

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 28TH JUNE

2000 AT 10:30AM:

MR. COUGHLAN: May it please you, Sir. I wish to apologise for the delay this morning

CHAIRMAN: Not for me, Mr. Coughlan, but for the public.

MR. COUGHLAN: Just to explain that we have been in the process of preparing a short note of memorandum in respect of evidence which is going to be given this morning, Sir. And that accounted for the delay this morning.

CHAIRMAN: I see.

MR. COUGHLAN: Now, if I could, Sir, before I call the witness, if I might just refer to the opening or outline statement made by me at the commencement of yesterday's hearings and Mr. Sean Fleming. Of course I should explain that nobody has access to the opening or outline statement before it is given although people who may be referred to in the opening statement are informed of that and are asked by the Tribunal if there is anything they would wish to have included in the opening statement but nobody actually sees it and it is only when the statement is made that the public and anyone referred to in the opening statement knows the full extent of it and would have an opportunity of seeking any corrections and of course the Tribunal is always anxious that accuracy should prevail and has no

difficulty in making any corrections or clarifications in respect of an opening statement.

Mr. Fleming has brought, through his lawyers, certain matters to the attention to the Tribunal in respect of the opening statement and I am happy to deal with those now, Sir, in the first instance.

At page 6, line 24 of yesterday's transcript, I stated that through Mr. Fleming and the Fianna Fail Party solicitors, the Tribunal had, on an earlier occasion, been provided with a list of all contributions to Fianna Fail funds made at or around the time of the 1989 election. Of course Mr. Fleming was no longer in charge of the party's funds or records at the time that this information and list was made available to the Tribunal and I wish to correct any erroneous impression that I may have given that it was Mr. Fleming who, in August of 1999, had any hand, act or part in furnishing information or documents to the Tribunal at that time.

The second matter which Mr. Fleming has brought to the attention of the Tribunal and has asked the Tribunal to deal with in respect of the opening statement, is at page 6 and 7, commencing on line 32 of yesterday's transcript, I stated: "However, on the occasion of the Tribunal's most recent inquiry to the Fianna Fail Party, Mr. Fleming made available to the Tribunal a further document. This we describe as Mr. Fleming's second list containing a list of

individual contributions to the Fianna Fail Party where receipts for the contribution made were not sent directly to the donor but were transmitted to Mr. Haughey or to his office."

Again, of course, Mr. Fleming had no role in Fianna Fail Party Headquarters at this time and it was not Mr. Fleming who had any hand, act or part in making available this document to the Tribunal.

The third matter which Mr. Fleming has asked the Tribunal to consider in respect of the opening statement and to clarify if necessary is at page 7, line 10 of yesterday's transcript, where I said, "Mr. Mark Kavanagh's name appeared on this separate or second list of contributors whose receipts were to be sent not to the contributors directly but rather to Mr. Haughey."

And Mr. Fleming has asked me to clarify and I am happy to do so, that there is only one listing of Fianna Fail contributions and these are contained in the Fianna Fail official Cash Receipts Book and that it would be incorrect to suggest that there is a separate or second list of contributors or in other words, that there would be two sets of books being kept.

Mr. Fleming is going to give evidence just on that particular aspect of matters, Sir, now, and just to clarify that there was only one set of records and that there weren't two sets being kept and that what the Tribunal

describes as a second list is what Mr. Fleming describes as an extract from the records and nothing else, Sir. He is going to give that evidence now. I should say that the Tribunal is continuing its inquiries and in that regard, is receiving the full cooperation of Fianna Fail and its lawyers, Sir.

Mr. Sean Fleming

MR. BRADY: Mr. Chairman, I appear with Mr. James O'Callaghan instructed by Frank Ward & Co. for Mr. Sean Fleming.

CHAIRMAN: Thank you, Mr. Brady.

SEAN FLEMING, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

Q. Mr. Fleming I think you are already sworn and I think if I could deal with the issue, you did give evidence yesterday but perhaps we could deal with the issue arising out of the clarification you sought in respect of matters I dealt with in the outline statement yesterday?

A. That's fine.

Q. In the first instance, if I could just run through the first two matters you sought clarification on, when the Tribunal examined the Cash Receipts Book at Fianna Fail Party Headquarters in August of 1999, you were not involved in that particular exercise at all, isn't that correct?

A. That is correct.

Q. When the Tribunal was furnished with what the Tribunal refers to as the second list and which you describe as the extract from the records of Fianna Fail, that is the list containing the names and reference numbers to contributors whom Mr. Haughey directed or asked for receipts to be sent to him, you did not hand that over to the Tribunal, isn't that correct?

A. That is correct.

Q. That was always in the custody of Fianna Fail Party Headquarters?

A. Absolutely.

Q. And it was from that source, through the solicitors, that that document was furnished to the Tribunal?

A. That's correct.

Q. Now, if I may then deal with that portion of the opening statement made by me yesterday where I stated that Mr. Mark Kavanagh's name appeared on this separate or second list of contributors whose receipts were to be sent not to the contributors directly but rather to Mr. Haughey. Now, I may erroneously have thought that I was conveying the correct impression to the public in relation to that but you feel that that needs some clarification, is that right?

A. I do.

Q. Yes. Now, what I want to know is this: Could you just describe the records of Fianna Fail, how they were kept?

A. Each donation which would be received in the Fianna Fail

Head Office would have accompanying documentation, supporting documentation from which we would write the original receipt and then we would prepare our Cash Receipts Book from those records which, in effect, is a summary of the listings of all the donations received prepared from the supporting documentation.

Q. Yes. And there is, am I correct in saying, one set of records?

A. There is only one set of records in the Fianna Fail Party in relation to all the donations and payments and there is no second list of donations.

Q. There is no second list of donations?

A. Correct.

Q. But what the Tribunal has been furnished with of recent times is a list of names, isn't that correct?

A. An extract from the Receipts Book and the party records.

Q. A list of names which is an extract from the Cash Receipts Book?

A. And party records.

Q. And party records. And that particular extract would have enabled anybody checking the records to say that notwithstanding that the Cash Receipts Book would describe a donor as being anonymous, that in fact the true identity of the donor is and was known and that the receipt in respect of that donor was sent to Mr. Charles Haughey, is that right, where they were described as anonymous in the records?

A. I'll ask you to go through that again because I think there's two separate questions in that and I just want to be absolutely clear.

Q. Very good. The extract or what we describe as the second list

A. Yes.

Q. Was an extract of the people who did not get receipts directly from Fianna Fail Party Headquarters, isn't that correct?

A. The listing which you referred to is an extract from the official Fianna Fail records and it only related to those receipts which were sent to Mr. Haughey's office.

Q. Yes. And not sent to the contributors directly as was the case in close on 900 other cases?

A. That's correct.

Q. All receipts were recorded on the main list, the Cash Receipts Book, isn't that correct?

A. Yeah, there is only one Cash Receipts Book. When you refer to the main list, you are talking about a photocopy of the Cash Receipts Book. There's no other list other than the Cash Receipts Book.

Q. But without the extract, one would not be able to identify all of the people to whom receipts were sent to Mr. Haughey, isn't that correct, without the extract?

A. Yes, the extract, my extract was the list of the receipts that went to Mr. Haughey.

Q. The cash receipts book and the extract and the backing

documentation were all kept at Fianna Fail Party

Headquarters?

A. And are part of the one set of party records.

Q. Now, all of the records are kept to give a true account, isn't that correct?

A. Absolutely.

Q. And all of the records are kept to enable a proper audit to be carried out?

A. Absolutely.

Q. And all of the money is accounted for that was received in?

A. The one set

Q. By you?

A. In the one set.

Q. In the one set, but the receipts of some of the monies went to one man only, is that correct - Mr. Haughey?

A. Yeah, some of the receipts were sent to Mr. Haughey's office.

Q. And a purpose other than an accounting purpose for which the extract would be of assistance would have been to enable, if an inquiry had been made, in the event of a receipt not being received from Fianna Fail Party

Headquarters that in fact the receipt had been sent to Mr.

Haughey, is that right?

A. That's correct.

Q. Thank you very much, Mr. Fleming.

MR. BRADY: I have no questions of this witness.

CHAIRMAN: Thank you very much for clarifying those matters.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Cunningham.

WILLIAM CUNNINGHAM, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Good morning, Mr. Cunningham, thanks for attending.

Q. MR. COUGHLAN: Mr. Cunningham, I think you are a member of the firm of PriceWaterhouse Coopers accountants?

A. That's right, yes.

Q. And what position do you hold?

A. I am a partner in PriceWaterhouse Coopers and I had been the managing partner in Coopers & Lybrand prior to the merger of the two firms that made PriceWaterhouse Coopers.

Q. And I think as a result of evidence given to this Tribunal by Mr. Dr. Eamon De Valera and Mr. Dan McGing, the Tribunal made certain inquiries of your firm, isn't that correct?

