

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 20TH JULY 2000

AT 2:00PM:

MR. HEALY: The purpose of making an opening statement so soon after the last sitting, Sir, is to link this sittings and the last sittings mainly because, as you will be aware, the break in the sittings was due to a number of practical difficulties which arose in relation to some of the evidence due to be given, and also because some further inquiries were being made in the course of the giving of evidence during the last sittings, as a result of which some further information which is germane to some of the matters being discussed at the last sittings has now come to hand.

Therefore some of the evidence which will be given at these sittings commencing today has been mentioned and outlined in an earlier opening statement.

The two main items which have been mentioned already and in respect of which evidence will now be given concern Mr. Bernard Dunne and in particular, a payment which appears to have been made by him to Mr. Haughey in 1993. The other main item concerns the evidence of Mr. Haughey.

The Tribunal has already alluded to queries raised by the Tribunal in correspondence with Mr. Haughey over a considerable period of time, culminating in a number of letters sent more recently to Mr. Haughey in which many of

those queries were drawn together in a consolidated form.

In Mr. Haughey's evidence to the Tribunal at these sittings, it is envisaged that the Tribunal will be dealing in the main with his relationship with Allied Irish Banks and, if time permits, in part with dealings he had with Guinness & Mahon and to some extent with Guinness Mahon Cayman Trust.

Now, as I have pointed out at the adjourned sittings, it was not possible mainly for logistical reasons to call a number of witnesses. These were mainly witnesses who were mentioned in the course of the evidence of Mr. Paul Kavanagh and those witnesses are Mr. Oliver Murphy, Mr. Gus Kearney and Mr. John Magnier. The Tribunal now expects to hear these witnesses and also expects to hear from Mr. Vincent Jennings in connection with contributions to the Brian Lenihan fund and, in Mr. Jennings' case, in relation to a contribution made by Irish Press plc.

The Tribunal, at these sittings, will continue to deal with those other matters which came to light as a result of inquiries concerning the raising of funds for the medical expenses of the late Mr. Brian Lenihan and it will be recalled that the inquiries into the raising of those funds drew the attention of the Tribunal to other aspects of Fianna Fail fund raising efforts in the 1980s and in the 1990s, but mainly in relation to 1989 and 1990. Where fund

raising for Fianna Fail was concerned, evidence has been given by Mr. Paul Kavanagh, Mr. Mark Kavanagh, Mr. Eoin Ryan, Mr. Sean Fleming TD, Mr. Bertie Ahern TD, and by Dr. Michael Smurfit.

Now you will remember, Sir, that Dr. Smurfit was not in a position to complete his evidence. This was due to the fact that at the time he last gave evidence, further information was still outstanding and certain documents were not available and it was felt preferable to conclude a number of other inquiries before continuing with the evidence.

Evidence will also be given by Mr. Hugh Dolan in relation to Fianna Fail fund raising, in his case with particular reference to Fianna Fail records and one issue left outstanding at the last sittings in connection with the extent of the records made available to the Tribunal.

In this opening statement, I intend to deal firstly with evidence in connection with contributions to the Brian Lenihan fund and thereafter I intend to pass on to the other aspects of Fianna Fail fund raising with particular reference to the completion of the evidence of Dr. Michael Smurfit.

Firstly I want to mention the anticipated evidence of Mr. John Magnier. It will be recalled that in the course of the evidence of Mr. Paul Kavanagh, reference was made to a

list of donors to the Brian Lenihan fund, a list which contained a reference to Mr. Magnier and a contribution he had made or was expected to make to that fund. The Tribunal has now obtained a statement from Mr. Magnier, who has confirmed that he recalls Mr. Lenihan's illness in the late 1980s and also that around that time he was approached by Mr. Paul Kavanagh seeking contributions to fund expensive medical treatment in the United States.

Mr. Magnier has informed the Tribunal that he was only too glad to support this cause and agreed to give a contribution of €20,000 in total. He was anxious, and he believes that he stressed this at the time, that he wanted his contribution to be completely anonymous. He is satisfied that his contribution of €20,000 was made up of two bank drafts of €10,000 each issued by Allied Irish Banks plc, Saint Patrick's Bridge branch, Bridge Street, Cork. That was Mr. Magnier's bank. Copies of the drafts have been provided to the Tribunal. Each is dated the 8th June 1989, is in the sum of €10,000 and is made out to a Mr. Jim Murphy and a Mr. Jim Casey respectively. These are in fact fictitious names and it was not intended that the drafts be delivered to any such persons. These names were used so as to maintain confidentiality.

The payment of €20,000 in total appears to have been lodged to the Leader's Allowance Account on the 14th June 1989. From information made available by Mr. Magnier, Allied

Irish Banks and from the bank statements of the Leader's Allowance Account for the relevant period, it would appear that the €20,000 formed part of a lodgment of €57,600 credited to the Leader's Allowance Account on the 14th June of 1989.

The Tribunal also expects to hear from Mr. Oliver Murphy. Mr. Murphy is one of the other names mentioned on Mr. Paul Kavanagh's printed list. Mr. Murphy has informed the Tribunal that he was approached in 1989 to make a contribution to a fund to defray the medical expenses of the late Mr. Lenihan, that he was approached by Mr. Paul Kavanagh and that he made a contribution of €5,000. The contribution was apparently made by way of a cheque from Hibernia Meats and was apparently made payable to Fianna Fail. It was handed over in the Westbury Hotel and Mr. Murphy believes that it may have been handed to Mr. Paul Kavanagh.

The Tribunal has instituted further inquiries with a view to locating the cheque, or a copy of the cheque and/or the bank statements of the account on which the cheque was drawn so as to enable the Tribunal to ascertain whether the proceeds of the cheque can be shown to have been lodged to the Leader's Allowance Account.

Mr. Gus Kearney was another of the names mentioned on Mr. Kavanagh's list. Mr. Kearney's name appears both in the manuscript list and in the typed list. Both lists are on

the same piece of paper. Opposite his name is the number 10, which may indicate that a contribution of €10,000 was expected from him or that such a contribution may have been received from him.

When this matter was drawn to Mr. Kearney's attention, he informed the Tribunal that he does not recall that he received any approach to contribute to funds collected to defray the medical expenses of the late Mr. Brian Lenihan although he believes that it is possible that there was such an approach. Further inquiries are being instituted with a view to ascertaining whether any such contribution was made from funds under the control of MF Kent, a company with which Mr. Kearney was associated, as it seems likely that it was through that company that any such contribution was made. Unfortunately MF Kent is a company which operated through many different subsidiaries and associated companies and it may prove impractical in the long run to trace the payment, if any, although further inquiries are being made.

The Tribunal will also revisit some of the evidence given in connection with a payment made to the Brian Lenihan fund by Irish Press plc. It will be recalled that evidence was given by Dr. Eamon De Valera that he received a request from Mr. Dan McGing seeking a donation of €10,000 towards the fund. His evidence was that he discussed the matter with Mr. Vincent Jennings in April or May of 1989. Mr.

