?

A. A man is paid to do his job, he did his job, God knows it is 20 years ago, 15 years ago, whatever it may be.

Q. In your own statement you have set out in great detail the various structures relating to main board, Advances Committees, Local Boards, isn't that correct?

A. Quite right. I did that purposely because previous directors have said things, that we did not discuss Mr. Haughey's account, they said we tried to avoid discussing it, that is not true. We did discuss it.

Q. Now

A. Not at the main board but local board.

Q. "And whilst advances of the levels you have spoken about, œ500,000, and renewals of a million were not the subject matter for decision making by the local board, the local board was kept informed of those so that the local directors would have an understanding of how the business of the bank was progressing in that area. But on all of these committees the local board or the local advance of the Area Advances Committee, the main board directors were always available to the Area General Manager for the purpose of furnishing him with advice should he need it".

Isn't that correct, that's what you have told us?

A. Yeah.

Q. So apart from enunciating a policy, the function of the directors is also to be available to management to assist them, to advise them where necessary, isn't that correct?

A. Quite right.

Q. And from the documentation furnished by Allied Irish Banks this particular account was fraught with difficulties not

just because of the level of indebtedness but because, as was stated in the documents themselves, the significant public persona involved, isn't that correct?

A. Mr. Coughlan, may I just go back on one thing here? The reason I spelt all that out there was, there was a transition going on from three very small banks, relatively small in today's business, terribly small, I actually can't remember what in 1970, when I became director of the Provincial Bank, I can't remember what the profit was, 30,000 or 50,000 for a year, it was a big deal in those days with its own way of running the bank. Three banks were put together, the Munster and Leinster Bank with its headquarters in Cork and own board in Cork, Provincial were here and the Royal were here in Dublin. In actual fact the predominant bank, I am not saying the best bank, the predominant bank was the Munster and Leinster Bank. There was a major shock to everybody in Cork when the headquarters of the bank moved to Dublin because the Munster Leinster Bank was a Cork based bank.

Q. Yes.

A. It is still strong in south of Ireland.

Q. Yes.

A. The moves that were made there were putting a major structure together and were step-by-step, and so there was a local board, and the local board did advances; then when that got too big for that it became a Board Credit Committee or whatever I mentioned there, and so in between

all of these there were steps all the way along the line until eventually it reached what it was today, maybe next week it will change again as it gets bigger, but all of that, in there in all of that, there were quite some changes of direction and management and so on.

Q. Yes.

A. So that's the way it was.

Q. I know. But you see, what I want to ascertain from you is this; the board enunciates policy but the board is also there to guide and assist management when it needs such guidance, isn't that correct?

A. Um um.

Q. This particular account was not formally brought to the main board ever?

A. No account was brought to the main board.

Q. No this particular account?

A. Over a certain limit, they are still brought to the main board, but no account was brought to the main board it is not I tried to explain, it is not the main board's business to deal with accounts. We can't deal with accounts.

Q. Mr. Murphy, it is obvious from looking at the documents of the bank, the bank's only internal memoranda at an executive level, that this particular account was proving impossible to handle, not just in terms of the indebtedness but because of the person who was involved, isn't that correct? Have you not seen that yourself from the

documents?

A. I haven't seen the documents. What I am saying is this; that Paddy O'Keefe probably had about 20 or 30 of those accounts on his desk at the same time, maybe not the Minister of Finance or whatever he was, but they had 20 or 50 of those accounts to deal with every bit as difficult.

I don't know.

Q. I see. I see. That's interesting. On a comparative study furnished by the bank that doesn't appear to have been the situation, that's neither here you don't know?

A. I don't.

Q. Yes. This account was proving extremely difficult, and all other directors and executives of the bank have come in here and have ultimately said that they accepted that this person who had indicated he could be a formidable adversary, were anxious to get rid of this account for that reason. What's your view about that?

A. Maybe.

Q. What do you mean "maybe"?

A. I don't know. I first of all wasn't clear to know whether they said this or not and I haven't read the statement so I don't know if they said that.

Q. What's your view, it is an ordinary account which was settled?

A. I said in my statement it was good news when that account disappeared.

Q. Why?

A. Of course it was troublesome, of course it gave a pain, of course it was, it was fraught with all sorts of difficulties and it was good news. I have said it in my statement.

Q. Yes.

A. It was good news to get rid of the account.

Q. Because of the person who was involved?

A. Because of the bad account. If it wasn't a bad account we wouldn't want to get rid of him.

Q. Well, you see you didn't know about the assets, did you?

A. No.

Q. Was it that bad an account if you looked at the assets?

A. I did not know about the assets.

Q. Now, were you aware or have you become aware about a statement which was issued by Allied Irish Banks in 1983?

A. Did I say there I wasn't aware of

Q. You weren't aware at the time, I think?

A. Well, I am certainly aware of it now.

Q. You know the statement?

A. Well I saw it, I saw it in some documents and papers. I can't quote from it here.

Q. But you know what it was, it was describing a previous report which gives an account of an indebtedness, Mr. Haughey's, as being in the region of a million plus in the previous year, and you know that the statement was issued by Allied Irish Banks which describes that as being outlandishly inaccurate or words to that effect, you know

that?

A. I do.

Q. You knew nothing about that statement?

A. Nothing about it.

Q. And it was never a matter which was discussed with the board?

A. Never, of course it was never discussed.

Q. I take it you would have expected it to be discussed with the board because what it was doing, it was breaching confidentiality, and I can take it the policy of the board is confidentiality should not be breached, is that correct?

A. May I go back on the statement? Let me read something else into the statement.

Q. Yes, read the statement so, Mr. Murphy?

A. It says in or around the beginning of February 1983 when the bank's statement was Mr. Haughey's established indebtedness to the bank the previous year was in the amount of a million or so, was outlandishly inaccurate.

The settlement reached in December 7th or January 1980. I have no doubt in this world that to reach a settlement in December 1979 it was probably six months going back and forward to settle that or maybe God knows how many years, so if a statement was factually correct, because in 1980 or in 1983 he apparently didn't owe that money, but I am not saying that; all I am simply saying is, I didn't know it existed when the statement was issued, he didn't owe any money, from what I am reading in your statement, your

questions because I haven't gone into this kind of situation. It appears he was asked, the bank were asked did he owe a million pounds last year and the answer was no. He didn't owe a million pounds according to your statement.

Q. Maybe I should explain to you. A newspaper article appeared, and I didn't ask you about the accuracy or inaccuracy about the statement, that's another day's work; a newspaper article appeared by a journalist in, I think the Evening Press, where he made reference that there had been an indebtedness the previous year of a million pounds plus which had been settled or compromised. The bank issued this particular statement, the one we are describing which you assert the accuracy of?

A. Yes.

Q. What I am asking you about is the actual issuing of a statement at all. Confidentiality means one doesn't comment either yea or nay except with the permission of the account holder, isn't that correct?