A. That's correct, yes.

Q. And just so that we put it in context, Dr. De Valera informed the Tribunal that the Irish Press plc made a donation of €10,000 for the purpose of it being transmitted to a fund for the late Mr. Brian Lenihan's liver transplant and that he gave that to Mr. Dan McGing. I think you

understand that evidence has been given to the Tribunal?

A. I understand that evidence has been given, yes.

Q. And Mr. McGing gave evidence to this Tribunal that that particular donation would have then been dealt with through the Client Account of PriceWaterhouse Coopers, I think you understand that that evidence was given, is that correct?

A. Yes.

Q. And I think as a result of inquiries being made of you by the Tribunal, your firm has asked for the statements of Coopers & Lybrand Account Number 05767863 and that would be the Client Account, is that correct, for the months March '89 to June of 1989 inclusive, is that correct?

A. I think the numbers you have given are the numbers on the bank accounts from which we received copy statements from our bankers.

Q. Yes.

A. We, when the original inquiry was made of the firm, we sought the records within our own office to see if we could find the Client Accounts from that period but we were unable to locate them because we have a retention period of six years and that was behind so failing to locate them within our own firm, we made inquiries of our bank to see if they could provide us with copy statements which they did.

Q. And as a result of examining those copy statements, is it correct to say that you can find no credit or debit of œ10,000 to the account for that three month period?

A. We can find no amount of €10,000. Unfortunately the bank would be unable to provide us with the backup to the actual amounts so we can't go behind the amounts that are on the statement.

Q. So can we take it that from your perusal of the bank statements, you can confirm that there was no individual debit of €10,000 from the account in that three month period?

A. Yes.

Q. Well can we take it then that if monies entered your Client Account for a specific purpose of a client, they would be expended for that specific purpose of a client as well?

A. Yes.

Q. And if there is no €10,000 debit from the account in that three month period, can we take it that there was no drawings on Coopers & Lybrand or PriceWaterhouse Coopers' account for that period which could have gone to the Brian Lenihan fund?

A. We would operate both a Client Account, which was the one to which we have been referring there, and an Office Account for the normal transactions of our own receipts and payments. We examined that account for the same period or roughly the same period and didn't identify any payments that would relate to

Q. Relate to such a drawing for that particular purpose?

A. No. I would have to say for clarity, there are payments, there are lodgments greater than €10,000 into the Client

Account which could have contained an amount of €10,000 but because we can't get the breakdown of those lodgments, we are not in a position to say whether they did or didn't contain the €10,000.

Q. Yes, well Mr. McGing has informed the Tribunal that this donation was routed through your firm so there would have to have been a cheque drawn for €10,000, is that correct?

A. That would be the implication, yes.

Q. And if there wasn't, can we take it that it would be your view that no such drawing for that particular fund was made out of your firm's account?

A. I really couldn't make that implication, I can't see it from the statements but that's all I can say really.

Q. Well as an accountant and using a Client Account and if €10,000 was from a client and the Irish Press were a client, isn't that correct?

A. Yes.

Q. And they wanted monies paid to a particular person or fund and they wanted them paid through your firm, there would be a cheque drawn for €10,000 if it entered your Client Account for that purpose?

A. That would certainly be the normal process, yes.

Q. I am not asking for the moment or making any suggestion that Mr. McGing is telling an untruth or anything but it would appear that it didn't go through your Client Account?

A. Well we can't identify it in the Client Account and that's all I can really comment on.

Q. Well, you spent a considerable period of time examining your accounts, isn't that correct?

A. Well we spent a considerable period of time trying to see whether we could find the records, our own records, which would be the best source of examining it. We were unable to find them so we asked the bank. It took the bank sometime to locate the copy statements they were eventually able to provide us with and we have now examined those and can't identify any relevant amounts, we can't identify a €10,000 payment.

Q. Can I ask you this: You would not be in the position to account to the client if asked by the client whether the money had been paid to the Brian Lenihan fund, is that correct?

A. Well at this stage we couldn't have the records, no.

Q. You wouldn't be able to account, if there was no drawing for €10,000 in that period, you would not be able to account to the client, is that correct?

A. Well we have no record of, sorry, the bank statements that we have, which is the only record we have at the moment, shows neither a lodgment to the bank or a withdrawal for an amount of €10,000. At the time we would have had our own client records through which we could have traced any payment that was either received or paid out of the Client Account, we would carry out regular reconciliations on the Client Account and we retain those records for as long as our normal retention period, which would have been six

years, that's now passed and I therefore assume we have now destroyed them.

Q. Is that normal on a Client Account to have a retention period of six years?

A. It's certainly our policy, I believe it's consistent with what we are required to do.

Q. Well if Dr. De Valera came up to you today and said "Did the money go through?" what would you tell him?

A. I wouldn't be in a position to tell him, I don't have any record to identify the payment.

Q. You have no record to identify the payment, the bank statement leads you to believe that it wasn't drawn, doesn't it?

A. There's no amount of €10,000 coming in or going out on the bank statement.

Q. Yes. Would that not lead you to the view that whatever route it took, it certainly didn't take a route through your firm's Client Account?

A. There's certainly no evidence that it did.

Q. Thank you.

CHAIRMAN: I think I am sure in Mr. McGing's evidence, Mr. Cunningham, he mentioned a number of persons in the firm amongst whom I think he included yourself, Mr. Maine and one other that conceivably had been in discussions with him over this matter at the time. Do you have any recollection of anything one way or the other in that regard?

A. I believe the reason he mentioned myself was that I was the managing partner at the time the firm ceased and I certainly would not have had any direct personal involvement.

CHAIRMAN: It's obviously implicit from your principal evidence, you have nothing of even anecdotal evidence you can raise to throw light on the matter.

A. No.

CHAIRMAN: Thank you very much for the work you have done on behalf of the Tribunal and for your attendance.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Paul Kavanagh please.

PAUL KAVANAGH, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

Q. Thanks, Mr. Kavanagh. You are already sworn and on previous occasions when you gave evidence, the Tribunal has prepared a Memorandum of Intended Evidence of which I think you have a copy in front of you?

A. Yes.

Q. And your evidence on this occasion is once again in relation to funds collected at the time of the 1989 General Election, both for Mr. Brian Lenihan and in connection with the Fianna Fail fund raising effort at the time and I'll

go, just go through your memorandum.

You say; "I have previously given evidence to the Tribunal regarding my efforts to raise funds to defray the medical expenses of the late Mr. Brian Lenihan. On the last occasion I gave evidence in relation to a list of potential donors. I complied following initial discussions with Mr. Charles Haughey which I subsequently discussed with him. I confirm that I did approach Mr. Mark Kavanagh. I recall that I met with Mr. Kavanagh at his office and that I explained to him that Fianna Fail had a debt from previous elections and that the party was seeking to raise significant contributions from certain persons to meet the debit and to fund the party's then current election expenses. I may well have mentioned a contribution in the region of €100,000. As I was also collecting funds to meet the late Mr. Lenihan's expenses, I also mentioned a collection was being made for that purpose and suggested a contribution in the region of €20,000.

"I recall that Mr. Mark Kavanagh indicated to me that he would consider my requests and that he would discuss the matter with the others, the others meaning the other partners in his Custom House Docks Development Company venture.

"My usual practice was to contact potential donors some short time after making such an approach to inquire as to whether they were in a position to make such a

contribution. I imagine I probably contacted Mr. Mark Kavanagh shortly after meeting with him. I did not instruct Mr. Mark Kavanagh or any other person as to how the contribution should be made.

"Regarding when Mr. Mark Kavanagh was added to the list, I expect I added his name to the list as a result of a telephone call from Ms. Eileen Foy as I understand that Mr. Mark Kavanagh's name went directly to Mr. Haughey with his contribution.

"Prior to the 1989 election, I was concerned that Fianna Fail had a debt from previous elections and with a pending election, it was necessary to make an extra effort in order to have the necessary funds available to fight a pending election. It's quite likely some people on the list of potential donors to the Fianna Fail fund were approached in the same manner as I approached Mr. Mark Kavanagh by either myself or other members of the fund raising committee. I do not remember exactly who was contacted but I have provided the Tribunal with the names of the persons who I was likely to have targeted at that time. It is possible, although I have no clear recollection, that I may have made a similar approach to Dr. Smurfit."

Just to clarify one or two matters arising from that evidence, Mr. Kavanagh. You say that you had no role at all in giving instructions to any contributors as to how

contributions were to be paid?

A. There were two exceptions. One was in connection with Brian Lenihan. I did instruct people or advise people to make the cheque out to the Party Leader's Fund. The only other exception to that rule was in relation to the PMUs, this is a form of fund raising.

Q. Pick-me-ups?

A. Exactly, and in that case the cheques would not have been made payable to Fianna Fail but to whoever was the supplier of the services.