Jennings was at the time Managing Director of Irish Press plc and he recalls the approach and also recalls that after a short discussion he agreed with Dr. De Valera that it was appropriate for the company to make the donation. He says that it would have been normal for him to sign the cheque raised through which the donation would be made.

You will recall, Sir, that to date, the Tribunal has been unable to identify that payment either as having been received by the fund or indeed identify any location or any account to which the sum of €10,000 would have been credited.

Now I'll come to the evidence of Dr. Michael Smurfit. A certain amount of further information has now come to hand concerning the relationship between Dr. Smurfit, the Smurfit Group and Fianna Fail, and also Mr. Charles Haughey, in 1989 and in 1990. Dr. Smurfit gave some evidence last month in connection with a payment solicited from him by Mr. Charles Haughey for Fianna Fail funds in 1989. The evidence to date in relation to this payment is in brief as follows:

Fianna Fail records in 1989 contained a reference to a payment by Dr. Michael Smurfit in the sum of €50,000. The payment was in fact recorded in Fianna Fail Cash Receipts as an anonymous donation, although Dr. Smurfit gave no such direction as to anonymity. As we have now heard, however,

Fianna Fail documentation also contain a second list identifying certain donors, including anonymous donors, the receipts for whose donations were sent not directly to the donors themselves but to Mr. Charles Haughey. Dr. Smurfit's donation was one of those on that list. The donation of €50,000 is recorded as having been received in the form of a single bank draft issued by Guinness & Mahon. The Tribunal has heard evidence that this draft issued by Guinness & Mahon was funded by two bank drafts lodged to an internal bank account at Guinness & Mahon. The two bank drafts which were lodged in order to fund this €50,000 bank draft were each in the sum of €20,000.

According to the evidence given to Tribunal at its last sittings, the drafts in question had been handed to Mr. Haughey by Mr. Mark Kavanagh as part of an overall contribution of €100,000 to Fianna Fail funds and to the Brian Lenihan fund. You may recall, Sir, that that €100,000 contribution consisted of a cheque for €25,000 and three bank drafts each for €25,000. Each of those three bank drafts, amounting in all to €75,000, was payable to cash. The two bank drafts used to fund the €50,000 bank draft issued by Guinness & Mahon were routed through that bank in what was effectively an exchange whereby the two drafts for €25,000 each drawn on Allied Irish Banks were exchanged for one draft of €50,000 issued by Guinness & Mahon. That €50,000 draft was then recorded by Mr. Sean Fleming as having been received at Fianna Fail headquarters

by way of a donation from Dr. Michael Smurfit and it was lodged to Fianna Fail accounts.

The Tribunal has heard evidence that Dr. Smurfit's own contribution was intended to be in the order of IR €60,000, comprising a IR €10,000 contribution to what was described as Fianna Fail East, and a IR €50,000 contribution to Fianna Fail Central Funds. The donation was made by way of a sterling payment in the order of €52,200-odd. The Tribunal has been informed that the €50,000 payment was debited to a John Jefferson Smurfit Monegasque Foundation Account and transferred to a Sterling Account at Henry Ansbacher & Company, 1 Mitre Square in London. The transfer was in fact to a Guinness Mahon Cayman Trust account at Henry Ansbacher & Company in London. The transfer appears to have been made to what we now know as an Ansbacher account under the control of Mr. Des Traynor. From evidence to date, it would appear that there was no transfer of this particular money to a Fianna Fail account. The Tribunal has been informed that Fianna Fail does not have an Ansbacher account.

At the time when he last gave evidence in connection with this matter, Dr. Smurfit was not in a position to provide the Tribunal at short notice with all of the relevant documentation and he has since provided the Tribunal with documentation concerning this payment. It would now appear that an instruction was given from the Jefferson Smurfit

Group plc offices at Beachwood, Clonskeagh, Dublin 14, to a Mr. Bruce Ferguson of Allied Irish Banks, Channel Islands, on the 14th June 1989, to arrange for a payment in sterling of the equivalent of IR €60,000 to the GMCT account at Henry Ansbacher in London that I have already mentioned.

On the overhead projector you will see a letter from the Jefferson Smurfit Group plc offices at Clonskeagh, addressed to Allied Irish Banks in the Channel Islands with reference to the Jefferson Smurfit Foundation Trustees Limited Account with the account number and an instruction to transfer or arrange, rather, payment in sterling or the equivalent of IR €60,000 to Henry Ansbacher, 1 Mitre Square for the Account No. 190017202. And the request is that the payment be by way of direct transfer and that all bank charges are to be paid by Jefferson Smurfit. That instruction is signed by Mr. Austin, who is now deceased and who was at the time a director of Jefferson Smurfit.

Now, you'll see that that letter is dated the 14th June 1989 and the instruction contained in the letter appears to be related to an earlier debit to the Jefferson Smurfit Foundation Trustees Account. Now on the overhead projector, Sir, you will see the relevant bank statement on that account showing a debit to the account on the 26th May 1989 of €52,215. That is the debit which relates to the instruction contained in the later letter of the 14th June sent by the late Mr. David Austin. As that debit predates

the instruction, it would seem reasonable to assume that there must have been some earlier written or other instructions authorising the withdrawal of a sum of money from the Jefferson Smurfit Trust Account even in advance of a formal letter of instruction. And this is a matter in relation to which further inquiries are currently being made.

It would also be recalled when he last gave evidence, Dr. Smurfit confirmed that a member of his staff had telephoned Mr. Traynor on the 21st June 1989 to confirm that a payment of Stg œ52,215 had in fact been made. Since he last gave evidence, Dr. Smurfit has provided the Tribunal with further information concerning the payment and specifically has informed the Tribunal that the John Jefferson Smurfit Trust by whom the payment was in fact made was originally set up in Jersey in the Channel Islands and that the sole trustee of this foundation was a company incorporated in the Channel Islands. There was a change in the structure of the trust in July of 1989 in that the John Jefferson Smurfit Monegasque Foundation, a Monegasque or Monaco trust, was set up to supersede the previous foundation. The Jersey trust company was also the sole trustee of the new foundation.

Now if I could have the letter on the overhead projector again please. It also appears from further information made available by Dr. Smurfit that the manuscript writing

on the payment instruction letter of that date was made by an employee of Jefferson Smurfit who has now left the company. It seems to refer to the classification of the payment in a database recording system maintained by the foundation. It says, "Registered under 'Fianna Fail'" and then it seems to say "Pd" or "Paid, Deposit account, sterling." Dr. Smurfit has also provided the Tribunal with an extract from the end of year printout for the relevant year and that shows a payment of €60,000, which is presumably a reference to Irish currency, recorded as a subscription to Fianna Fail under reference 89/302.

The Tribunal has also been informed that the payment was brought before a routine meeting of the trustee company held on the 19th June 1989 to deal with this and other matters. A list of applications was put before the meeting and from an extract copy of the records of the foundation, it would be seen that this sum of €60,000 is referred to as being attributable to Mr. Des Traynor and is described as a political contribution in view of the forthcoming election, €60,000' which must once again be a reference to Irish currency, and the reference number is 89/302, which tallies with the reference number on the computer printout that was on the overhead projector a minute ago.