A. Yeah, I don't know did

Q. I beg your pardon?

A. Under the circumstances I don't know.

Q. No, I am asking you

A. I haven't read the statement.

Q. Mr. Murphy, you are a board member for 30 odd years with a bank, confidentiality in customers accounts, the bank wouldn't comment one way or the other without the

customer's permission, isn't that correct, isn't that confidentiality, you don't even acknowledge the existence of it, isn't that right?

A. Quite right.

Q. But here the bank itself issued a statement, forget about the content of it, but it issued a statement commenting on an account holder's account, isn't that correct?

A. As I say I don't know. I haven't the account here, I haven't the statement here, maybe you better give me the statement and let me look at it. As far as I am concerned there is a public relations department, there is a news department, there is God knows how many departments in the AIB, their business is to issue statements with regard to them. I understand, because I have read about it, but it is so long ago now, from this Tribunal, that there was a question whether, who issued it or who gave instructions to issue it, but I haven't read about it, I haven't got it here. I don't recollect whether it was even accepted by the bank that they shouldn't have said it, I don't know.

Did the man who sat up here say he shouldn't have done it?

Q. I am not asking but that?

A. I don't know the circumstances.

Q. So you are saying that there are circumstances where the bank should breach confidentiality of its own

A. I am not saying that breached confidentiality, I haven't seen, I haven't got the statement here, I have not stated that it breached confidentiality, you have stated it.

Q. I have asked you

A. You appear to know more about it than I do.

Q. Have you got the statement in front of you?

A. I haven't.

Q. I am simply saying it is not for me to say whether it breaches confidentiality or not. I understand you people had the man who issued the statement here, did you?

A. No, we don't, not yet.

Q. I am asking you as a board member?

A. I am not going to say anything, I don't know whether that breaches

Q. What did you say?

MR. SHERIDAN: I think Mr. Murphy, sir, has really answered. Despite Mr. Coughlan's hectoring his answers have remained constant, they are as set out in his statement. We are not involved in the issue of this statement, he does not recall it, and I I really think that there is not much further assistance; no matter how long Mr. Coughlan is going to hector him, there is not much more assistance he is going to be able to render.

CHAIRMAN: Whatever your references, Mr. Sheridan, to hectoring, which I by no means subscribe to, I would have thought it not an unreasonable question of an extremely senior and experienced bank director to canvass the general proposition of confidentiality, and it seems to me, Mr. Murphy, it is fairly axiomatic, I would have thought, that

a senior bank director would say, that in general terms there would be a solemn duty on bank officials and personnel not to breach customer confidentiality. That was as I understood the basic question asked to you by Mr. Coughlan. Would you agree with me on that?

A. Chairman, if I was asked the question that way I would have answered definitely yes, I accept that, but Mr. Coughlan wants me to condemn the man who issued that statement and I am not in a position to do that because I don't know the circumstances, but I do accept what you have said to me that, confidentiality, banking is based it is not for me to lecture, banking is based on confidentiality and therefore anything that goes against that, I don't even know if the man who issued that is still working in the bank or not, wasn't working in the bank or may have been removed. I don't know what action was taken by the management on that statement, I am not certain if this breaches confidentiality. But I would accept, Chairman, that it is our business to observe confidentiality because if we don't we might as well pack up banking.

But I don't think it is fair that I should be asked to condemn somebody here when I don't know the circumstances.

Q. MR. COUGHLAN: Now, Mr. Murphy, would you look at the statement please. Would you look at the first paragraph. For information this is in exactly the format it appeared in the newspaper?

A. Is this the statement that was issued in the newspaper?

Q. Yes.

A. Yeah.

Q. "Allied Irish Banks has a strict policy, and indeed a duty, to maintain confidentiality in regard to customers dealings with the group, and each member of our staff completes a formal declaration in that regard. When, as occasionally happens, statements are made by third parties which appear to be authoritative but are not, it can also be the case that a denial by the bank might itself be a breach of the confidentiality, and again the bank feel it is best not to comment. AIB found itself in this position on a few occasions recently" .

Would you accept that as being a proper enunciation of the policy of confidentiality?

A. Absolutely. May I add to that, the directors are not mentioned there but we also have

Q. Yes. Now, it goes on then about; "However, in the Evening Press of the 28th inst. in an article by a special correspondent dealing with financial affairs of a well-known figure", that well-known figure is named in the previous article as being Mr. Haughey, "it was stated that sources close to AIB insist that he owed them around one million pound last year. This statement is so outlandishly inaccurate that AIB feels bound as a special matter to say no positively and authoritatively, to say so

positively and authoritatively.

For the future AIB would hope that its commitment to the rule of confidentiality would be understood when it declines to respond to statements or suppositions put to it in the request for information which it may not divulge" .

Now, the first paragraph is clearly enunciating the policy of the board in relation to confidentiality, isn't that correct?

A. Quite right.

Q. The second paragraph, leave aside its accuracy or inaccuracy, that's another days work and not for you, the second paragraph clearly breaches the confidentiality, doesn't it? It identifies, it makes comment on an account holder in a negative manner?

A. Chairman. Am I suppose to say yes or no now?

Q. Would you answer the question. Mr. Murphy?

A. I don't know.

Q. You don't know. Is that your answer?

A. Because I don't know the circumstances.

Q. Because you don't know if that's a breach of confidentiality or not?

A. I don't know if that's a breach, maybe, maybe, maybe there are circumstances when that is correct, it is not my business, I cannot answer yes or no here, I do not know the circumstances as far as that's concerned. I have sworn

the statement of confidentiality as well, I am well aware of what that is, but I would not want to be tricked in here

Q. Mr. Murphy, would you stop talking about being tricked, you are asked to answer questions, either answer the questions, either you know or you don't know or you can't help.

MR. SHERIDAN: Perhaps if Mr. Coughlan alters his tone of voice Mr. Murphy may be inclined to stop talking about being tricked.

Q. MR. COUGHLAN: Now, are you astonished by it?

A. I am not astonished at anything in this world. After 30 years of banking you wouldn't be astonished at anything.

Q. Professor Patrick Lynch when he saw this here, was surprised to the point of astonishment that such a statement should have been issued. You wouldn't subscribe to that view if the matter had been brought to the board?

A. I don't know what Patrick Lynch said.

Q. I am telling you what he said. I beg your pardon, Mr. Murphy?

A. I am not making any comment. What Patrick Lynch said is his business here.

Q. Just one final matter, if I might just inquire, and this is why would the advance, the Cork Local Board have information relating to Mr. Haughey's affairs which would have been, I presume, a matter for the Dublin Local Board if any local board were to deal with it?