Q. Right. Just to clarify one other matter, you may recall, I don't know if you have seen the transcript of Mr. Nicholas Fitzpatrick's evidence or seen a copy of his intended Memorandum of Evidence, have you?

A. No.

Q. I am sure a copy would have been sent to you but in any case one of the things he said in evidence was that an arrangement was made for him to meet you at the Westbury to hand over to you his contribution cheque, initially it was to be €5,000 as a result of a discussion between you and him, subsequently it was to be €10,000 directly to the Brian Lenihan fund as a result of a discussion with Mr. Hanley. Are you aware of those details?

A. No, but I did take a suite in the Westbury for the three weeks prior to an election and that's where I ran the fund raising from and it's very likely that could have happened.

Q. And it's likely Mr. Fitzpatrick's recollection is the

correct one, he would have been told either by you or somebody else, "Go down to the Westbury, meet Mr. Paul Kavanagh and hand over your cheque there".

A. Yes.

Q. And can you recall whether you had any discussion with Mr. Mark Kavanagh as to how his contribution was to be handed over?

A. No, I had absolutely no discussions on that with him.

Q. Your initial contact with him was by telephone followed by a meeting, is that right?

A. Yes, I rang him and he suggested I come around and meet him in his office and I went around to meet him in the office and I told him about this was before the election was called, from memory and I told him we still had outstanding debt from the previous election and that there was the likelihood of election in the near future and I was to try, as far as possible, to identify serious donations that would make it possible for us to both fight the pending election. During that conversation, I mentioned to him that we were also endeavouring or that I had been talking to Mr. Haughey and that I was, we were endeavouring to put a fund together to defer the costs of the late Brian Lenihan's medical expenses and if it was at all possible, he could include or make a donation to that as well.

Q. You presumably, as you said was your practice, had some further contact with him to get the results of his deliberations with his partners?

A. I don't recall having done that.

Q. Would that have been by telephone?

A. Normally I'd ring up a week or two later and say "Well, have you had a meeting?" or whatever but I don't recall having done it.

Q. Is it likely that you did it in this case?

A. Well normally I would have, it would have been the normal procedure but if the election had been called and I think the election was called very soon afterwards, I would move down to the Westbury and the whole sort of buzz and activity around an election, I would probably have been more concerned with following up all the lists that were with all the members of the committee.

Q. But Mr. Mark Kavanagh was one of the individuals that you had targeted for the purpose of making quite a large contribution?

A. Yes.

Q. Now you were as familiar, as I am sure I am, with the money that you raised for that election and the number of people from whom you sought contributions in the order of €100,000 or €120,000 and from whom you expected to get that obviously wasn't that many?

A. No.

Q. So what I am suggesting is that you presumably must have contacted him in some way to say "Are you prepared to make it?" and he would have told you "I am prepared to do it."

A. And that could very well have happened, yes.

Q. And assuming for the moment that that did happen, that you did follow your normal practice of following up, do you recall then relaying that information to anybody else, to Mr. Haughey or to anybody else so that payment arrangements could be made or hand over arrangements?

A. What normally would happen was I had a computer readout in the hotel of all our, the whole contributions and I would make notes along the side and I would share that information with maybe one or two members of the committee and with Sean Fleming and I am not sure if that's what happened but that's very likely what happened.

Q. Well when you say you'd have shared with one or two members of the committee, from the evidence of Mr. Mark Kavanagh and from the evidence of Mr. Fleming, there seems to be little doubt but that there must have been some contact with Mr. Mark Kavanagh involving the then Taoiseach, Mr. Charles Haughey, as a result of which Mr. Mark Kavanagh gave his contribution to the Taoiseach.

A. Yes, I can see from what has transpired in the meantime that's true.

Q. There had to be some contact?

A. There had to be, yes.

Q. Mr. Fleming didn't know that there was a contribution of €100,000 on its way so I think we can rule Mr. Fleming out of it. Now, do you recall telling the Taoiseach, "Look, I have hit the, you know, the jackpot, as it were, I have got a very large contribution here, we are doing well"?

A. One of the rules, and I think I said this earlier to you, Mr. Haughey laid down from the very beginning, we would never discuss amounts either with him or any members of the front bench cabinet, so if I did, and I am only saying if, if I did say something, I would have said we could expect a large contribution or something of that nature but I don't recall having done it.

Q. I see. Well again assuming that you followed your normal practice and assuming that you abided by Mr. Haughey's injunction, if you like, against discussing amounts, you would have contacted him and you'd have said look, we have done well with Mark Kavanagh, he is prepared to make a substantial contribution. That's as much as you'd have told him if you followed your normal practice and you followed his injunction?

A. My normal practice wasn't to tell him anything about fund raising. The only contact I had with him in relation to fund raising was when I met him every couple of days and he'd pass over cheques to me and maybe I might in conversation say something like that but I don't recall having done it.

Q. Right.

A. He might say to me at times "How well is it going?" or "How are you doing?" but that's as much as he would ever

Q. I understand. Well then if you didn't contact him about this contribution, somebody else must have contacted him, and I suppose if it's a fairly large contribution, apart

from your evidence that you might have followed your normal practice, you have no recollection of contacts with him about this large contribution, even to tell him it was a substantial one?

A. No.

Q. You have no recollection.

A. No.

Q. So the only person, as far as we know at the moment, who is aware of this contribution was Mr. Mark Kavanagh himself and Mr. Haughey. Mr. Mark Kavanagh himself didn't mention it to anyone else.

A. And his partners.

Q. And his partners. And none of his partners contacted you?

A. No.

Q. Now you became aware subsequently, obviously that he had made a contribution, checking your own printout or whatever, you'd have become aware?

A. Yeah.

Q. And you'd have seen that he was credited with a contribution of €25,000. Or would you?

A. I am not too sure of that. Generally when the election finishes, you wind down and then you probably meet a month or two after the election to follow-up on loose ends but no, I honestly don't recall having checked the list to see how much he gave or how much he didn't.

Q. Correct me if I am wrong. Isn't it a practice of all fund raisers when they target individuals for certain amounts or

any amount, to do their tidying up afterwards to see whether those individuals are worth targeting again and that you see what your harvest has generated, don't you, is that right?

A. Yeah, that's true.

Q. And in this case, surely you must have checked, I thought I'd get €100,000 out of this guy and all I have got is €25,000?

A. I don't ever recall going back to anybody a second time and saying that was less than I expected or anything like that.

Q. I am not suggesting you go back but to form your own picture of how successful or unsuccessful your approaches had been, just like any salesman, wouldn't you have said "How did I do? I thought I'd get €100,000 or close to it"?

A. I mean prior to an election we had a target and from memory I think that was a million and a half and every day we were doing a short sort of roll-up of what we expected, what had come in and everything else and during that time, yes, I probably had Mark Kavanagh in for a substantial amount and I just don't recall ever finding out at the time how much he actually contributed or how he contributed it.

Q. The instructions you had with regard to the Brian Lenihan fund, or where you gave instructions to people was to make it out to the Party Leader's Account and we certainly know that one or two cheques came made out to the Party Leader's Account or made out to Fianna Fail, perhaps people weren't

clear about precisely how they should describe the account they were putting the money into, is that right?

A. Yeah, yeah.

Q. And I think Mr. Mark Kavanagh had the impression you said to him "We have got to do something for Brian Lenihan and we see this as a Fianna Fail responsibility".

A. I am not sure that that's the way I would have put it. I think at the time I was saying that Mr. Haughey was endeavouring to raise money to cover his expenses. I don't I would distinguish between that and saying it's a Fianna Fail responsibility. I mean this was an initiative

Q. Maybe you said "We in Fianna Fail feel, we should..." maybe you used language like that?

A. Maybe. I don't think so. I think it was very much an initiative taken by Mr. Haughey.

Q. The cheque that Mr. Mark Kavanagh intended to go to the Brian Lenihan fund was made out to Fianna Fail?

A. So the evidence shows, yes.

Q. We have seen it on the overhead projector and that would be consistent with the sort of instructions you would have given to other people in relation to that fund, isn't that right?

A. Made out to Fianna Fail, no, because well Fianna Fail Party Leader's Fund would have been what I would have expected people to put on it.

Q. And is your evidence then that you'd have preferred any

monies going to Brian Lenihan to be made out to the Fianna Fail Party Leader's Fund but evident it was going to Fianna Fail or money that was going to Fianna Fail to be made out to Fianna Fail so looking at your two cheques you'd know which was which?

A. Absolutely, yeah.

Q. But you say you gave no such instructions to Mr. Mark Kavanagh.

A. No. My meeting with Mark Kavanagh was an initial type meeting and I don't recall following up that.

Q. But somebody followed up and somebody took considerable interest in following it up and giving quite detailed payment instructions. Have you ever given or been instructed to give anyone payment instructions of that kind?