Now of course as the election had already taken place by the 19th June, this would again seem to indicate that there must have been some contact well in advance of the 19th

June and, as I have already indicated, probably also well in advance of the 26th May and, as I have said, further inquiries are being instituted in relation to this aspect of the matter.

While the Tribunal anticipates that Dr. Smurfit will be responding to a number of other queries concerning the documentation of this and related transactions, responses have already been obtained in connection with certain related queries and in particular, queries concerning dealings between Dr. Smurfit and the late Mr. Desmond Traynor.

Dr. Smurfit has informed the Tribunal that he recalls telephoning Mr. Traynor to inquire whether he or one of his companies would be interested in becoming a member of the K Club. Dr. Smurfit does not recall the date on which this telephone conversation took place but believes that it could have been in late 1989 or 1990, but that it is also possible that it was in 1991. Dr. Smurfit, on behalf of the Jefferson Smurfit Group, was promoting the membership of the K Club over this period of time. He has informed the Tribunal that he does not recall the conversation in detail but he does recall that the late Mr. Traynor declined to join the K Club but took the opportunity of mentioning to Dr. Smurfit that he (Mr. Traynor) was seeking to raise funds to assist Mr. Haughey who, according to Mr. Traynor, was in financial difficulties. Mr. Traynor was

looking for a contribution from Dr. Smurfit. While Dr. Smurfit recalls that he declined to make a contribution, he does not recall whether he declined in the course of that conversation or in the course of a subsequent conversation. Nor does he recall that any particular amount of money was requested by Mr. Traynor, or that Mr. Traynor conveyed any information to him concerning the precise state of Mr. Haughey's finances other than that Mr. Haughey was in difficulties.

In addition to information provided in response to the Tribunal's queries, Dr. Smurfit has also provided the Tribunal with information concerning other dealings he had with Mr. Haughey. He has informed the Tribunal that in 1990 the Jefferson Smurfit Group made a gift to Mr. Haughey of a painting by Jack B Yeats. This was apparently entitled 'The Forge'. This presentation was made to Mr. Haughey in recognition of his assuming office at the Council of Ministers on Ireland's assumption of the Presidency of the European Union. At around the same time, the Jefferson Smurfit Group made another presentation to Mr. Haughey of a painting by Sir John Lavery of the raising of the flag at Aras an Uachtarain. It was a gift to the People of Ireland by the Smurfit Group and the presentation was made to Mr. Haughey as representing the people. Dr. Smurfit understands that this latter painting is now hanging in the State collection.

Lastly, in connection with Fianna Fail fund raising, I come to the evidence to be given by Mr. Hugh Dolan. The Tribunal anticipates that Mr. Hugh Dolan, who is a full-time official at Fianna Fail Headquarters, will be in a position to give evidence concerning the circumstances of the inspection of Fianna Fail records by members of the Tribunal legal team in August of 1999 and specifically with reference to the second list, as it has been called, (described as an extract by Mr. Sean Fleming), that is the list of those contributions in respect of which receipts were not sent to the donors themselves but to Mr. Haughey.

Mr. Dolan has informed the Tribunal that at the time he made available to the Tribunal legal team what we now know as the Cash Receipts Book or a list of all Fianna Fail donations. He was not aware of the existence of the second list or extract, as Mr. Fleming calls it. This document was made available to the Tribunal in August of 1999. The list related to 1989 and the 1989 election. At that time, Mr. Dolan was not aware that there was backing documentation in existence in Fianna Fail Headquarters which would have disclosed the identity of those donations described as anonymous. It was around ten months later when he first learned of the existence of backing documentation which would enable the identity of anonymous donors to be ascertained. It was also only in or around that time that he became aware of the second list.

At the time he became aware of the second list, he did not advert to the fact that Tribunal counsel were not aware of the existence of this second list or of this additional backing documentation. He became aware of that second list in the course of responding to queries from another Tribunal. Some short time after, he received further inquiries from Mr. Davis, solicitor to this Tribunal, and in response, informed Mr. Davis that there was additional information which he might wish to inspect. Copies of that additional material, including some of the documents mentioned in evidence already and including the second list, were then made available to the Tribunal's solicitor.

I think it's appropriate, Sir, that I should indicate the extent of the Tribunal's interest in these two areas of inquiry - the Brian Lenihan fund and Fianna Fail fund raising efforts. The Tribunal's interest in these matters is twofold. Firstly, in light of the evidence to date and the information made available to the Tribunal, a question which arises in the context of payments to the Brian Lenihan fund is whether those payments were lodged, as appears to have been intended, to the Leader's Allowance Account and assuming they were so lodged, whether in fact they were used for the purpose of discharging Mr. Lenihan's expenses. The Tribunal therefore to date has endeavoured to form an impression of the total size of the fund

assembled for the purpose of discharging Mr. Lenihan's expenses. Next, it has endeavoured to establish whether all of the fund actually assembled was paid into the Leader's Allowance Account.

Secondly, whether the funds collected for Mr. Lenihan and lodged to the Leader's Allowance Account were in fact used to discharge the expenses of his treatment and if so, how much of the funds were used for that purpose.

Analogous or related questions arise in connection with Fianna Fail fund raising, especially in 1989. From the evidence to date, it would appear that just as in the case of the Brian Lenihan fund, payments intended or apparently intended as political donations to Fianna Fail do not appear to have reached the Party or at least do not appear to have reached the Party in the form originally intended. The Tribunal has focused, to some extent, on Fianna Fail fund raising because of information it has obtained and the evidence given to date connecting payments to Fianna Fail for political purposes with payments which may not have reached Fianna Fail and which may ultimately have been used for the benefit of Mr. Haughey.

In relation to each of those payments, questions arise concerning the circumstances in which the payments were made and in particular, the fact that the payments were made in circumstances which were or which appear to have been quite unusual. It is the circumstances surrounding

these payments which warrant further inquiry.

Obviously in characterising the circumstances in which payments of this kind were made, it has to be borne in mind that secrecy, to a lesser or greater degree, appears to be a feature of political fund raising in this country.

Whether this is appropriate or not is beside the point as far as the Tribunal is concerned, at least at this evidence gathering stage.

What the Tribunal has to take into account is whether the degree of secrecy in the case of any one or other payment or other features of any of the payments under review warrant findings within the Terms of Reference. Apart from the degree of secrecy, the other unusual feature of some of these payments which warrants further inquiry are the fact that for instance payments were made by way of instruments which effectively amounted to cash, in the case of cheques made to cash, or were routed to Fianna Fail or to Mr. Haughey himself by unorthodox channels, in one case at least to date, through an offshore Ansbacher account.

There's one final matter I want to mention in this outline and this concerns evidence which the Tribunal anticipates from Mr. Dermot Desmond. In the Tribunal's last outline statement it was mentioned that evidence would be given by Mr. Desmond in connection with his involvement in Feltrim Mining or Minmet plc as it's now known. In addition to evidence from Mr. Desmond concerning his subscription for

shares in the company in July of 1990, and a loan which he provided to the company of €50,000 in 1992, the Tribunal will also hear evidence in relation to a guarantee provided by Mr. Desmond to Allied Irish Banks in respect of the liabilities of Feltrim. This guarantee, it will be recalled, or the existence of it, emerged in the course of evidence heard by the Tribunal at its last sittings.