A. That one I can answer you straight.

Q. Good.

A. I am not saying I didn't answer any other question straight, I feel this is a straight question, I can answer a straight answer. The answer is simple, we got all of the advances, as I say there was a huge heap of them. The Dublin Local Board, the Cork Local Board, we would get all of the advances from the bank, they would be on the desk there to read, so the Dublin one, I mean I could have come back earlier in some of your suggestions and say Mr. Haughey's account was in Dublin and I was in Cork so what they did in Dublin was their business.

Q. You took an oath to tell the truth?

A. Yes. We were in Cork dealing with the Cork local accounts. The fact of the matter is this; that every advance issued by the bank or agreed by the bank or rejected by the bank was available to the two local boards, so Dublin got the Cork one and vice versa.

Q. I see. But you think, was it at the Cork Local Board or it was at the main board that you became aware that the matter had been settled?

A. I have already stated, and I have not stated it once, I have stated it twice and put it in my statement, that at the Cork Local Board I heard it.

Q. I see.

A. Three times, and that's the fourth.

Q. Yeah. You didn't hear about it at the main board so?

A. I have also stated in my statement and I stated it in

speaking here, that it was not discussed to my knowledge,
it was not discussed at the main board, it was not main
board business.

Q. I am not talking about discussed

A. Might I just finish up by saying that, that advances were
not main board business.

Q. I am not talking about advances, I am talking about
settlements?

A. And settlements weren't main board business either, I have
also stated that the main board acts on policy. Policy is
our business.

Q. I see. We have had evidence before this Tribunal

A. Chairman, you said you have only one more question for me

Q. Mr. Murphy, would you please behave yourself in the
witness-box, you are a director of Allied Irish Banks.

Now, we have been told that Mr., that in a general way, the
main board was informed by the Chief Executive Mr. O'Keefe,
that the account had been settled?

A. Sorry, would you repeat that again?

Q. We have had evidence before this Tribunal that Mr. O'Keefe
in general terms informed the main board that the account
had been settled, that the troublesome account had been
settled. We have also had evidence from Mr. Greyston,
that Mr. Aliaga Kelly at that board meeting asked what were
the numbers and he didn't get a complete answer in relation

to the matter. Do you have any recollection of that?

A. You see, as I was saying earlier, there is a time situation here. I did not become a director of Allied Irish Banks until 1977, I think. Yeah, I became a director in 1977 of AIB, before that I was on the Cork Local Board. And the Cork Local Board was, the local board were made up of the boards of the three banks. The director of the three banks formed two local boards and from those local boards there was a main board appointed. I was on the local board from 1971 and did not go onto the main board until 1977. So in actual fact for those four years or five years I was only on the local board, I wasn't on the main board.

The situation was that the advances would come down to the local board and the local board would discuss them. I am not saying that Mr. Greyston was wrong about what he said about Christopher Aliaga Kelly, but I am saying if you have evidence, you said you have evidence, I think then I would ask if that was said at the main board, and I was at the main board it will be in the minutes of the main board where that is said, but much more importantly it will say that I was in attendance at the board.

I am simply saying that from 1977 when I went on the main board it was never discussed at a meeting I was at, and certainly I am nearly certain it never appeared in any of the notes, now maybe you have evidence that it is in the minutes, maybe I wasn't at the meeting or maybe I was

talking to somebody else at the meeting and didn't hear, but to my knowledge, and that's what I have said, it was never discussed at the main board, but I didn't go on the main board until 1977.

Q. Yes, it was in 1980. I take it the minutes of the main board had been circulated to you as a board member before the meeting, is that correct?

A. Yes.

Q. Just in general terms, could I just ask you a general question about the minutes. Do the minutes of the main board record such detail, is that your experience I should just say to you that the bank very kindly made available for the scrutiny of the Tribunal main board minute meetings around this period. They tend to be in most general terms, don't they?

A. Yes.

Q. Yes, as one might expect?

A. They are not essays.

Q. No. And they don't go into great detail about each item, they record decisions that are taken, general decisions; isn't that the way minutes would be

A. That's the way, yes might I I might, I hasten to say that that's the way minutes should be.

Q. I am not arguing about the minutes at all. But you have no recollection of a matter being raised by Mr. Aliaga Kelly, you may not have been at the meeting but you have no recollection?

A. Not at the main board, but I do remember being very insistent and discussing it at the Cork Local Board.

Q. Okay. I don't think I will ask you why you would bother discussing it at the Cork Local Board, Mr. Murphy, but it might occur to the rest of the world; why would you discuss it at the Cork Local Board?

A. Interestingly, interestingly, Mr. Haughey's account was a Munster and Leinster account, Munster and Leinster was a Cork bank, therefore it was discussed in Cork; you see where I am going back, it was discussed in Cork. There were people in Cork, Munster Leinster board directors that were on the main board but they were sitting on the local board in Cork. They would have dealt with Munster Leinster bank accounts before the amalgamation took place. For this reason the local boards used to get all of the write ups for all of the accounts that would be in Cork and Dublin, so people that were Munster and Leinster bank directors would probably have dealt with that long before the amalgamation took place. That's why it was discussed, but Christopher Aliaga Kelly was a main director at the time.

Q. Therefore do you think this would have been known to the executives as well, there would have been a particular Munster and Leinster involvement or interest in the matter?

A. It wasn't provincial.

Q. Yes. Would you be surprised so if Mr. Aliaga Kelly asked for the numbers and

A. Knowing Mr. Christopher Aliaga Kelly who was, among other things, President of the Saint Vincent de Paul Society of Ireland, who was undoubtedly the most moral man I ever met in my life, he would be totally opposed, if he were alive today he would be horrified, he was totally opposed; one of the straightest men I ever met in my life, therefore this to him was wrong and it had to be straightened out. I am not saying the rest of the board didn't think the same thing and they did, but he was the man who

Q. So it is your view that Mr. Aliaga Kelly would have wanted this resolved at a proper value where there were substantial assets, is that your

A. The poor man died a month ago.

Q. Is that your understanding of what was on his mind?

A. I don't know.

MR. CONNOLLY: I have no questions, Chairman.

THE WITNESS WAS THEN CROSS-EXAMINED BY MR. SHERIDAN AS FOLLOWS:

Q. MR. SHERIDAN: Mr. Murphy, you in reference to the role of the Cork Local Board in relation to this account, it was something more than interest, wasn't it, because I think where originally was the responsibility for this account?

A. The original responsibility would have been the Munster Leinster Bank I imagine, I don't know where.

Q. And it was dealt with in Cork, was it?

A. Dealt with in Cork.

Q. So it wasn't just a question of interest, the original responsibility for Dame Street branch lay in Cork?

A. That's correct.

Q. So that originally it would have been for, the Cork Local Board at a time when it had function in relation to advances, it would have had responsibility?

A. It would.

Q. So it wasn't just simply a question of interest. Would it be fair to describe the evolution which you for the assistance of the Tribunal set out in some detail, the evolution of the structure for the sanctioning of advances in the bank as an evolution from a board based system to an executive based system, the role of the board was diminishing in relation to advances, wasn't it, from mid 1970's on?