A. Absolutely not.

Q. Your initial approach to Mr. Kavanagh was, you say, made at the time when the election was anticipated, it may not have been called at that time?

A. I think so, yes.

Q. And can you recall what prompted you to approach him?

A. I don't think he was the only one I approached. I think there was a number of people. At the time, I used to keep a regular check on the newspapers and see who was doing well, who was being mentioned in the newspapers as doing well or whatever and they would have been the targeted people when it came to fund raising. Now, it happened in

one or two occasions I was asked not to go near people and it transpired why I was not to go near was because they were having financial difficulties at the time but I wasn't aware of and I can remember at one stage Mr. Haughey said to me steer clear of one or two people who it transpired later who were friends of his who were having financial difficulties and he preferred I didn't embarrass him so the whole fund raising thing was based on a knowledge of what was happening out there.

Q. And was it also based on a discussion or discussions with Mr. Haughey of the kind you have just now described and of the kind that you had in relation to the Brian Lenihan fund?

A. No, I think the Brian Lenihan fund, he said to me, "Look, go off there and draw up a list" and I think what I did was I went back to him with the proposed list and as we discussed earlier, he crossed one name off it and left it to me then to follow it up.

Q. How would Mr. Haughey know to tell you not to approach people that you had planned to approach by reason of perhaps a temporary financial embarrassment unless you had discussed things with him?

A. That didn't happen on very many occasions. I can remember one or two occasions, I never asked why at the time but subsequently I realised his reason for doing it was that they were having temporary difficulties at the time.

Q. I think what you said to me and correct me if I am wrong,

there were times you planned to approach certain individuals and you were told not to do so by Mr. Haughey. How would Mr. Haughey have been aware you had intended to approach

A. We had had about four or five elections in the previous six, seven years and there were people who were regular contributors and it was one of those that I particularly remember he said to me "don't embarrass or don't approach him for a donation on this occasion" and it was subsequent to that I found out why but he didn't tell me why at the time.

Q. I understand that. What I am trying to drive at, on what occasion would Mr. Haughey have said that to you? You must have been discussing fund raising with him and potential targets?

A. It's very hard to say exactly when because as once again I told you earlier, I had contact with him two or three times a week and we discussed a whole range of things because of my involvement with some of the other aspects of the parties and semi state bodies at the time.

Q. But can I take it then you must have discussed with him the likely people you were going to approach to raise monies to wipe out this very large debt the party had

A. That came as a result of '89, that would have been just the fund raising committee, from discussions at that committee and with the officials, the likes of Sean Fleming and the Secretary of the party, that's really more likely the

reason why I took the initiative.

Q. So in terms of the type of inquiry that the Tribunal has to pursue then, it would appear that Mr. Haughey didn't know from you that you were going to target Mr. Mark Kavanagh?

A. No, he did not.

Q. He didn't know from you that you had targeted Mr. Mark Kavanagh, to the best of your recollection?

A. That's correct.

Q. He didn't know from you that Mr. Mark Kavanagh intended to make a substantial contribution?

A. That's correct.

Q. And you nor anyone in Fianna Fail that we know so far had nothing to do with making the payment arrangements that Mr. Mark Kavanagh eventually put in place to hand over to Mr. Haughey?

A. That's also correct.

Q. And it is true in the case of Mr. Nicholas Fitzpatrick, for instance, the payment hand-over of the cheque, I am not suggesting there was anything wrong with it at all, was done, as you might expect, in the ordinary way; you went to the fund raiser's office in the Westbury Hotel and you handed it over to him?

A. And I don't recall that by the way but I absolutely believe it.

Q. But that was a frequent occurrence?

A. Yes.

Q. And I think is that also the case with Mr. Oliver Murphy's

Lenihan contribution?

A. During that three weeks, we would have had three or four people in the Westbury full-time and every hour from 9:00 in the morning to 10:00 at night we would have people coming going.

Q. Is it likely that people would send in smaller contributions but would expect some face-to-face contact for a larger one to, as it were, receive some more obvious acknowledgment that they were putting up a fair amount of money?

A. I explained to you before that was the problem that we had, that it came people who made donations became aware that we were being very secretive about the amounts and that they were probably not getting full recognition for what they were doing so they decided as time went on and around about that time, they were better off maybe giving the donation to the Party Leader or senior ministers with the intention of it coming to the Fianna Fail Party but they felt by doing that, they were getting some recognition that they weren't getting through the normal process.

Q. And this would be regular contributors to the party who might be contributing at every election?

A. Oh yeah, yeah.

Q. Mr. Kavanagh had only, through his company, had made one rather modest contribution compared to this very large one on a previous occasion, isn't that right?

A. Yeah.

Q. And I don't think his company would in any case - wouldn't have been a supporter of the party up to then?

A. I got to know Mark Kavanagh reasonably well around about that time because I was very much involved with the whole happening of the Financial Services Centre. I travelled to New York with him when he first proposed the idea and subsequently I arranged meetings with Mr. Dermot Desmond and Mr. Haughey and all that at the time so I was quite involved at that stage in the whole Financial Services Centre.

Q. And did you see the financial services sector and the participants in that sector as the likely targets for contributions?

A. Oh yeah.

Q. Without wishing to ask you to name names here in the witness-box, would you have targeted other, if you like, I won't use the word beneficiaries, other successful businessmen involved in the Custom House Docks Development venture?

A. At that stage now, from memory, the construction was only under way so I can't see that very many people benefited from it at that stage.

Q. But there were presumably individuals involved a) in the construction, in the development, I presume Mr. Mark Kavanagh wasn't actually the builder involved, he was the developer. There would have been construction interests and there would have been presumably other financial

interests or even with, how should I put it, an overall interest in the success or failure of the Financial Services Centre?

A. One of the other people on the list I gave you was Dan McInerney and I don't think I contacted him then because I realised he was involved with Mark Kavanagh and British Land.

Q. That was on the list of the Brian Lenihan fund?

A. Yeah.

Q. And was it through Mr. Dan McInerney that you first came into contact with Mr. Mark Kavanagh?

A. No, I don't think Dan McInerney was a name that came up on previous elections. I believe that his company was one of the sort the longstanding supporters of Fianna Fail and his name would have come up at every election.

Q. Did you ever have any involvement with Mr. Des Traynor in relation to fund raising?

A. Not in relation to fund raising. I took over the job as chairman of subsidiary bodies of Aer Lingus from Des Traynor I think about two years before he died. I was on the board of Aer Lingus at the time and I had a lot of contact with him during that time but no contact in relation to fund raising.

Q. You are aware that Mr. Michael Smurfit has made, has provided information to the Tribunal to the effect that a contribution for Fianna Fail was solicited from him by Mr. Haughey and that that contribution was to be sent to an

Ansbacher Account in a bank in London. Can I take it that

Fianna Fail were not operating Ansbacher accounts?

A. No, no offshore bank accounts.

Q. Fianna Fail accounts were in Dublin?

A. Yeah.

Q. And there was only one Fianna Fail fund raising account?

A. The whole

Q. As Mr. Fleming has said?

A. The whole sequence was described correctly by Sean

Fleming. That was the only fund raising account.

Q. As in the case of anyone involved in fund raising or as in

Mr. Fleming's case involved in financial control, it's

extremely important you be able to account for money that

people give you?

A. That's one of the conditions that I laid down when I got

the job, that there had to be checks and balances made.

Q. Have you ever received contributions from Mr. Des Traynor

from Mr. Michael Smurfit?

A. No.

Q. And once again, Mr. Haughey has never directed you to

arrange for any party contributions to go to accounts

outside the country other than Fianna Fail?

A. Absolutely not.

Q. And have you ever received any instructions from him in

relation to his own personal fund raising in his own

constituency?

A. No, the person used to look after his personal fund raising

at the time was the late Pat O'Connor, I might have had the odd discussion with him. I think on one or two occasions I might have argued with him whether cheques were intended, and these would be relatively small cheques, intended for the constituency or intended for Fianna Fail.

Q. I can understand that sort of rivalry, whatever way you want to put it. But as far as you are aware, Mr. Des Traynor never made any contact with you in connection with either the personal or party fund raising of Mr. Haughey?

A. No, he did not.

Q. You were aware of Mr. Traynor's involvement with Mr. Haughey as a financial advisor?

A. Yeah.

Q. And that would have been the extent of your awareness of his connections with Mr. Haughey?

A. And Mr. Haughey, I think which, well I may not have explained to you, he compartmentalised everything, that Mr. Maher was in charge of press, I was in charge of fund raising, Mr. Traynor was in charge of his and he didn't, I don't think he ever liked us to be too familiar with each other.

Q. Well, that's what I am trying to inquire into, in a sense.

Mr. Traynor was clearly personal money?

A. Yes.

Q. Mr. Kavanagh was Fianna Fail money?

A. Yes.

Q. And Mr. Traynor and Mr. Kavanagh or Mr. Traynor and Fianna

Fail shouldn't be interconnected?