Thank you, Sir.

CHAIRMAN: Thanks, Mr. Healy. We can proceed to evidence.

MR. COUGHLAN: Mr. Bernard Dunne.

MR. BERNARD DUNNE, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. Hello, Mr. Dunne. I wonder do you have your Memorandum of Intended Evidence with you in the witness-box that you provided for this particular evidence?

A. I don't have it with me.

Q. Well, I can give you a copy. (Document handed to witness.) Now, I think the Tribunal brought to your attention, Mr. Dunne, a cheque which came to the attention of the Tribunal as having been lodged to an account of Mr. Haughey's in the Northern Bank or National Irish Bank as it is known now, and the cheque is dated the 20th May 1993. It's made payable to cash. It's for a sum of €20,000. The name on the cheque is Bernard Dunne and it's signed. In

the first instance, can you confirm that that is your signature on the cheque?

A. It is my signature, yes.

Q. And that is an account of yours, is that correct?

A. That's correct, yes.

Q. And I think you have been furnished with a copy and the back of the cheque, and I think if you see on the back of the cheque, the cheque is endorsed both by Mr. Charles Haughey and by Mrs. Maureen Haughey, isn't that correct ?

A. Yes.

Q. I think the evidence from the witness from National Irish Bank was it was a single endorsement but had the two names on that account?

A. Yes, I see it, yes.

Q. And it was lodged on the 7th June of 19 the 2nd June, I beg your pardon, on the 2nd June of 1993. Now, I think that's the context in which you were asked by the Tribunal about certain matters concerning this cheque?

A. That's correct, yes.

Q. And I think the Tribunal first of all asked you the purpose for which a cheque for €20,000 dated the 29th May 1993, payable to cash, signed by you and drawn on your account with Allied Irish Banks, 37-38 Upper O'Connell Street, Dublin 1 was drawn and your response, through your solicitors, was that you do not have any recollection of the purpose for which the cheque was drawn, however, you clearly recollect that it was a time of high trauma for

you. You had some short time previously been discharged from hospital with significant injuries from a recent accident, you were on constant medication for matters associated with the accident and you believe you would have been suffering from considerable trauma at the time, is that correct?

A. That's my evidence, correct.

Q. I think, through your solicitors, you were then asked the circumstances in which this cheque appears to have come into the possession of Mrs. Maureen Haughey and your response, through your solicitors, was that aside from assuming that you neither handed the cheque directly to Mr. Haughey or handed the cheque to a third party for forwarding to Mr. Haughey, you have no recollection, no further information as to the circumstances in which the cheque came into the possession of Mrs. Maureen Haughey, is that correct?

A. That's correct, yes.

Q. I think the Tribunal then inquired of you the circumstances in which this cheque appears to have been credited to an account of Mr. Charles Haughey and your response is that you are not aware of any matters pertaining to the crediting of the account of Mr. Charles Haughey and you believe that such information is a matter that can be furnished solely by Allied Irish Banks - that's your own bank.

A. That's correct, yes.

Q. Now, the next query that was raised was whether any other cheque drawn on your account with Allied Irish Banks, O'Connell Street was handed to Mr. Charles Haughey or to any person connected to Mr. Charles Haughey within the meaning of the Tribunal's terms of reference and your response is that you are not aware of whether any other cheque drawn from this account, any other cheques drawn from this account were handed to Mr. Haughey or any other person connected to Mr. Haughey within the meaning of the Tribunal's Terms of Reference, is that correct?

A. That's correct, yes.

Q. And then you were asked whether any other cheque drawn on any other accounts of yours with Allied Irish Banks or any other bank, whether in your name or in the name of any other person or any other account with which you were associated or under your control or to which you had access, were paid either in this way or in any other way to Mr. Charles Haughey or Mrs. Maureen Haughey or to any connected person within the meaning of the Tribunal's Terms of Reference other than those cheques already brought to the attention of the Tribunal. And your response is that you do not have any other knowledge or information, either direct or indirect, in respect of any other cheques drawn out of any other accounts in your name with Allied Irish Banks or any other bank, nor in respect of any accounts or in the name of any other person or with which you were associated or which was under your control or to which you

had access which were paid either this way or in any other way to Mr. Charles Haughey or Mrs. Maureen Haughey or to any connected person within the meaning of the Tribunal's Terms of Reference. Is that correct?

A. That's correct, yes.

Q. Can I just establish if I can the facts or the circumstances, your own circumstances at this time of May of 1993. I think you had had an accident where you had suffered some fractures, is that correct?

A. Yes, I had damaged both my legs, ankles.

Q. Yes. And you had been in hospital?

A. Yes, correct.

Q. I don't want to pry too much but can you give us some indication of the time when you were in hospital?

A. I think the month of May, end of April. I was in hospital about three or four weeks.

Q. Very good. And then when you came out of hospital, were you on crutches?

A. I was in a wheelchair.

Q. In a wheelchair, and where did you recuperate, was it at home?

A. I recuperated I think I spent maybe a week at home and then went away to the Mediterranean.

Q. For a holiday?

A. Yes. Maybe two weeks.

Q. That's two weeks recuperating at home?

A. When I left hospital, I think yes maybe two weeks at home.

Q. Yes. Were you conducting your own personal affairs during this period?

A. Yes, yes, definitely.

Q. When was the account in Allied Irish Banks, O'Connell Street opened in your name?

A. I would say Allied Irish Banks could establish that but I would think in the sixties.

Q. So you also had an account there one way or the other?

A. Yes.

Q. And was it always an active account or was it an account that might have been inactive for a period and then you might use

A. No, it was where I lodged my income from Dunnes Stores.

Q. I see.

A. So it became more active.

Q. I see. Now, this particular time of May of 1993, had you ceased having an active role in the affairs of Dunnes Stores?

A. Yes, I was non-executive director.

Q. You were non-executive director by that time?

A. Yes.

Q. And approximately when did you cease to have an executive role, approximately?

A. I think sometime in 1992, I think, mid-1992.

Q. Mid-1992.

A. I believe so, yes.

Q. Did you have any, if I could just establish

A. It might have been February of 1993

Q. Could we take it it was prior to May of 1993?

A. Definitely.

Q. And did you have any business dealings with Mr. Haughey personally at this time?

A. Never.

Q. So far as you were concerned so, you can rule out that this related to, this particular cheque related to a business transaction which you yourself would have had with Mr. Haughey?

A. I never had a business so I can rule it out absolutely.

Q. Or with Mrs. Haughey?

A. No, I never had business dealings with Mrs. Haughey.

Q. Now, during the period after you left hospital and before you went on the holiday, you were recuperating at home but you were in a wheelchair, is that correct?