A. And eventually disappeared, yes.

Q. So that many of the residual involvements for the board in that structure, would it be fair to describe them as historical, overhangs from the previous system?

A. No, it is hard for me to answer, but the strength may be, the strength or the importance of Munster Leinster Bank's ethos in the getting together of Allied Irish Banks, their system of, certain of their systems would have prevailed and certain other systems would have prevailed until they worked out, that's the evolution that took place.

Certainly it was a matter for the Cork Local Board up to those couple of years to deal with advances and they dealt

with advances. To me it was an extraordinary situation, coming from the Provincial Bank into the Munster and Leinster Bank to see it was dealt with because in Provincial it was never dealt with.

Q. All I am seeking to establish, Mr. Murphy, is whether in relation to Mr. Coughlan's question on, was there something peculiar or unusual about the fact that this account may have come for discussion in the Cork Local Board, there wasn't, was there, because a reason for that might well have been the fact that the responsibility originally for the account was in Cork?

A. Absolutely.

Q. Right.

A. And lots of other accounts too.

Q. You said on one or two occasions, I think, that it was for the Board, came to be for the Board to lay down policy in relation to these and other matters, and that it was for the executive to carry out and implement that policy?

A. Absolutely.

Q. In your view, Mr. Coughlan posed questions which might appear to be based on the surmise that it is the function of a director to involve themselves in the day-to-day management of a company. Is it your understanding of the function of a director to involve themselves in the day-to-day management of a company?

A. Certainly not.

Q. Would you describe a director who did involve himself in

the day-to-day management of the company as a good director?

A. To my certain knowledge a number of new appointees onto the Board of the bank had after a certain amount of time to be called in by the Chairman to be informed that his business was policy not management, and in actual fact at one stage there were certain directors there who might have gone back to the previous era, who used to call into branches and the directors were asked not to call into branches because they were interfering with the line management, not to call in without notice.

Q. It is not for you to, I am not asking you to answer the distinction between, the roles of management of chief executives and the board is one well recognised in law. A director, a director who interferes in the day-to-day management, to involve himself in the detail of the day-to-day management might, in fact, be regarded as a bad director, one that wasn't carrying out his functions properly?

A. Quite correct, and those that did it were corrected and asked not to do it, and stopped doing it.

Q. And for a director of a bank to make inquiries about an individual account, that could well be described as an abuse of that director's power, can't it?

A. Absolutely.

Q. To inquire as to details of an account which were not properly a matter for the main board, particularly in the

later stage of the evolution of the credit approval

process?

A. I would say there is a distinction between the executive directors and non-executive.

Q. I am using the director in the context of non-executive directors?

A. Yeah, in the non-executive directors, I don't know even if the executives would answer executive directors if they asked questions like that because of the confidentiality business.

Q. Just on a small point of accuracy, Mr. Murphy, again there is no reason why you should know it, but the details of Mr. Haughey's account, it wouldn't surprise you to know that they were kept not in Mr., in any executive room but in the accounts of the bank in financial control, that wouldn't surprise you?

A. What I have read subsequently of this Tribunal, which didn't surprise me at all to find out, I did not obviously know.

Q. They were kept in the ledgers of the bank, the details of €110,000 was in the ledger of the bank in financial control. Can I just come briefly, Mr. Murphy, to Mr. Coughlan's questions to you concerning the policy of the bank and you very fairly said in terms of debts which it was the bank's policy that people should pay their debts. But in respect of difficult accounts, and you also said they are encountered, bad debts are encountered; would it

be fair to say that the policy is to seek to obtain the best practical recovery in those circumstances?

A. Absolutely.

Q. Can I come to the finally to the press statement, and again I don't want to labour it because you by your own admission, you weren't involved in it. If we could have it perhaps it does, as Mr. Coughlan points out, it does if we could move a little further down please. It does point out that the, "in general" I think is the word he used, "generally the bank feel it is best not to comment". And then goes on to deal, I think, with what it describes as the bank feeling obliged as a special matter to make a comment.

Is it your understanding of the duty of confidentiality that it is an absolute and unqualified duty, are there exceptions to it? I assume that you are giving evidence in itself answers that question, there are exceptions to it, aren't there, the sort of absolute duty?

A. I have answered the question earlier but I don't know, I don't know if I can say that or not.

Q. Since I criticised Mr. Coughlan

CHAIRMAN: Maybe for submissions it is something

Q. MR. SHERIDAN: It was a special matter?

A. Yes, exactly.

Q. And it related a report in which the affairs of a customer were discussed in a newspaper; would you regard that as a

breach of confidentiality?

A. You know

Q. Isn't that a much more serious breach of confidentiality

than the rather artificial argument being put forward by

Mr. Coughlan in terms of

A. For all I don't know and for all Mr. Coughlan may know,

maybe Mr. Haughey got the bank to issue that statement. I

mean we are talking about confidentiality and we are taking

about a special case of confidentiality, I don't know, and

maybe Mr. Coughlan does know or maybe Mr. Coughlan doesn't

know, but maybe Mr. Haughey asked the bank to produce that

bit of paper, I don't know whether it happened or not.

But I can tell you one thing, if somebody said I owed the

bank a million pounds and I didn't owe the bank a million

pounds I would bloody well ring up the bank and tell them

"would you issue a statement to say I don't owe you a

million pounds".

Q. The discussion in the press of a customer's account is a

matter which the bank would not regard

A. Would never countenance, but maybe Mr. Haughey said

Q. As a background to the issue of the statement?

A. That is not

MR. COUGHLAN: My Friend, I want Mr. Murphy to answer the

question?

THE WITNESS WAS THEN REEXAMINED BY MR. COUGHLAN AS FOLLOWS:

Q. MR. COUGHLAN: There is just one question which arises; just the interesting discussion which took place between Mr. Sheridan and yourself on the question of non-executive directors, I take it could you tell me, Mr. Crowley was a non-executive Chairman, wasn't he?

A. Interestingly enough, he is non-officially titled non-executive Chairman, but the Chairman would possibly have to do three days work a week and count that as non-executive, that doesn't count as non-executive to me, but Mr. Crowley probably works some weeks seven days a week but he is non-executive.

CHAIRMAN: Thank you for your attendance Mr. Murphy.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Mr. John McGuckian please.

JOHN MCGUCKIAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

Q. MR. COUGHLAN: Thank you. I think Mr. McGuckian, you are a non-executive director of Allied Irish Banks and you were appointed to the Board in January of 1979, is that correct?

A. Yes.

Q. And I think you have, like other directors, been asked to respond to certain queries posed by the Tribunal, isn't that right?

A. Yes.

Q. And do you have that document with you, and perhaps we will

go through that in the first instance?