A. Absolutely.

Q. And I presume therefore you'd be as surprised as the Tribunal was to see that Mr. Traynor was confirming receipt of funds for Fianna Fail?

A. Yes.

Q. Thank you.

CHAIRMAN: Thank you very much, Mr. Kavanagh.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Frank Lynch please.

FRANK LYNCH, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MS. O'BRIEN:

Q. Thank you, Mr. Lynch. Mr. Lynch, you have provided the Tribunal with a memorandum of your intended evidence and I don't know if you have a copy of that with you in the witness-box?

A. I have.

Q. What I propose is if I take you through that, there are some documents appended to your memorandum and perhaps we can look at those in the course of your evidence?

A. Okay.

Q. You state that you are the manager of the, you are now the manager of the branch of Allied Irish Banks at 1-3 Lower Baggot Street, Dublin 2, is that correct?

A. That's correct.

Q. And your predecessor Mr. Alan Kelly has already given detailed evidence to the Tribunal, at the end of October 1999 in relation to the operation of account number 30208062 in the name of Mr. Charles Haughey, Mr. Bertie Ahern, Mr. Ray MacSharry, including detailed information on the debits and credits to the accounts to the years 1984 to 1992 and that's in fact the account which the Tribunal refers to as the Leader's Allowance Account?

A. That's right.

Q. You state that arising from additional information which you have been informed has come to the attention of the Tribunal, the bank has been asked to provide further evidence in relation to certain transactions on the account in June of 1989 and also regarding the contents of documents which are available to the bank and pertaining to cheques and instruments drawn on accounts held with the bank and drawn on the bank itself?

A. That's right.

Q. And the three matters in fact on which you have been asked to give evidence are a payment which the Tribunal has heard evidence of from Mr. Nicholas Fitzpatrick of €10,000 which he intended as a contribution to funds raised to defray the late Mr. Brian Lenihan's medical expenses; secondly, is a cheque for €25,000 which is dated the 13th June and was provided by Customs House Docks Development Company Limited payable to Fianna Fail. The involvement of the bank in relation to that is that the cheque was drawn on an account

held with Allied Irish Banks and then finally, three drafts each for €25,000 dated the 13th June and payable to cash which were drawn on your College Street branch.

Now I think you informed the Tribunal that it would be recalled from the evidence which Mr. Kelly gave that the total lodgments to the account in 1989 were €313,409.28 and the account we are referring to there is the Party Leader's Allowance Account in Baggot Street. And from information available to the Tribunal regarding the quantum of the Party Leader's Allowance, it appears that the additional funds amounting to €220,302.28 were lodged to the account.

A. Yes.

Q. And I think you informed the Tribunal that the bulk of the additional funds amounted to approximately €180,000 appear to have been lodged to the account between the 25th May 1989 and the 29th June of 1989. And that was over a five week period?

A. Yeah.

Q. And you state it will be recalled in that period there appeared to be the following lodgments additional to installments of the Party Leader's Allowance and we can just put document number 1 on the monitor, we can see the lodgments there to the account. The first one is on the 25th May of 1989 in the sum of €25,042. I think you can see that on the screen there beside you. There are then two lodgements on the 1st June of 1989, one of €6,652.76

and the second of €40,000. Then a lodgment on the 8th June of 1989 of €9,288.63, and then the final additional lodgment on that page was on the 14th June of 1989 in the sum of €57,600 and then I think on the second page of the accounts statement, the extract from the accounts statement shows the final three additional lodgments; two of them on the 20th June of 1989 in the sums of €67,288.63, and the second one €36,000 and I think in relation to that lodgment of €36,000, you have confirmed the evidence already heard by the Tribunal from Mr. Kelly that appears to comprise the proceeds of a cheque for €25,000 and provided by Mr.

Laurence Goodman?

A. Yes.

Q. And then the final additional lodgment is on the 29th June of 1989 in the sum of €7,000. And then you go on to say in your memorandum that with the exception of two lodgments of €18,185.63 on the 14th September of 1989 and €25,000 on the 21st September of 1989, there do not appear to have been any other lodgments to the account in 1989 apart from installments of the Party Leader's Allowance.

Now you say that you understand that the Tribunal has been informed by Mr. Nicholas Fitzpatrick of Atron Electronics Limited and that company is also a customer of Allied Irish Banks, that Mr. Fitzpatrick provided a cheque drawn on the Atron account number 00026006 in the amount of €10,000 and that was cheque number 2281.

A. Yes.

Q. I think you said it appears in the same of that account and we have seen this already yesterday, it's on the monitor now, that the cheque was debited to the account on the 16th June of 1989.

A. Yes.

Q. And I think can that be identified from the cheque number appearing on the account statement. Is that how you identified it?

A. That's right.

Q. I think you have said, you have informed the Tribunal that in the usual course, a cheque would be debited to the account on which it is drawn within two to four working days of the cheque being negotiated?

A. Yes.

Q. And that would be negotiated either by being cashed or being lodged to another account at another bank or another branch?

A. That's right.

Q. You state that the proceeds of the cheque for œ10,000 were debited to the Atron account on the 16th June and which you understand was a Friday?

A. That's right.

Q. And you accordingly state that the cheque therefore had been negotiated on the 12th, 13th, 14th or even possibly the 15th June, that would be the four days beforehand?

A. Yes.

Q. You state that a copy of the Atron cheque is not available

as the bank's relevant retention period has passed.

A. That's right.

Q. Presumably in the ordinary course a copy of that pay cheque would either have been, in those days if that was the time when pay cheques were returned to customers but they would have been held on some kind of microfiche record?

A. That's right.

Q. But that retention period for the copy cheque has expired?

A. That's right.

Q. And I think you have also said that similarly the waste sheets for the Leader's Allowance Account for that period are not available as the retention period for those documents has also expired, they would be the Allied Irish Banks, Baggot Street internal records which would presumably, they would show the instruments which are comprised in a particular lodgment?

A. Exactly.

Q. And they are not available?

A. Not available.

Q. You say it is not possible to determine whether the proceeds of the Atron cheque were lodged to the Leader's Allowance Account?

A. Yes.

Q. Now you have, however, noted that there was a lodgment to the Leader's Allowance Account on the 14th June of 1989 and that's in the sum of œ57,600. You say that as this was two days prior to the date on which the cheque was paid out of

the Atron account, that that lodgment may comprise the proceeds of the Atron cheque?

A. It's possible, yes.

Q. It's possible because it's within the two day period?

A. Yes.

Q. But other than that, you can't take the matter any further?

A. No.

Q. You say that in view of the date on which the Atron cheque was debited to the account on which it was drawn, that was the 16th June and the amount of the cheque which was €10,000, there were no other lodgments to the Leader's Allowance Account which might have comprised that cheque and I think we can see there the lodgment of €57,600 on the 14th June but prior to that date, there isn't any other lodgment until you go all the way back to the 1st June 1989?

A. That's right.

Q. Other than the lodgment of €9,288.63 on the 8th June, but I take it because that's less than €120,000 and assuming that part of the proceeds weren't taken in cash, that that lodgment couldn't comprise the Atron cheque?

A. That's right.

Q. Now then in relation to the second matter which you refer to in your memorandum, you state that you have been informed by the Tribunal that a cheque for €25,000 payable to Fianna Fail dated the 13th June 1989 was provided by Custom House Docks Development Company Limited and that

that company, Custom House Docks, was also a customer at the relevant time of Allied Irish Banks and you say that it appears from the statement of the bank account on which that cheque was drawn that it was debited to the account on the 19th June of 1989 and again we have seen that document I think in the course of hearings yesterday and we can see the debit there on the 19th June of 1989.

A. That's right.

Q. And you state that you have further been informed by the Tribunal that the cheque was not delivered until the 15th June of 1989 and then I think referring back to the statement of the Leader's Allowance Account, you say it appears that the cheque must have been negotiated on the 15th, 16th, 17th or 18th June and you can confirm, as is apparent from the accounts statement, there was no lodgment to the Party Leader's Allowance account on that date?

A. That's correct.

Q. Or on any of those dates.

A. Yes.

Q. And of course to an extent your evidence with regard to this matter has been superseded by the evidence heard yesterday as the Tribunal now knows from Mr. Fleming, that that particular cheque was received by Fianna Fail Head Office and was lodged to Fianna Fail Election Funds Account and not to this account?

A. Yes.

Q. And then the final matter on which you were asked to give

evidence was in relation to three drafts for €25,000 each which were drawn on your College Street branch dated the 13th June 1989 and each of them payable to cash and the three drafts are on the monitor. Now you have also provided to the Tribunal a copy of the College Street Demand Drafts Account and that shows that these drafts were debited to the account on the 22nd June of 1989 and you can compare those entries with the numbers on the face of the drafts, is that correct?