A. That is correct.

Q. Did you get out of the house?

A. I got out of the house and I got out of the hospital while I was in the hospital, I was able to leave the hospital and while I was at home, obviously I could

Q. Yes. And can I take it did you have a driver or something?

A. Yes I did, yes.

Q. So you were able to get around?

A. Yes, I was.

Q. So and I appreciate that you had suffered trauma and had

received treatment, but you were capable of conducting your own affairs around that time, would that be fair to say?

A. Absolutely, yes.

Q. Were you on any medication which might have affected you ? I don't mean from a driving point of view or anything like that

A. Not that I am aware of.

Q. The most you might have been on would have been painkillers or something like that?

A. I would say severe painkillers.

Q. Now, if we just look at the cheque and you can see it on the screen there, Mr. Dunne, the signature is yours, is that correct?

A. Absolutely.

Q. Now, if we look at the date, the word "Cash" the amount written in and the numbers written in. Are they in your writing?

A. Absolutely, yes.

Q. Can we take it that this particular account was one which you operated exclusively yourself to the extent that you wrote the cheques on it yourself?

A. This was my personal account.

Q. This was your personal account?

A. Yes.

Q. And there have been, as we have seen on many occasions in the course of evidence in this Tribunal, other circumstances whereby you may or may not have signed

cheques but if you ever did, cheques were always filled in by somebody, isn't that correct? I don't remember an occasion where you may have signed it, even the bearer cheques were not signed by you, is that correct?

A. There was some occasions where Frank Bowen signed them and there was some occasions where I and Frank Bowen signed but on some occasions by me.

Q. They'd been made out by someone else, written out, the date?

A. Bearer cheques, they were specific categories, they would have been made out, yes.

Q. And in relation to all of the transactions relating to the Dunnes Stores cheques, they'd all have been made out by somebody, isn't that correct, in Dunnes Stores, like Michael Irwin or somebody on the staff?

A. I wouldn't say always.

Q. I see. But there may have been occasions where you may have filled one?

A. I'd say there was lots of occasions where I would have made the cheque out.

Q. And fill in all the details yourself?

A. Similar to this type of cheque, yes there would have been, definitely.

Q. Now, so far at this Tribunal, we haven't seen any cheques like that emanating from the Dunnes Stores side but that may have happened or you believe it may have happened?

A. Yes, I believe so.

Q. Now, as this was your own personal account, can I take it that a drawing of €20,000 out of the account was a substantial drawing?

A. Yes.

Q. And as you wrote the cheque and signed the cheque, you had to hand that cheque to somebody, isn't that correct?

A. That's logical, that's correct, yes.

Q. And you were only on strong painkillers, you were on no other medication which might have affected your mind or memory, isn't that correct?

A. I was on no medication that might have affected my mind but I was, just having damaged the legs the way I did and I was at the time using cocaine, not at this stage but earlier, before I done my legs in, I would have to say in hindsight that my mind would not have been in a frame of mind that I am in now.

Q. Yes. I accept that.

A. So could I have been mixed up or I believe I would have been and could have been.

Q. Well I am not so much concerned about being mixed up but what I am really trying to ascertain at this stage, Mr.

Dunne, is your memory in relation to matters, you see, because you seem to have or you have informed us that you don't have a recollection. What I am trying to ascertain is why you wouldn't have a recollection, do you understand? That's what I am teasing out at the moment.

A. Of course.

Q. And of course the Tribunal is anxious to hear anything which would assist it in coming to a view as to whether you could have had a recollection or couldn't or should or shouldn't. That's really why I am asking the questions.

A. Okay, Sir, yes.

Q. Now, by this time you were not taking cocaine, isn't that correct?

A. Definitely not, no.

Q. And the only thing that you have told us that you on, in terms of medication, was strong painkillers, is that correct?

A. That's what I believe to be the case.

Q. That's what you believe.

A. Yes.

Q. Had you commenced your involvement in the dispute which resulted in proceedings between you and your siblings and the trustees by this time?

A. Whether I had commenced, it was certainly in

Q. In train?

A. They were in train definitely, yes.

Q. Now, I don't want to ask about what instructions you were given but can I take it, in general terms, you were involved with your solicitor in relation to such matters?

A. Yes, definitely, yes.

Q. Did you have any meetings with Mr. Charles Haughey around this time?

A. Yes, when I was asked by this Tribunal to give a detailed

list of all the meetings that I could recall with Mr.

Haughey, I said I had two lunches in 1993, I think I said

May 1993, I am not so yes, I did have meetings, two

meetings, one or two, I would say two, I had two lunches

with Mr. Haughey in Abbeville.

Q. Very good. Who arranged those lunches?

A. I would say that Mr. Haughey would have rang me while I was

in hospital I think these lunches were while I was in

hospital and he would have rang me to know how I was and

said "If you got an opportunity, come out and have a bite

of lunch with me" so that's how I believe they happened.

Q. Mmm-hmm. Now, was this, were these the only two occasions

when Mr. Haughey contacted you himself personally?

A. I would think yes, I can't recall many times when Mr.

Haughey would ring me but during my period in hospital I

certainly recall he rang me and I would say yes.

Q. By this time, of course, if I can put it this way, unhappy

differences had perhaps arisen between yourself and Mr.

Noel Fox, isn't that correct, by May of 1993?

A. At that stage, yes, there had been some differences.

Q. So whilst Mr. Fox had initially introduced you to Mr.

Haughey, Mr. Fox would have had no role at this time, isn't

that correct?

A. None, he had no role in it. In the lunches, no.

Q. What do you mean by that, Mr. Dunne? Did he have another

role

A. No. I am just

Q. in the arranging of the lunches. Was there anyone else who fulfilled a similar role to Mr. Fox after Mr. Fox?

A. No.

Q. Now, when you attended the lunches, was there anyone else present at those lunches?

A. There would have been a Denis McCoy.

Q. Who was he, just a friend of yours?

A. A friend of mine.

Q. Very good.

A. I believe Mrs. Haughey would have been when I say lunch, it wasn't a formal lunch or anything, it was

Q. In the kitchen?

A. I believe it was outside.

Q. I see. I see. And when you said that, just a light lunch?

A. As I recall now it might have been a salad or something.

Q. Yes. Yes. And was the nature of the discussion purely relating to your health and social matters?

A. I don't think my health would have been discussed. I think just a jovial sort of I can't recall exactly but certainly there was no talk about my health or my legs.

Q. I suppose an inquiry might be made "How are you?".

A. Yes, that kind of

Q. Yes. And you think that that was the situation on both occasions on which you attended lunch at Abbeville?

A. Yes.

Q. More or less?

A. Yes, I do, yes.

Q. And were you in a wheelchair at that stage?

A. I would say definitely, yes.

Q. Very good.

A. Yes, definitely.

Q. And how long might the lunch have lasted, roughly?

A. An hour, an hour and a half, I just can't

Q. And then you went?

A. That's correct.

Q. Do you remember whether you brought any little present like a book or anything like that as one might if one was invited to somebody's house?