A. Yes.

Q. And I think in the first instance you were asked to provide details of your knowledge of the settlement reached in December of 1979/January 1980, between the bank and Mr. Haughey, whereby the indebtedness to the bank then standing at 1.14 million was reduced to €750,000 in certain terms, and I think you have informed in the Tribunal you were not aware of the figures involved.

"I do not believe figures were actually reported. I cannot say with certainty at that time settlement was made at a meeting of the Board or the Board Advances Committee or the Dublin Local Board at which I occasionally attended. I do not recall any discussion of the proposed settlement. I do recall becoming aware at some stage that the matter of Mr. Haughey's indebtedness had been satisfactorily resolved, while I do not specifically recall it perfectly, it is possible I heard this by way of a report at a board meeting.

What I do recall is a sense of relief among executives involved and among directors that the matter had been satisfactorily resolved. The bank had been keen to have Mr. Haughey deal with the matter, and the executives involved had been putting increasing pressure on him toward the end. I believe the determination of the matter resolved, and the reliance when it was, were both

heightened by the fact that he had become Taoiseach. One matter; before the matter was resolved, this was not because the bank were seeking or giving any favour. I think there was some unease that he might bear some resentment against the bank for compelling him to address his finances and this might adversely effect us, but I believe that the predominant factor was a view it was simply not appropriate that the Taoiseach's banking relationship was of that nature, and if Mr. Haughey was going to continue to have such a relationship it would be with some other bank".

I think that was your response to that, it should not be with this bank?

A. Yes, sorry.

Q. And then you were asked to provide details of your knowledge about the issue by the bank of the statement through its public relations department in or around February of 1983, whereby the bank state to suggest Mr. Haughey was indebted to the bank in the previous year to the amount of one million pounds or so, was outlandishly inaccurate. You have informed the Tribunal you have no knowledge whatever of the press statement referred and you do not believe it was discussed in any shape at the Board. "I do not recollect the original Evening Press report".

I think you were then asked in providing a response to

these queries which is required, is your knowledge of any Board discussions of the matter, whether formal or informal? Any knowledge you have with the bank's dealings with the matter, whether formally or informally raised at the Board or what knowledge came to you through contact with other members of the bank staff or through contact with a third party unconnected with the bank?

You have informed the Tribunal; "I cannot say I recall the matters which formalised the agenda of the board meeting. I do believe there were discussions of the account from time to time. I cannot at this stage say whether these were at the level of the main board, the Board Advances Committee or the Dublin Local Board. My fellow directors and I had confidence in the members of management dealing with the case and in their judgement, I believe they did a good job in all the circumstances".

You were then asked to provide a general account of your knowledge of the period 1974 to 1980. You have informed the Tribunal; "I have no further knowledge of the operation of Mr. Haughey's bank account over this period than set out in my replies to the previous questions".

You were then asked to "Please state what you know of the various proposals put forward by Mr. Charles J. Haughey to clear or reduce his indebtedness to the bank and the bank's response to these queries?"

And you have informed the Tribunal; "I cannot recollect what, if anything, I knew of any proposals put forward to clear or reduce his indebtedness to the bank or the bank's response to these queries".

You have been asked to provide details of your knowledge of further applications by Mr. Haughey in the period 1975 to 1979. You inform the Tribunal; "I cannot recall any details of any application. I may well have been present at meetings at which applications were discussed but I simply cannot recall at this distance".

Now, Mr. McGuckian, can we take it that you as a, a main board member as of the time of the settlement of this indebtedness in late '79/early 1980, that you had a general knowledge that the indebtedness or that the account had been settled, would that be

A. Yes.

Q. You didn't know the numbers?

A. No.

Q. And the numbers were never brought to the attention of the main board?

A. No.

Q. As far as you know?

A. Not that I recall.

Q. Can I take it that you didn't know at that stage that there continued to be an outstanding indebtedness of approximately €110,000 which had been taken into Bank

Centre?

A. That's right, yeah.

Q. In summary, what the Board, you as a Board member knew was that the account had been settled, the account holder was no longer with the bank, but the actual details of the settlement were unknown to the main board; is that correct or unknown to you as a main board member?

A. Yes.

Q. Do you remember any Board member asking about the numbers?

A. No.

Q. You have no recollection, you may not have been at the meeting that Mr. Aliaga Kelly may have asked Mr. O'Keefe about the numbers, you have no recollection?

A. I just can't recall, it may have happened and I might have been there.

Q. Yes. And can I take it that as a Board member, that you were happy that this particular account had been settled by reason of the personality involved?

A. I was happy that this troublesome account had been removed.

Q. But it wasn't just an ordinary troublesome account, was it?

A. No.

Q. This was Mr. Haughey's?

A. It was the current Taoiseach of the country.

Q. Yes. And I think in general terms you might have been aware of the fact that it was troublesome?

A. I was very aware of the fact that it was troublesome.

Q. Yes. And that it was something which the bank wanted to

get rid of because of the position the man held?

A. That was one of the many reasons they wanted rid of it.

Q. Yes. You as a member of the Board were not aware of the securities or assets which might have been available in detail?

A. Well, I must have been aware of those figures if I was at local boards where this was

Q. Where the various yes, and from local boards you might have been aware of the fact that the particular account holder had expressed himself that he could be a difficult adversary?

A. To be honest I cannot recall him having expressed that, but I would have been conscious of the fact that he could have been.

Q. Yes. So can we take it that as far as you were concerned as a Board member, once you were informed by perhaps Mr. O'Keefe or the senior executive dealing with the matter, that as long as this was gone you were happy without knowing the numbers?

A. Well, I have a problem in that this was a long time ago.

Q. I appreciate that.

A. But I have to say that in my opinion if I had wanted to know the figures I would have to have been told them.

Q. Yes.

A. If I had asked Mr. O'Keefe the figures he would have told me.

Q. Yes.

A. If I had asked the Board for those figures it was a matter of right that I would have been told the figures. So I, it wasn't that I could not or was not entitled to know the figures.

Q. I appreciate that. What I am saying is was it your understanding that it had been appropriately settled?

A. It was my understanding that it was appropriately settled, yes.

Q. And that the bank had got its money, was that your understanding at the time?

A. Appropriately settled and getting all its money, that's a different question.

Q. That's the point. Because the bank have asserted that there was commerciality in the settlement, that it was a good commercial decision?

A. Um um.

Q. Now, we know from the facts that the bank didn't get its interest, and we know from the facts that there was an indebtedness of £110,000 carried on the bank's books and a debt of honour, we know that now from the facts?

A. Yes.

Q. If you had known that at the time, leave aside the persona involved now, leave aside the persona, if you had known that at the time and you knew of the assets of an account holder, would you as a bank director have been happy to settle on that basis?