A. Yes, that's correct.

Q. You can see there the 3513, 3514 and 3515 which correspond to the numbers on the face of the drafts themselves?

A. That's correct.

Q. And you say that this would suggest that the drafts were negotiated either by being cashed or being lodged to another bank account in the four days prior to the 22nd June, is that correct?

A. That's correct.

Q. And you say that the sequence of numbers appearing beside the entries on the bank statement which includes the letter C, the beginning of that sequence, the capital letter C, signifies that the instrument passed through the clearing system and this means that they were not negotiated at the College Street branch, is that correct?

A. That's correct.

Q. And it means they must have been negotiated at either another branch of Allied Irish Banks or at another bank?

A. That's correct.

Q. And of course we know again from the evidence of Ms. Sandra Kells, which was given to Tribunal yesterday, that the three drafts were in fact negotiated on the 20th June of 1989 through Guinness & Mahon?

A. That's the crossing brand on the reference.

Q. And the two of them converted in one draft for œ50,000 and another, so that the matter stays in context, another of the drafts was lodged to an Amiens Securities account, but the position as regards this account statement is that it's consistent with those drafts having been negotiated on the 20th June.

A. That's correct.

Q. Thank you very much.

CHAIRMAN: Nothing, Mr. Sheridan? Thank you very much for your attendance, Mr. Lynch.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Those are the witnesses this morning

CHAIRMAN: We are just gone half twelve so we will resume at ten to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

MR. COUGHLAN: May it please you, Sir. Mr. Michael

Smurfit.

MR. FRY: I appear for Mr. Michael Smurfit.

MICHAEL SMURFIT, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

MR. COUGHLAN: Mr. Smurfit, I think you, through your solicitors, have furnished a memorandum of intended evidence for the assistance of the Tribunal, isn't that correct?

A. Yes.

Q. Do you have that with you in the witness-box?

A. I do indeed.

Q. And what I intend doing is taking you through that particular memorandum and maybe asking one or two questions if they arise.

A. Okay.

Q. I think you have informed the Tribunal that with the passage of time, it is difficult for you to recall what occurred in regard to the donation made by the John Jefferson Smurfit Monegasque Foundation to Fianna Fail in 1989 and that that statement is given by you at this time at the request of the Tribunal from your best recollection of events in 1989 but you have not as yet had an opportunity of reviewing the files and records of the foundation, isn't that correct?

A. That's correct.

Q. And I think you have informed the Tribunal that you believe

that the donation was solicited by the then Taoiseach, Mr. Charles J. Haughey, and that he was, Mr. Haughey, requested you to deal with Mr. Desmond Traynor with regard to the payment details, is that correct?

A. That's correct.

Q. The donation was made by a transfer of the sterling equivalent of €60,000 Irish on the 14th June 1989 from the foundation to a sterling account number 190017/202, Henry Ansbacher and Company Limited, 1 Mitre Square London, EC3 A5AA, is that correct?

A. (Witness nods.)

Q. And that you believe that these payment instructions were given by Mr. Desmond Traynor, is that correct?

A. That is correct.

Q. You believe that the sum of €50,000 Irish was designated for Fianna Fail Central and the sum of €10,000 was for Fianna Fail East, is that correct?

A. That's correct.

Q. And again that is information which would have been given to you by Mr. Desmond Traynor, is that correct or by

A. I don't recall where it was Mr. Traynor or Mr. Haughey on these designation of the amounts in question.

Q. I see. I think you informed the Tribunal that you believe that a member of your staff telephoned Mr. Traynor on the 21st June 1989 to confirm that the payment had been made, is that correct?

A. That's right.

Q. And you have a vague recollection that an acknowledgment or receipt may have been requested but you have not as yet been able to have the records researched to see if there is any evidence of such receipt being requested or received, isn't that correct?

A. That's exactly the position.

Q. I think at the moment, Mr. Smurfit, inquiries are being conducted in Monaco, isn't that correct?

A. Right.

Q. In respect of the records of the foundation?

A. Yes, and I'd hoped to have them today for you.

Q. Yes, and I think you have informed the Tribunal through your solicitor that when those particular records become available, they will be made available to the Tribunal and you will, if necessary, return to deal with the matter, isn't that correct?

A. That's correct.

Q. And I think there were two other queries raised with you again which require some research being done into records of the company, isn't that correct?

A. Yes.

Q. And I think again, when those documents become available, you will make them available to the Tribunal and if necessary, deal with them at a sitting of the Tribunal?

A. Absolutely.

Q. And I think you do appreciate that it's a matter of urgency for the Tribunal and you have instructed that these

inquiries be carried out as a matter of urgency, isn't that correct?

A. Unfortunately, because of the strike that happened in France on Monday, I had hoped to have the information today.

Q. Yes, I think that may come on Monday. There was an air traffic control strike on Monday which prevented the flights in or around that particular country, is that correct?

A. I had to come here on Sunday to make sure I was here.

Q. Thank you very much, Mr. Smurfit.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Eoin Ryan please.

MR. EOIN RYAN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

CHAIRMAN: Good afternoon, Mr. Ryan. Thank you for attending.

Q. MR. HEALY: Thank you, Mr. Ryan. Mr. Ryan, you have provided the Tribunal with information from which a memorandum of your intended evidence has been prepared and I hope you have a copy of that document?

A. That's correct.

Q. What I intend to do is to simply go through the memorandum and to ask you to confirm the various bits of information contained in it and if you want to change any of it, you

can stop me as I go through it and then I may ask you one or two questions in order to clarify matters afterwards.

Now, you say that you joined the Fianna Fail Fundraising Committee in approximately 1992 when Mr. Albert Reynolds took over as Taoiseach. You had not previously been on the fundraising committee. You knew Mr. Mark Kavanagh and you were asked to call to Mr. Kavanagh in 1996 regarding a contribution. You are not sure who asked you to contact Mr. Kavanagh but it may have merely been the fact that Mr. Kavanagh's name was on the list of contributors.

A. That's correct.

Q. You contacted Mr. Kavanagh who indicated that he was disposed towards making a contribution. However, he said that he had received no acknowledgment for a contribution he had previously made and he was somewhat annoyed about this. You are not sure if Mr. Kavanagh mentioned a specific sum but you understood that he was talking about a substantial contribution. Following this meeting, you went to see Mr. Bertie Ahern who I think was then a minister, but not taoiseach, isn't that right?

A. Sorry, what was that?

Q. In 1996, he was Leader of the Opposition he was Leader of the Opposition in 1996. And you told Mr. Ahern about your meeting with Mr. Kavanagh. And Mr. Ahern said that he would look into the matter.

A. That's correct.

Q. You then rang Mr. Kavanagh's office a week or two later to tell Mr. Kavanagh that the matter had been brought to Mr. Ahern's attention and that Mr. Ahern was looking into it.

A. That's right.

Q. You had no further conversation with Mr. Ahern in relation to the matter. You did not check the records of Fianna Fail to see what contribution had been made by Mr. Kavanagh in 1989 and it is only in recent days that you have become aware of a suggestion that some of the contribution made by Mr. Kavanagh had not been received by the Fianna Fail Party. As far as you were concerned, the only issue and the matter that was concerning Mr. Kavanagh was that he had made a contribution but had not received an acknowledgment for it.

A. That's correct.

Q. Now, you mentioned that you believe that your initial approach to Mr. Kavanagh may have been due to the fact that Mr. Kavanagh's name was on a list of contributors. Assuming that to be the case, who would have brought that list to your attention or drawn to your attention the names of people on a list of contributors?

A. Well, there was a fundraising committee and that committee there would be lists going back for some time of people who had contributed or might contribute and Mr. Kavanagh was on that list.

Q. You say that when you contacted Mr. Kavanagh, he indicated to you that he was, in general, disposed toward making a

contribution?

A. I think that's correct, yes.

Q. Did he give you a contribution at that time?

A. Did he give me a contribution?

Q. Yes.

A. No, he didn't.

Q. Did he give you an indication of how much he envisaged contributing at that time?

A. He had initially contributed?

Q. No. Did he give you any indication at that time of how much he envisaged contributing?

A. No.

Q. Did you think that his making a contribution was conditional on his getting a receipt or an acknowledgment or a response to his query concerning the absence of a receipt for his 1989 contribution?

A. Well, I think he said, "Before I consider the matter...", I mean I am not using his words but the gist of it was, "Before I consider giving a contribution, I want to make a complaint to you that I didn't get an acknowledgment of my last one." And he certainly indicated that if that matter was cleared up, he would be, as I say, favourably disposed.

Q. Now, you are not sure if he mentioned a specific sum but you certainly understood that he was talking about a substantial contribution?

A. Yes, I think so, yeah.

Q. At the time that Mr. Kavanagh was speaking to you, I take

it you didn't envisage that you yourself would go and check the Fianna Fail records?