A. No, I don't but I am not the type of person, when I am invited I wouldn't necessarily bring something along so

Q. You might send something?

A. No, I never sent, just

Q. Yes. So and those were the two occasions on which you saw Mr. Haughey in 1993, is that correct?

A. That's correct.

Q. And they were both May, around May?

A. Yes.

Q. Between the time you came out of hospital and went on holidays?

A. That's correct. No, between the time while I was in hospital and

Q. I see, you actually came out, one or both may have occurred when you were in hospital or out for

A. Or the week before I went away. Say over a six week period

and for, I would say over a four week period, for two weeks

I couldn't get out of hospital and then I was able to move around in a wheelchair.

Q. Very good. Now, did you hand Mr. Haughey this cheque at either of those lunches?

A. I have no recollection so I would say no.

Q. So you are saying you didn't?

A. That's what I have absolutely no recollection, Sir.

Q. Well now, Mr. Dunne, it's the recollection aspect of it that I am inquiring into at the moment because you can remember all of the incidents of that period, isn't that correct, going to the lunches, not bringing a present, being in a wheelchair, the type of lunch?

A. Yes, I can.

Q. Where you may have been sitting - outside?

A. I can even recall one day particularly being fine and sitting outside, yes I do.

Q. And are you seriously suggesting that if you handed, if you handed a cheque for €20,000 made payable to cash to either Mr. Haughey or Mrs. Huh Haughey, that you wouldn't remember it?

A. Can you repeat?

Q. If you handed the cheque on either of those two occasions to either Mr. Haughey or Mrs. Haughey, that you wouldn't remember it?

A. That I wouldn't remember it?

Q. Yes.

A. That's what I am saying, that I can't recall.

Q. Can we take it it did not happen at either of those lunches?

A. All I can do is assume if if I was to make assumptions, I would say on the balance of probability, I think it did happen but I have absolutely no recollection of it, Sir.

Q. How is it, Mr. Dunne, when it comes to matters of money and you and Mr. Haughey, you have had no recollection in relation to so many matters and still in relation to all the surrounding circumstances of this particular cheque I am asking about, you do have a memory of your meetings with Mr. Haughey. How is that?

A. Can you repeat the question please?

Q. I can. How is it that when it comes to matters of money and you and Mr. Haughey, and I am saying with particular reference now to this cheque, you can remember all of the surrounding circumstances of your social intercourse with Mr. Haughey over that period and you can have such frailty when it comes to recollecting a €20,000 cheque made payable to cash? How is it?

A. I don't understand it myself but it is a fact, I can't recall it, Sir.

Q. Well, if you didn't, do you accept that this cheque of yours did find its way to Mr. Haughey?

A. The evidence, I cannot put it I would accept that, that's correct.

Q. Let me ask you this, did you give it to any other third

party to give it to Mr. Haughey or to any other party on behalf of Mr. Haughey?

A. I don't recall, I don't have any recollection of giving it to anybody else so the answer is no.

Q. And you don't have any recollection you say of giving it to Mr. Haughey?

A. I haven't, no, Sir.

Q. Well may I ask you this: Why sorry, did Mr. Haughey ask you for money?

A. Never.

Q. Did anyone on his behalf ask you for money in May of 1993?

A. Never, no.

Q. Did anyone suggest you should pay money to Mr. Haughey in May of 1993?

A. No.

Q. Well how then, Mr. Dunne, does it come about that a cheque of yours for €20,000 ends up in Mr. Haughey's account in June of 1993?

A. All I can do, Sir, is assume I did say to the Tribunal previously I had two lunches in May of 1993.

Q. Yes.

A. When this came before me a couple of weeks ago, I have no recollection of giving it but if I was to assume on the balance of probabilities, I would think that, on a process of elimination, even in the condition I was in, I wasn't in circulation, I wasn't around a lot, so on my own reflection and trying to piece things together, on the balance of

probability, that's the way I would put it, a process of elimination, I would think that I must have given it to Mr. or Mrs. Haughey at one of those lunches. That's what I believe, but that's I just

Q. Well if that be the case, it wasn't by way of a present you brought to the lunch because you have informed us you weren't the sort of person who brought presents when you were invited to somebody's house, is that correct?

A. That's correct.

Q. Why would you have given Mr. or Mrs. Haughey a cheque for €20,000?

A. Again, on and I am, I am on the process of elimination, Sir, just been thinking over this, the only thing I could think of was some charity or fund raising. That's the only thing I can

Q. What charity or fund raising could it be?

A. I have no idea, I am just using my brain to try to be as helpful as I can here to the Tribunal, I have absolutely no recollection, Sir.

Q. Do you remember being asked for a contribution or a donation to charity?

A. No, Sir.

Q. Or fund raising?

A. But I often gave to many people money for charities and fund raising.

Q. Do you remember being asked?

A. At this, at one of these lunches?

Q. Yes.

A. No, Sir,.

Q. Or Mr. Haughey or Mrs. Haughey or anyone on behalf of Mr. and Mrs. Haughey?

A. Definitely not.

Q. When you gave evidence on the last occasion, Mr. Dunne, I specifically asked you about monies coming from Wytrex, do you remember that you did?

A. Yes, Sir.

Q. And I asked you were any other monies routed that way to Mr. Traynor, isn't that correct, do you remember that?

A. Yes, Sir, yes.

Q. And you were in a position to say that you were satisfied that there were no other monies, isn't that correct? That related to routing to Mr. Traynor, isn't that correct?

A. Well what I recall is when the evidence was shown, what I recall right now is you said was there any other monies paid to Mr. Haughey to one route or another and

Q. Yes, specifically routing it any way to Mr. Traynor, isn't that correct?

A. Yes.

Q. And you said that you were satisfied in relation to that, so I just, you know, in case we get caught up in

A. Can I just

Q. Yes please.

A. What I recall saying, Sir, is that I had got it wrong once and a second time and I didn't want to say that that was

the last amount absolutely, I believed it to be the last amount but I wasn't prepared in the witness box here to say it absolutely that that was the last amount.

Q. I want to be fair to you, Mr. Dunne, because I read it carefully myself, I was specifically asking you of routing monies in different ways for Mr. Haughey perhaps to Mr. Traynor from abroad or internally so I just want to be very fair to you in relation to that but we now have, from your own personal bank account, another €20,000 showing up, isn't that correct?

A. That is correct.

Q. If you weren't asked for the money and you say you weren't

A. I say I don't recall.

Q. Now, Mr. Dunne, let's start getting very real about this type of evidence please.

A. Okay, Sir.

Q. You can recall very many things about your meetings with Mr. Haughey in 1993, isn't that correct?

A. The two lunches, yes, I recall I gave them previous, yes, I do recall them.

Q. And are you seriously suggesting that if you were asked for money, that you would not recall that?

A. That's what I am saying, yes, that I don't recall being asked for money.

Q. Mr. Dunne, were you or were you not asked for money? Come on now.

A. I am telling the truth, Sir, I have absolutely no recollection of being asked for money.

Q. Very good. Now, that was your own personal account, isn't that correct?

A. That is correct, Sir.

Q. Did you do your own reconciliation when you received the statement?

A. No.

Q. Who did that?

A. I don't think it was ever done, Sir.

Q. There was never any reconciliation done on the bank statement?

A. In those days, definitely not, Sir.

Q. And what about you wrote the cheque yourself, isn't that correct? Did you put a note in the stub as to whom it was payable to?