A. My, I have a problem I am trying to give you as accurate

an answer as I can. Now, I am using judgement of that settlement from where I am sitting today 20 years later, first of all in the context of a troublesome account with a particularly troublesome account holder, specially one of the magnitude of power of the one we are talking about, it is a mindset of the bank to be rid of this account for several years. Now, having established that mindset using just my own thought process, he was an active director at that time, we would have been taking the attitude that anything to get rid of this account.

Now, we could have actually done a mental suspension of interest to determine three years before we lost this thing, and we could have a figure that we established that we would like to get back to get rid of him. The truth of the matter is not using the specific advance as an example, but it would not have been a foolish tactic to have geared up the interest rates to make it more impressive for the lender to encourage him to leave.

So the facts of the matter are, that I think just using the generality for this specific example, if I was sitting at an advances meeting or having, sitting at several advances meetings, as indeed I am sure I did, with other accounts which were progressively going higher, I would as a director and as a member of the bank's, of the bank, have taken the view if we can get the figure we had set in our minds several years before out of this thing that would be

an achievement.

And to answer the second part of your question, using the benefit of hindsight, it was an interesting and I thought not a bad ploy to leave a debt outstanding on the person's mind, for all we had written off was 110,000, and he won't ever forget he owes 110,000 now. The fact we might not ever have expected to have got that would not have taken away from my view that that wasn't a bad thing to have done. For a start it would stop the particular customer, someone other the one we are talking about, to come back, which was something the bank was very keen to achieve.

Q. I understand that, what I am trying to get at and I think you have enunciated the mindset and what would have created the mindset to bring you to 1979 and 1980, that you had perhaps decided or the bank had decided some years previously they lost this one and they wanted to get rid of this particular customer not just because of the account, not just because it was troublesome but because of the powerful persona you were involved with?

A. Any one of those three would have been good reason for getting rid of any account, and together they were certainly a multiplier of each other.

Q. What is unusual about it is this, I understand you saying 1976 you know, sort of the only thing that was accumulating was interest. What was particularly unusual was that drawing continued from '76 to '79 at quite a rate?

A. That was

Q. Most unusual?

A. most unusual, yes.

Q. Most unusual. And so that, also the bank had decided from 1976 to put the interest in suspense, they weren't taking it into their own profits from there on in, the interest?

A. I can't recall that.

Q. I think that's true?

A. I was using a generalisation of what would have been good procedure.

Q. But if this hadn't been Mr. Haughey, a powerful man like Mr. Haughey, prominent politician, the Taoiseach by this stage the settlement took place, I can understand all of those reasons being good reasons to exercise the mind of the bank, but if it had been a man who wasn't in politics, who lived on 250 acres approximate to the city on agricultural land, the bank might have felt that there is a fair bit of an asset there, isn't there, why should we take the hit on this one?

A. There is a simple answer to your question, and I can give you a slightly more convoluted answer, but the simple answer is yes.

Q. So the major determining factor is I know the account was difficult but the major determining factor was it was connected with the office this man held, he was powerful?

A. It was a major factor. But not the only one.

Q. It was a major factor?

A. It would have to have been.

Q. Yes. And I think, I suppose what might have been exercising your mind or other directors' minds, without it being specific or without knowing anything specific, it wasn't necessarily a great thing for a big bank like Allied Irish Banks to have an adversary who might be a Taoiseach?

A. I think it is the other way around. I think frankly the bank took the view the last thing that they needed was a Taoiseach who owed them a lot of money that he wasn't paying, it wasn't scared what the Taoiseach could do to them, it wasn't a good position for the leading financial institution in the Country to have such a relationship with the senior politician in the country, and it was absolutely a priority to get out of that relationship not because he could do them any harm but because it was totally unsuitable and the view

Q. I understand that, but he had declared himself to be a potentially difficult adversary. That didn't exercise are you suggesting, Mr. McGuckian, that members of the board or members of the executive mightn't have thought that Mr. Haughey might be a difficult adversary?

A. It would have been but fear wouldn't determine the procedures, there are lots of significant adversaries, if anything; like that type of threat would have been inclined to make them take the other view, it was a specific to repeat myself, objectivity of the bank that this was not good for this country, that the Taoiseach of the country, a

man who had become a Taoiseach towards the end of this relationship would be in such a relationship with the leading financial institution.

Q. Yes. But as you said in your statement, there would have been some unease that he might bear some resentment to the bank?

A. Well, I have to say I wouldn't like any Taoiseach to bear any resentment to the bank, I wouldn't like anybody, but particularly the Taoiseach.

Q. Yes. Turning to the question of the statement that was issued in 1983?

A. Yes.

Q. You didn't know anything about it at the time, did you?

A. I said I cannot recall having known, thinking about it at the time.

Q. I don't think it was ever brought to the Board, as far as we can ascertain, unless you as a Board member can tell us that it was, but no other Board member seems to remember that?

A. It seems strange it would not be brought to the board, but it would be strange that if after it was issued we were not aware when we could do nothing about it, I cannot recall knowing something about it, but looking back I think if such a statement had been issued against the background of what we knew we would subsequently have been aware of it then, as I am aware of it now. I cannot recall if I was made aware of it immediately after, but I would be

surprised if we did not become aware of it after it was issued.

Q. Yes. Can I take it that your view might be more similar to that of Professor Patrick Lynch, that he was surprised to the extent of astonishment at the content of that?

A. Yes, hindsight is a wonderful avenue, it is a great thing to have, I take the view that if I had seen it the next day I would have had the view, as I do now, that I wish we hadn't issued it.

Q. Yes. That's all I asked you, you would be of the same view?

A. Yes.

Q. Yes. Thank you Mr. McGuckian.

MR. CONNOLLY: No questions.

MR. SHERIDAN: No questions.

CHAIRMAN: Thank you very much for your attendance, Mr. McGuckian.

THE WITNESS THEN WITHDREW

MR. HEALY: Ms. Sandra Kells.

SANDRA KELLS, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY
MR. HEALY:

CHAIRMAN: Thank you very much Ms. Kells. As you only too well know by now you are already sworn.

Q. MR. HEALY: Thank you Ms. Kells. You have very helpfully given, your bank has given the Tribunal some information, and from that information a Memorandum of Evidence has been prepared, and I think you have a copy of that memorandum, is that right?

A. Yes I do.

Q. And I think if I were to take you through the memorandum, and if necessary we can refer to documents as we go along, would that suit you?

A. That's fine.

Q. You say you are a certified public accountant and you commenced employment with Guinness & Mahon Ireland on the 16th of January, 1979, as a management accountant. You were appointed in 1995. You are now financial director of the bank, and having been so appointed in January of 1997. "I am fully conversant with all of the books and records of the bank", you say?

A. Yes I am.

Q. You say that you have already given evidence and that the Chairman referred to that?

A. Yes, I have.

Q. Now, in particular, on the 18th of February last you gave evidence to the Tribunal in relation to three bank drafts issued by Guinness & Mahon and payable to Allied Irish Banks in January and February of 1980, and they amounted in the aggregate to €750,000. They have been mentioned here as the drafts which went to pay Allied Irish Banks the

money that Allied Irish Banks agreed to accept in the discharge of their indebtedness, you are at least aware of that evidence?