A. No, that simply wouldn't arise because I wasn't I wasn't on the Fianna Fail staff. I wasn't I had nothing to do with the administration of Fianna Fail. We were a committee of people who were associated with Fianna Fail and we were this committee was set up to approach people for subs. We simply approached people. We either got a sub or we didn't and we passed it on. After that, it went into the Fianna Fail office. We had nothing to do with it.

Q. So can I take it therefore that you were going to take this matter up with somebody in your own mind, once you left Mr. Kavanagh, you were going to take it up with somebody, you were going to put in train an inquiry concerning an earlier contribution?

A. It wasn't just somebody, and I intended and I am not sure that I told Mr. Kavanagh, but I certainly intended to report this to the leader of the party, Mr. Ahern.

Q. And you did go to Mr. Ahern and you told Mr. Ahern about your meeting with Mr. Kavanagh and then Mr. Ahern said that he would look into it?

A. That's right.

Q. And I take it that you assumed that Mr. Ahern would have access, through somebody else or if not, himself, to the records of Fianna Fail to check

A. Yeah.

Q. Mr. Kavanagh's complaint effectively?

A. Yeah.

Q. And would you agree with me that in the ordinary way, if you wanted to check whether somebody had received a receipt or an acknowledgment of a payment, that where you yourself were not going to carry out the check but where you were going to convey a request that such a check be carried out to somebody else, that you would, in the ordinary way, probably have given the amount of the payment

A. Sorry, that what?

Q. You would have given the amount of the payment as well as notice of the fact of the payment to the person you were asking to carry out the check?

A. Well,, no, I think in this case Mr. Kavanagh was kind of annoyed. He said "I made a contribution and I never got an acknowledgment" and the emphasis was very much on the fact that he hadn't got an acknowledgment, so when I went to Mr. Ahern, I conveyed that message.

Q. Oh, I appreciate that, but I am merely trying to pursue your own recollection that you are not sure whether Mr. Kavanagh mentioned a specific amount

A. That's right.

Q. and I am trying to, if you like, tease out what you or anybody else would do, in the ordinary way, if you were asked to check up on a payment, in this case a contribution to a political party and what I am suggesting is that in the ordinary way, if somebody said to you, "Mr. Ryan, I

want to check up, I am annoyed I didn't get a receipt or an acknowledgment of a payment I made" and if you yourself were not going to make the check, then you would say "Could you please tell me how much you paid and when you paid it and I will find out"?

A. Well, I can't comment on in the ordinary way, this was the only occasion that I recall where anybody had complained and Mr. Kavanagh had been kind of very much a single comment, a single complaint. "I made a contribution, I didn't get acknowledgment and I am annoyed." And I just passed on that kind of very net message to Mr. Ahern. The meeting I had with Mr. Ahern, it was a very, very short meeting. I just went in, I told him what had happened and it was a very short meeting. We didn't elaborate on details or anything like that.

Q. If I could go back to the fundraising process for a moment. In fundraising when you looked at the list of previous contributors and presumably somebody may have mentioned Mr. Kavanagh's name, I am not sure how this happened but it was probably something along the lines of "Mr. Ryan, you work with or know Mr. Kavanagh, would you deal with him" and mister so-and-so would be asked to deal with somebody else and so on, I presume it's something along those lines, is that right?

A. Yes. I think that something like this would happen at the committee, the meeting of the committee. They'd say, we have they'd mention various people and then somebody

would say, somebody might offer, oh I'll talk to mister so-and-so or maybe somebody would say "Would you do a call or call on so-and-so?" So it was just a matter of around the table, "Would you do it?", "Oh, I know him" and so on.

Q. Who has the expertise or the contacts or the way into a particular individual?

A. Yeah.

Q. And in approaching an individual for a contribution, would you normally know or be armed with information as to how much that individual had paid on a previous occasion?

A. We might, sometimes we would, yes.

Q. Wouldn't it seem reasonable to know whether it was worth pursuing a person at all for a large contribution? Can I put it another way, that's a sort of a comment I suppose.

If you knew somebody had only made a small contribution or a relatively small contribution, then presumably you would be going to him looking for a similar contribution on the next occasion that you'd approach him. If you knew somebody had made a large contribution, well then you might, I suppose, expect either an equally or relatively large contribution from that person as well, would that be fair?

A. Yes, I think that your expectation would probably be based on what the person had contributed in the past.

Q. And what I am driving at is that when you approached Mr. Kavanagh, Mr. Mark Kavanagh in 1996, would it be reasonable to assume that you would have been armed with

the information that Fianna Fail records showed that he had contributed €25,000 in 1989?

A. You'd probably be reasonable to assume, but I can't remember whether I had in fact a figure in my mind, that I had been given a figure.

Q. What I am getting at is that if Mr. Kavanagh was, as you say, more annoyed that there had been no sort of acknowledgment or recognition of the fact of the payment rather than the amount of it and if you don't remember any discussion with him concerning the amount, is it possible that that is because you knew the amount already? You knew what you thought was the amount in any case, you knew that

A. That he had

Q. contributed €25,000 as you would have thought?

A. No, I certainly have no recollection of having heard what any previous contribution was.

Q. You can understand the position the Tribunal is in, trying to inquire into a set of circumstances which obtained in 1989 based on records that were available to Fianna Fail which suggested that Fianna Fail had received a contribution of €25,000 when in fact a payment of €100,000 had been made. That's the situation the Tribunal finds itself in, that you didn't know or at least if you checked Fianna Fail records, you wouldn't have known that Mr. Mark Kavanagh had passed over €100,000 to Mr. Charles Haughey. You wouldn't have been aware of that in 1989 in 1996, I

beg your pardon, 1996. And obviously your dealings with Mr. Ahern did not bring to the surface, so far as you can recall, the fact that Mr. Mark Kavanagh was recorded as having made a €25,000 contribution, isn't that correct?

A. Sorry?

Q. Your dealings with Mr. Ahern did not disclose the fact that Mr. Kavanagh was recorded as having made a contribution of €25,000, that fact didn't come to light in the course of your dealings with Mr. Ahern in 1996?

A. No. There was no as I say, it was a very brief conversation.

Q. After you spoke to Mr. Ahern, you rang Mr. Kavanagh's office a week or two later to tell Mr. Kavanagh that the matter had been brought to Mr. Ahern's attention and that Mr. Ahern was looking into it.

A. Yes.

Q. Can I take it from the way that you have put it in your memorandum of intended evidence that it's not clear that you spoke to Mr. Kavanagh on that occasion?

A. I am pretty sure I didn't. My recollection is that when I rang, I was told that Mr. Kavanagh was abroad, something of that kind and I said, "Well, would you please tell him that, with regard to our discussion" I kind of identified the discussion "that I have passed on your complaint" or your, whatever it was.

Q. Well, query, if we can put it that way, query or complaint. You indicated to his office that the query or

complaint that he raised with you was being looked into by the Leader of the Opposition at the time, Mr. Ahern?

A. Yeah.

Q. Did you ever pursue with anybody after that time what the result of Mr. Ahern's inquiries had been?

A. No.

Q. Not with Mr. Ahern and not with Mr. Kavanagh?

A. No, no.

Q. And did you ever get any impression from any person, any individual, whether in Fianna Fail or Mr. Kavanagh himself, as to how that inquiry you put in train was dealt with?

A. No. I reported the complaint and having done that, I felt it was a matter then for Fianna Fail administration to inquire into it.

Q. When Mr. Kavanagh, if I could just go back to Mr. Kavanagh's first mentioning this matter to you, did he mention to you that he had made his original 1989 contribution to Mr. Charles Haughey?

A. No. I think he didn't even I think all he said was that "I never received an acknowledgment to the last contribution I made" but he didn't go into didn't go back to 1989. I didn't even know whether it was '89 or when it was.

Q. Did you have any involvement in setting up the meeting in 1996 whereby Mr. Kavanagh handed over a cheque for €50,000 to Mr. Bertie Ahern?

A. No.

Q. Were you aware that that contribution had been made at that time?

A. I wasn't aware until last week or two.

Q. Did you never find out, in other words, what the fruits of your labour had been, as it were?

A. The fruits of my labour in what sense?

Q. Well, you had approached Mr. Kavanagh, he had indicated he was disposed to make a contribution, he mentioned a matter that was of some concern to him. You put in train an inquiry, you mentioned to Mr. Kavanagh's office that you had put in train the inquiry he wanted made. You had gone to some trouble to keep a potential contributor, if you like, happy. I am just wondering did you ever find out what the result of those efforts on your part were?

A. I don't think so, no.

Q. Is that unusual for a fundraiser not to find out whether his fundraising efforts have produced any fruit?

A. Sometimes we would hear that somebody finally did send a cheque or something like that, but I don't recall that I don't recall hearing that Mr. Kavanagh had subsequently given €50,000.