A. I would say highly unlikely.

Q. Why would that be?

A. Because it was a habit I had at the time and still have a habit of not putting in on the stub what I have a cheque made out for.

Q. Even for €20,000?

A. For either amount, for high or low.

Q. If you wrote this cheque and gave it to Mr. Haughey, can we take it it was written specifically for that purpose?

A. For which purpose?

Q. For giving to Mr. Haughey.

A. I can't recall so...

Q. This was a time when you were either in hospital or recuperating, isn't that correct?

A. Definitely. This is, I believe, about a four week period.

Q. And you were not involved in, as you said, you weren't around, you weren't involved in social activity around that time in the normal course of your life, isn't that correct?

A. No, I wasn't.

Q. It was not a period when you would have been playing golf, attending other sporting functions, attending charitable functions or other forms of entertainment?

A. That is correct.

Q. It is not a period in your life when you would have been carrying around, as we have heard evidence in the past, drafts or cheques on you, isn't that correct?

A. That is correct, yes.

Q. So can we take it that it must have been written for the specific purpose which it was intended when it was written?

A. If it was written for cash, yes.

Q. For a person?

A. For a person or for a charity. That's what I am I am just

Q. Just to be clear about that, are you saying it could have been written out for a charity and then changed your mind and given it to Mr. Haughey or that Mr. Haughey was representing to you that he was collecting on behalf of charity?

A. I have no recollection of Mr. Haughey or Mrs. Haughey making representations or asking me for a cheque or for monies. I said to the Tribunal that while I was aware, I would think around the circumstances and on a process of elimination, that's all I am doing here, Sir, is when I see the cheque and when I think of it at the time, the process of elimination, I am saying it could have been for charity, that's what I think it could have been for and on a process of elimination, I believe that the cheque could only have changed hands from me to Mr. and Mrs. Haughey because of the particular it could only have been a four week period. Now that's a process of elimination. I'd love to say I can recall it and unfortunately I have no, absolutely no recollection. The only thing that I just want to make for my own case at the time, I think where I wasn't on heavy medication, I think I would have been a very depressed man and mentally not stable but I am not using that for one moment but I just want it to be put into the records. I most certainly wasn't of stable mind and I think

Q. Well

A. Which I think would have affected my thinking. The other point .

Q. Affected your thinking in relation to what? In relation to giving it or in relation to your memory of it?

A. To my memory.

Q. You are not suggesting for a moment that you were in such a

state of mind that you were just handing the cheque without knowing what was going on or in fairness to Mr. Haughey, that he was taking advantage of somebody in that mental state?

A. I am not suggesting that for one moment, no.

Q. Well if we leave charity out of it for the moment, what other reason could there be for giving it to Mr. Haughey?

A. It's one of two; to Mr. and Mrs. Haughey it was either cash or charity. I would think that it's as black and white as that.

Q. Well if it wasn't charity, why would you be giving Mr. and Mrs. Haughey €20,000 in cash?

A. I don't know, I am giving the situation, it was one or the other, it was either charity or it was cash.

Q. Yes, I know, I am eliminating charity for the purpose of asking you this question. If it wasn't for charity, why would you have been giving them €20,000 in cash? Why?

A. I can think of no reason whatsoever.

Q. You can think of no reason whatsoever?

A. For giving somebody €20,000, none whatsoever.

Q. Now, the Tribunal has, in its final query, asked you if from this account, any other account of yours, any other account which you were associated with, whether any other monies were ever given to Mr. Haughey or Mrs. Haughey or a connected person and your response is

A. That I no, I say no I haven't.

Q. How do you know that?

A. What I was about to say as well is that I have given to the Tribunal, I have given a waiver over all my own personal accounts, I think you have got the AIB and I am collecting everything I had with Bank of Ireland and I'll go through them and I think also

Q. What I want, just to be fair to yourself here, Mr. Dunne, without checking everything, can you positively say that no other payments were made to Mr. Dunne?

A. I believe that to be the case but I can't be one hundred percent sure.

Q. So it comes down at the end of the day, there are only two possible explanations in your mind, a charitable donation or just a straight payment, is that correct? Those are the only two possible

A. Having come to the conclusion to make a judgment, having no recollection, I believe there was only in fact when I think now, there's only three; one, that I gave the cheque to somebody which I think because of the way I was, I wasn't in circulation; two, charity or thirdly, a cash payment but I would even eliminate the one where I could have maybe given a cheque to somebody. I wrote a lot of cheques for cash out, I think if you check my accounts.

Q. That's what I was asking you about, over this period when you were

A. Over this six week period

Q. Yes, that's what I was asking you about.

A. I wouldn't have thought I don't think there was a lot of

activity on my account, no.

Q. So you think it's a possibility but an outside possibility that you gave it to somebody else?

A. It's something that could have happened but I think very unlikely.

Q. So it's an outside possibility?

A. Yes.

Q. And bringing it closer in, it was either a charitable donation or a straight payment?

A. And that's just making assumptions.

Q. Yes.

A. I am I can't swear over it but I am saying, thinking about it, I'd assume it was one or the other, yes.

Q. Now, apart from your medical advisers and members of your family, I mean your own immediate family, who else were you seeing who might fit into the category as the sort of person to whom you could have given, even as an outside possibility, this particular cheque in that period?

A. That's why I say it's a very, very small possibility, I was seeing very few people outside of my medical people and my own immediate family.

Q. Yes.

A. So that's who I would see.

Q. But who were you seeing?

A. Who was I seeing?

Q. Your driver, did you give it to your driver?

A. No.

Q. The friend who attended lunch with you?

A. That's, he was driving me as well.

Q. So it wasn't

A. No, it wasn't.

Q. Who else could it have been?

A. That's why I think, that's why I think it could only have been from me and with the two lunches that I had already said to the Tribunal I had, I think it took place at those lunches but that's a process of elimination.

Q. Who else could it have been? I just want to push you on that because I want you, you gave you proffered that yourself as the third possibility?

A. Yes, I did, yes.

Q. Are you saying that that is not so now and you don't want to say who it possibly could have been?

A. I don't recall meeting I can't recall meeting outside of, I'd have met my solicitor, Noel Smyth obviously, a couple of family friends and my wife and kids and the man who drove me, I would have met. I'd say that tight circle I would have met. I can't recall meeting anybody else.

Q. And in relation to the close friends and your family members, can I take it that these were people who, to the best of your knowledge, had no connection at all with Mr. Haughey at any stage?

A. I would say definitely, yes.

Q. Now, the people whom you have indicated as and I say this at all times as an outside possibility have you

inquired of them if you gave them this cheque, just for the purpose of elimination?

A. No, I haven't actually asked them. I can do very easily, Sir, but the answer is no, I haven't.

Q. That's a matter that can be taken up private, there's no need to mention that in the course of evidence.

CHAIRMAN: Mr. Gallagher?