A. Yes I am.

Q. The drafts were in the sums of €600,000, dated January 1980; €100,000, dated the 31st of January, 1980; and €50,000, dated the 14th of February of 1980?

A. Yes, that's correct.

Q. Now, I think you have already given evidence that three drafts were each funded by debits to an account in Guinness & Mahon in the name of the late Mr. J Desmond Traynor?

A. Yes.

Q. With the designation "special account" and account number 183060150?

A. Yes, that's correct.

Q. I think some of these drafts have been put up on the screen and we have seen them before?

A. Yes, that's correct.

Q. Referring to your earlier evidence in your memorandum, on this occasion you say that the account statements show that the account was opened on the 11th of December of 1979. We may get a copy of the account statement up on the screen?

A. Yes, that was the evidence.

Q. There were debits to the account which were shown on that account statement, which I can just make out, are the 11th of December of 1979, €150,000?

A. You are talking about the credit?

Q. I beg your pardon, which I can just make out.

A. Yes.

Q. Do you have a copy of the statement in front of you?

A. I don't, but I have the details in the statement.

Q. And you can follow it on the monitor in front of you?

A. Yes, I can.

Q. There were credits, meaning lodgements to the account of
œ150,000 on the 11th of December of 1979?

A. Yes.

Q. And a credit of œ350,000 on the 16th of January of 1980?

A. Yes.

Q. A credit of œ50,000 on the 18th of January of 1980?

A. Yes.

Q. œ150,000 on the 24th of January of 1980?

A. Yes.

Q. And then on a separate page I think, which we don't have
here, there were, which I think we now have, a credit of
œ80,862.55 which was lodged in February of 1980?

A. Yes, on the 13th of February.

Q. Now, the history of the account is something we have
already referred, I want to leave the history out of it on
this occasion and just deal with the sources. So far as
you were able to make inquiries in the bank or carry out
searches, I just want to deal with the sources of those
lodgements?

A. Okay.

Q. Now, I think you said that as of December of 1979 the

practice of the bank with regard to the keeping of the records was that statements were printed either weekly if an account was being used heavily for obvious reasons, monthly or quarterly and for deposit accounts half yearly?

A. That's correct.

Q. You describe the computer system as a Nixdorf system, installed in or around 1977, so your records were computerised from that date onwards or were beginning to be computerise from that date onwards?

A. Yes.

Q. Every month statements were produced and there were at least two copies of each statement made?

A. Yes.

Q. The statements were then sent to the account section in the operation department where the statements were separated, one for the customer and one for the bank?

A. Yes.

Q. The bank's copy was placed in large leverarch files which were kept alphabetically?

A. That's correct.

Q. Statements of all accounts of the bank were produced and there was no procedure in place whereby customer accounts would not have a statement generated?

A. Every customer account had a statement generated.

Q. It wasn't a question of the customer asking for one or not?

A. From my understanding of events then they were automatically generated.

Q. After a period of three years the statements were assembled for a 12 month period and sent outside the bank for microfiching. This enabled you to save space because you could archive the records in a much smaller space if they were put on microfiche?

A. Yes.

Q. Once they were put on microfiche they were destroyed?

A. They were, the paper form was destroyed once we microfiched them, after a period of three years.

Q. The operations department at the time was under the control of Mr. Padraig Collery, and therefore he was the person responsible for carrying out this exercise?

A. He had responsibility, yes.

Q. Had that practice been followed in relation to the transaction which I have just referred it should now be possible to retrieve statements of all accounts held with the bank and at the relevant time in order to assist in the identification of the courses of the lodgements?

A. Yes, it should be.

Q. Now, the Tribunal has asked the bank to carry out searches, and what the bank did was it printed out all of the documents retained on microfiche for the three month period from December 7th to February 1980, and bank personnel have, I think, examined each document with a view to identifying those documents which are or may be material to the sources of the lodgements

A. That's correct.

Q. to the account that we have just mentioned?

A. Yes.

Q. And the result of those searches is that apart from one other document, the only document which the bank has been able to identify as potentially relevant is a copy statement of the bank's own account with the Central Bank of Ireland?

A. Yes, that's correct.

Q. If we could have a copy of that. I think it may be Document No. 1?

A. Yes.

Q. Now, the entries on that statement represent interbank transfers and certain other transactions between the bank, the Central Bank and other banks on the bank's account at the Central Bank?

A. Yes, this was essentially our clearing account with the Central Bank.

Q. And what this statement shows is that on the 11th of December of 1979 there was a debit of €150,000 to the account which is described as "Re: Amien SL Account Rotunda Branch"?

A. That's correct.

Q. Now, what that signifies is that €150,000 was received by Guinness & Mahon on that date from, and as far as you are concerned from whatever "Rotunda branch" means?

A. Yes.

Q. For the credit of an account held in your bank in the name

of Amien; and Amien SL is in fact Amiens Securities Limited?

A. Yes, that's correct.

Q. And we know in fact that €150,000 was credited to the account of Amiens Securities around that time?

A. That's correct, on the 11th of December.

Q. Now, from your knowledge, and this is only your general knowledge, but your general knowledge as a banker is better than my general knowledge as a banker; are you aware of any branch of any of the associated or any other bank at the Rotunda other than Allied Irish Banks, other than Bank of Ireland?

A. From the work we have done we haven't come across, but we have done limited work.

Q. Of course, for instance have you ever got any money from a Rotunda branch of another bank into your bank other than Bank of Ireland?

A. Being honest I haven't reviewed our records with that in mind.

Q. Now, you say that you are referring to the evidence you gave to the Tribunal on the 29th of January, and you mentioned that a series of accounts were held in the bank in the latter part of the 1970's and in the 1980s in the name of Amien Securities Limited, and those accounts were controlled by Mr. Desmond Traynor, and they have been mentioned on a number of occasions in evidence given by you and other people during the Tribunal's last sittings, isn't

that correct?

A. That's correct, yes.

Q. And they included the account number 10407010 to which the proceedings of the Tripleplan cheque which we have already mentioned in the Tribunal's public sitting were channeled before being credited to Mr. Haughey's own account with the bank?

A. That was one of the Amiens accounts, yes.

Q. Now, have you been able to locate any statement of account for Amiens Securities Limited or any other Amiens company for December of 1979?

A. No. Despite a complete reproduction of our microfiche records we are unable to locate any statement from any Amiens accounts between December '79 and February '80.

Q. And you have statements from earlier years?

A. From another file we have been able to see a statement but not from reproduction of microfiche records, just from other records retained in the bank, so we certainly know of the existence of an Amiens account previous to December of 1979.