Q. How do you or do you have any knowledge at all, even indirect knowledge, as to how Mr. Kavanagh came to make his contribution by way of a personal meeting with Mr. Ahern to hand over a cheque made payable to Fianna Fail?

A. You mean this was the €50,000?

Q. Yes.

A. No.

Q. And you didn't have any role in setting up that meeting?

A. No, I don't think according to Mr. Kavanagh's evidence, I think it was I think that Mr. Ahern was at some kind of a meeting or something.

Q. That's correct, a lunch meeting?

A. And I was given a cheque, yeah.

Q. I see. In your ordinary fundraising efforts, how do you arrange for the money that you are promised to be given to the party?

A. How do you what?

Q. Arrange for the money, any monies that you have promised, how do you arrange for those monies to be transmitted to the party?

A. Normally we would normally I would very often the person said "Well, I'll think about that" or "I'll see what I can give" or something like, that I'd say "Well, send it on to headquarters" or "Send it on to the leader of the party."

Q. Send it on directly

A. Sometimes actually they would give you a cheque on the spot and you'd pass that on.

Q. And if you tell them to send it onto the leader of the party, by that I take it you mean to the leader of the party at party headquarters?

A. Yes.

Q. You have no am I right in thinking that you did not have

a role on a Fianna Fail fundraising committee in 1989?

A. No. I may have in the sense that I may have had a very peripheral, I may have been asked at that time more to, "Would you ask so-and-so would he give something to the party?" but I know I wasn't kind of an active member.

Q. You were not a member of the committee, though somebody on the committee said "We will ask Mr. Ryan to approach such and such an individual

A. Something like that.

Q. That's not an unusual feature of the way fundraising committees in Fianna Fail would operate, would that be right?

A. That's right.

Q. Thanks very much, Mr. Ryan.

CHAIRMAN: As regards the people who were mentioned at the meeting of the fundraising committee that you referred to, Mr. Ryan, would they all have been people from whom relatively substantial contributions

A. Would they all have been people

CHAIRMAN: Would they all have been people from whom reasonably big contributions would be expected?

A. Yeah,

CHAIRMAN: They'd mostly have been corporate people?

A. Yes.

CHAIRMAN: And this wouldn't have been small or localised

funding. It would be the higher

A. It would have been reasonably big.

CHAIRMAN: Yes. Thank you very much.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Those are the available witnesses sorry,
there is one other witness, Sir.

MS. O'BRIEN: Ms. Noirin McKeon please.

NOIRIN MCKEON, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MS. O'BRIEN:

Q. MS. O'BRIEN: Thank you, Ms. McKeon. Just to put your
evidence in context. You are head of compliance for Davy
Group which incorporates Davy Stockbrokers and the evidence
which you have been asked to give re-arises from evidence
which the Tribunal has heard in relation to the purchase of
shares in Feltrim Mining plc subsequent to a March 1992
placement of shares in that company and those shares were
taken up, the Tribunal understands from the evidence of
Mr. Conor Haughey, by Mr. Dermot Desmond, by Mr. Emmet
O'Connell of Eglinton Exploration and possibly also by Davy
Stockbrokers, either on their own behalf or on behalf of
another client and it was in those circumstances that Davy
were asked to provide evidence to the Tribunal in relation
to this possible take-up of shares after the March 1992
placement.

You provided the Tribunal with a memorandum of your intended evidence. Perhaps I could just take you through that.

A. Sure.

Q. You say that your name is Noirin McKeon and that you have prepared this memorandum of intended evidence, that your role is that of head of compliance for the Davy Group of Companies which positions you as the primary point of contact between Davy and the various statutory and self-regulatory organisations with which Davys is required to interact, is that correct?

A. That is correct.

Q. You say that you joined Davy in April 1994 and that you had been employed in at compliance with Davy for the entire of the intervening period, is that correct?

A. That is correct.

Q. You say that on the 6th June, you received a letter from Mr. John Davis, solicitor to the Tribunal, requesting certain information regarding the placing of shares in Feltrim Mining plc. You state specifically the Tribunal sought confirmation of whether shares subscribed for by Davy were acquired for its own account or for those of its clients. You state that the letter intimated that it had not been possible to evidence a flow of funds from Davy to Feltrim Mining plc in a fashion similar to that of fellow subscribers to the placing. You state that the letter concluded by requesting you to tell phone Mr. Davis to

confirm that you would be in a position to assist the Tribunal.

A. Correct.

Q. Now, you state that you called Mr. Davis promptly after receiving and reviewing the letter. You recollect that you advised him that due to the fact that you do not retain records for more than the prescribed six-year period, you would be unlikely to be able to shed any light on the matter; nonetheless you undertook to look into the matter, to discuss it with your colleagues and revert to him as soon as possible.

A. Correct.

Q. You say that thereafter you conducted an internal investigation into the transaction concerned which took place a date in March 1990. I think, in fact, it was in March of 1992 sorry, March of 1990, you are correct, in March of 1990 some 10 years ago and you discussed the matter with all relevant personnel. You state that you do not have records of the transaction as it is your policy not to retain records after more than six years have elapsed from the transaction date, is that correct?

A. Yes, it is.

Q. You state that you also found that the relevant personnel are unable to recollect the details of the transaction, such that you cannot be definitive on any aspect of it.

A. Correct.

Q. You state that you noted that the Tribunal heard evidence

that an amount of £26,333 was payable by Davy on foot of the transaction. You surmised from that information that you may have offset this sum but if it was indeed due at all to Feltrim Mining plc. You state that such offset could have been against sums due to Davy for fees related to both this transaction and fees owing in respect of other corporate financial services and, in fairness, I think it should be noted that you did Davy did act as stockbrokers to Feltrim from the outset of the flotation of the company.

You state that in the absence of documentary evidence, you could not express any great confidence in that view, is that correct?

A. Correct.

Q. You state that you further surmised that as a result of such offset, a balancing payment was due to Feltrim. It was likely it may have been remitted together with a statement of account sometime after the payments from the other subscribers referred to in Mr. Davis's letter of the 6th June.

A. Yes.

Q. You state that the results of your internal investigation were returned to Mr. Davis by way of letter dated 8th June and that is the position?

A. Yes.

Q. You stated subsequent to your letter of the 8th June 2000 and based on information provided by the Minmet plc share

register, you were advised that Davy was allotted a total of 62,500 shares in 1990 at 32p a share amounting to a total of £20,000. You state that the assumption is that these shares were acquired by Davy in lieu of fees as previously explained. I think as you indicated earlier in your statement, that it may well have been that there were professional fees or such like due to Davys and the Davys may have offset those against sums that would have been provided in the subscription for these shares.

A. That's very likely.

Q. You say that at some date between mid-1990 and May 1992, you were advised again by reference to the share register, that Davy sold 21,886 shares resulting in a holding at that time of 40,614 shares.

A. Right.

Q. So it appears there was a sale of part of shareholding thereby reducing the shares held by Davy to 40,000-odd shares.

A. Correct.

Q. You say that you are further advised that the shares were suspended, that's dealings in the shares, were suspended between May of 1992 and June of 1993 and that you believe that a share consolidation took place in June 1993 resulting from the creation of one new share for every three shares then held.

A. Correct.

Q. You state that the Davy shareholding would thereby have

been converted to 13,538 newly consolidated shares. You say that you were further advised that the sale of those 13,538 shares in September 1993 is reflected in the share register, thus reducing the Davy shareholding arising from the 1990 allotment to nil?

A. Yes.

Q. So the effect of your evidence to the Tribunal is that there are no records in Davy in relation to their dealings with Feltrim dating from 1990, is that correct?

A. That's correct.

Q. And that the only evidence you can give is by reference to the entries that were on the share register?

A. Correct.

Q. But you can confirm that as of 1990, it appears that 62,500 shares were acquired by Davy at 32p a share.

A. That is consistent with the information coming from the share register as opposed to coming from our records.

Q. That it's from the share register of what is now Minmet plc and what is formerly Feltrim. I think we can take it that that share register is an accurate document and an accurate reflection of what the shareholding would have been at that time?

A. At that time.

Q. You surmised that you cannot be certain that there may have been an offset against professional fees due by Davys so that rather than actually subscribing capital for the shares, there was an offset against outstanding

professional fees?

A. Simply to avoid two separate transfers of cash, given that there would have been fees due in one direction, share subscription monies due in the other, a balancing statement would have been the sensible way of eliminating the admin associated with that and netting it out to whoever should pay the other at the end of the transaction.

Q. And that might explain why we can't see a direct transfer of funds going into the what was then the Feltrim account?

A. Yes, very probably.

Q. Thank you very much.

A. Thank you.

CHAIRMAN: Thank you, Ms. McKeon.

MR. COUGHLAN: Those are the available witnesses today, Sir.

CHAIRMAN: Half ten in the morning. Very good. Thank you.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
THURSDAY, 29TH JUNE 2000, AT 10:30AM