Q. So it would seem that the operation or the exercise that we mentioned a moment ago, which was normally carried out each year in relation to accounts of this kind, if it was carried out these particular statements must not have been put through the microfiche system?

A. Correct, we should be capable of reproducing all account statements had they been retained in our leverage files and

in microfiching, as we understood to be the procedure.

However, we can not ascertain the statements relating to Amiens for the period concerned.

Q. Now, your account with the Central Bank also shows that on the 24th of January of 1980, and if we could have Document No. 2. On the 24th of January of 1980 a cheque for $\text{œ}150,000$ was presented by the bank for special clearance to the Central Bank, and this cheque was for crediting to the account of the late Mr. Traynor. What the Central Bank what your account with the Central Bank shows is that on the 24th of January the record is that a cheque was sent for Central Bank funds account J D Traynor and the amount is $\text{œ}150,000$?

A. That's correct. We sent a cheque for what is known in banking circles as "special clearance", special presentation on the 24th of January of 1980. This is the receipt of the funds of $\text{œ}150,000$ for the account of Mr. Traynor.

Q. Now, the date of this transaction matches a credit entry of $\text{œ}150,000$ to the account of the J D Traynor special account?

A. That's correct, yes.

Q. And no other accounts in the name of Mr. Traynor show a credit of $\text{œ}150,000$ on that date?

A. We have reviewed our records based on our microfiche dumps, for want of a better word, and we can not find any other credits of 150 to Amiens or Mr. Traynor's accounts.

Q. Now, bearing in mind that we know that there was a

lodgement of 24, a lodgement on the 24th of January of 1980 to that account of €150,000, can you offer any view as to the probability of there being a connection between those two transactions?

A. I think there is a reasonable probability that the credit, the debit we are looking at, at the moment on the Central Bank account, dated the 24th of January, the corresponding credit is the J D Traynor special account also on the 24th of January, 1980.

Q. Now, the end on that document legend, on that document, the bank's ledger, containing, if we go back to the Central Bank account, the legend on that document, Document No. 2 merely tells you that a cheque was sent for Central Bank funds to be credited to a particular account?

A. That's correct.

Q. That doesn't tell you where the cheque came from?

A. No.

Q. Does it tell you anything about the manner which the cheque came to be sent or came to be referred to in Guinness & Mahon's Central bank of Ireland account? In other words how did that cheque come to be referred to in that particular account?

A. We were sending it for a special presentation, the purpose being to get credit or effective use of the funds for the client as quickly as possible.

Q. And in the ordinary way, if your bank was given a cheque and that cheque was to go through the clearing process it

would take whatever, three days, I am not sure what the clearing process was at the time?

A. Yeah, it would not be unusual for a large amount of money to be sent through special presentation.

Q. Yes.

A. So a small amount would go through the procedure. A larger amount would be sent for special presentation, as in this case.

Q. I think was there a threshold above which, or below which rather, you couldn't present cheques for a special clearance or special presentation?

A. Yes. If my memory serves correctly it was a hundred thousand up until recent times. It was increased to 500,000.

Q. I am sure you will correct me if I am wrong on this, but I think if my memory serves me correctly the date of the final payment to Allied Irish Banks out of the account set up by Mr. Traynor was the 14th of February of 1980?

A. That's right.

Q. Just about two, maybe three weeks after that?

A. Yes.

Q. Credit rather.

Thanks Ms. Kells, thank you very much.

MR. CONNOLLY: I have no questions Chairman.

CHAIRMAN: Thank you very much for your attendance, Ms. Kells.

THE WITNESS THEN WITHDREW

CHAIRMAN: Anything else today? Sorry, Mr. Seligman, I should have made inquiry of you, but you don't wish to raise anything? .

MR. HEALY: Mr. Grehan.

GERRY GREHAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

A. Gerry Grehan.

Q. MR. HEALY: Thank you Mr. Grehan. You are the manager of the Bank of Ireland, Rotunda branch, is that right?

A. Correct.

Q. Are you aware of any other of the major banks having a Rotunda branch?

A. I am not.

Q. Now, I think that you were asked by the bank's law agent on foot of a request from the Tribunal to endeavor to see whether you could identify an account at the Rotunda branch from which a sum of €150,000 was debited in or around the time of the transactions that I have just referred a moment ago to and Ms. Kells gave evidence about, that's to say in December and January, December '79 and January of 1980?

A. That's correct.

Q. Now, I think your response to the Tribunal is that no records exist at the bank for 1979, is that right?

A. That's correct.

Q. Does that also apply to 1980?

A. That would be so.

Q. Right. And when you say "no records", can you tell me what searches you made to establish whether any records exist or not for that period?

A. Yes, we would naturally destroy the records after a period of time.

Q. Yes.

A. But just in case records did not get destroyed we checked the premises and made some inquiries through the microfilming department to see if any records would still exist, and they didn't.

Q. Were you here while Ms. Kells was giving evidence a moment ago?

A. I was.

Q. Right. And you have heard the system of microfiche that she described. I fully appreciate that Miss Kells is a director of a, I have no doubt no less a creditable bank than yours, but a much smaller bank than your bank, but you will have heard her say that Guinness & Mahon have microfiche records going right back to the mid 70's or certainly the late 70's; is there some reason why Bank of Ireland doesn't keep records or archive microfiche records in that way? I am not criticising. I wonder why you don't do it?

A. I wouldn't have enough knowledge to comment on that.

Q. Right. How far back would be the microfiche records go?

A. 6 years is the normal period.

Q. Are the microfiches destroyed after that period?

A. To the best of my knowledge they are, I don't know the exact details.

Q. I see. I gather that the Tribunal may be hearing evidence from an official of the bank's query management section, would that section know more about bank destruction policy?

A. Yes, they would have details on the destruction policy.

Q. I see. Is it the case that the bank has no record at all of who its account holders were in 1979?

A. The bank would have a record of the account holders.

Q. You would have a record of who the account holders were?

A. Yes.

Q. Could I ask you another question in relation to that. In relation to live accounts, that is to say accounts that are alive and active today, do you retain accounts going back to 1979, so that if I had an account with your bank today would you have my records going back to 1979?

A. The required procedure is to have the records for a period of six years. I do not believe that we would have the records for an indefinite period.

Q. Even for a live account today?

A. Even for a live account.

Q. Right. But you would know the list of your account holders, you would have a list or some way of compiling a list of account holders for '79?

A. To the best of my knowledge we would have a list.

Q. Thank you very much.

MR. CONNOLLY: No questions.

CHAIRMAN: Thank you Mr. Grehan.

THE WITNESS THEN WITHDREW

MR. HEALY: That's the end of the evidence for today, Mr.

Chairman.

CHAIRMAN: Thank you Mr. Healy. Half past ten in the

morning. Thank you very much.

THE HEARING THEN ADJOURNED TO THE FOLLOWING DAY, THE 19TH

OF MAY, 1999, AT 10:30 AM.