MR. GALLAGHER: Yes, Chairman, just a few questions if I may.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. MR. GALLAGHER: Mr. Dunne, you were asked I think about these matters by the Tribunal on the 15th June of 2000 and I think by a letter of 16th June 2000, your solicitor replied on your behalf to the Tribunal's queries?

A. That's correct, yes.

Q. And I think by on authorisation signed by you the following day, the 22nd June 2000, you authorised the Tribunal to have access to such accounts, information or explanations that they required from Allied Irish Banks and you furnished an authority enabling them to make such inquiries with Allied Irish Banks?

A. That is correct.

Q. Just to take you back to just one or two details. You initially were uncertain as to when you might have ceased to be executive director in the Dunnes Stores Group and you

mentioned two possible dates, I think you said initially perhaps in July 1992 but then more probable in February of 1993 and can I put it to you that it was the latter date is in fact the correct date, that it was February 1993 as you thought it might have been?

A. Yeah, okay.

Q. And I think at this time in May of 1993, you were recovering from the problem you had had with cocaine and in addition, you were in dispute with your family at that stage?

A. That is correct.

Q. Thank you.

CHAIRMAN: Just a couple of matters in conclusion, Mr. Dunne. The actual form of the cheque, if we can, well we don't seem to have it immediately to hand, it doesn't really matter but it's a fairly scrawled signature and writing, is that your normal style or does it indicate it was unusually quick or a sudden piece of writing?

A. Just normal, Sir.

CHAIRMAN: Yes, had you any track record or previous experience as regards the charitable possibility of having any dealings on behalf of or in respect of charities of either Mr. and Mrs. Haughey?

A. No, no, Sir.

CHAIRMAN: Did you use this private AIB account in O'Connell Street for certain of your charitable donations?

A. Definitely, yes, Sir.

CHAIRMAN: As well as perhaps disbursements to children or family expenditures and the like?

A. Yes, Sir.

CHAIRMAN: Would it be fair to say that the norm for a charitable donation on your own account would not be a cash payment?

A. It would not be fair, Sir. I would say I would have made things where it could be a charity and I wouldn't be able to spell the word so I'd be, I'd just say "Look, make it out to cash, £10,000." That's why I think

CHAIRMAN: Might you not encounter a number of officials of charities who would be very reluctant to take a cash cheque for their own protection?

A. Some charities would be very organised that way, others would just take it.

CHAIRMAN: Yes, sometimes it would follow in that way?

A. That is correct, Sir.

CHAIRMAN: Now, you have indicated as best you can recall on this occasion you have no recall of any other further payments that may emerge although you have given a waiver in relation to all your accounts?

A. That is correct, Sir.

CHAIRMAN: We did of course hear, going back to the

evidence that you gave to Judge McCracken in the earlier Tribunal, of you causing very considerable benefits in kind through the building works to accrue to Mr. Michael Lowry, isn't that correct?

A. That is correct, yes, Sir.

CHAIRMAN: Without mentioning anything now, if it has occurred to you because of course you are aware of procedures we have to follow in examining your records and talking to your legal advisers, has anything further, by way of a payment in kind for anyone who could be involved in this Tribunal, occurred to you apart from cash payments?

A. No, Sir.

CHAIRMAN: Thank you, Mr. Dunne.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Hugh Dolan.

MR. BRADY: I appear for Mr. Hugh Dolan with Mr.

O'Callaghan instructed by Frank Ward & Co..

CHAIRMAN: Thanks, Mr. Brady.

HUGH DOLAN, HAVING BEEN SWORN WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

Q. Mr. Dolan, I think you furnished, for the assistance of the Tribunal, a statement or Memorandum of Evidence, is that

correct?

A. That's correct.

Q. And I intend leading you through that and maybe asking one or two questions of clarification?

A. Yes.

Q. And I think your statement commences by you saying that by letter of the 3rd July 2000, the Tribunal requested, through Frank Ward & Company solicitors, to the Fianna Fail Party, a voluntary statement from you concerning the "Circumstances in which the second list of contributions for which receipts were forwarded to An Taoiseach was not provided to the Tribunal in the course of an inspection on the 11th August 1999 by members of the Tribunal and legal team of records of Fianna Fail donations."

And I think you continue, that you deal with the background to the matters raised by the Tribunal in its said letter in the following paragraph of this statement. You do this in order to outline, to the best of your recollection, the relevant facts in relation to your state of knowledge and dealings with members of the Tribunal legal team?

A. That's true, yeah.

Q. And you say that A) on the 2nd February 1998, you became head of finance and administration at Fianna Fail Headquarters replacing Sean Fleming, who had been elected as a TD for Loais/Offaly in the 1997 General Election.

A. That's true, yes.

Q. At that stage in 1997, accounts had not yet been completed

and Sean Fleming, although he had ceased to be an employee of Fianna Fail, agreed on a voluntary basis to oversee that these were completed as part of his final duties at Party Headquarters?

A. That's true.

Q. And it was agreed that Sean Fleming would be responsible for the accounts to the 31st December 1997 and that you would be responsible for the 1998 and subsequent accounts, is that correct?

A. Yes.

Q. I think you say that requests for information from both Tribunals and other bodies over the following couple of years were met in the following way: In general, requests which had just required the use of the Cash Receipts Book were answered by Fianna Fail officials with the assistance of Sean Fleming. Where requests were received from either Tribunal which required the examination of backup documentation, you received the assistance of Sean Fleming.

A. Yes, that's true.

Q. Dealing specifically with the request by this Tribunal for access to Fianna Fail records: On the 19th July 1999 the Tribunal, Moriarty Tribunal requested, through Frank Ward & Company, access to records of donations received by the Party from 1979 to 1996, is that correct?

A. That's true, yes.

Q. The Tribunal explained in writing that its purpose was to

identify large donors in order to ascertain if these donors might also have made donations to funds operated by Mr. Haughey?

A. That's true.

Q. Frank Ward & Company contacted you about this request and you offered, through the Party solicitors, to show representatives of the Moriarty Tribunal the Cash Receipts Book, is that correct?

A. Yes.

Q. The Cash Receipts Book for requested years had earlier been shown I think to the Flood Tribunal?

A. That's correct, yes.

Q. They, that is the Flood Tribunal, recorded all funds raising cash donations. The records they recorded that's the Cash Receipts Book recorded all funds raised in cash donations received by Fianna Fail, however to ensure confidentiality, you requested that this be done at Fianna Fail Headquarters and that any photocopying required would be done personally by you?

A. That's true, yes.

Q. You believed that all of this was conveyed by Frank Ward & Company to the Moriarty Tribunal by a combination of letter and telephone and you understood that this would meet the requirements of the Moriarty Tribunal?

A. That's true, I did.

Q. And can I take it, if I just may clarify, that when this procedure was set up, you personally understood that you

were making available the records of Fianna Fail?

A. I understood that I was meeting the Tribunal requirements with regard to records offered

Q. Sorry, could I ask you a question. You knew the request was for the records, isn't that correct?

A. I understood they were requests for records, yes.

Q. Can I take it when you set up this procedure, that you understood that you were making available, you personally, were making available the records?

A. I knew that there was backup documentation in existence but

Q. Very well, I'll come to that in a moment. In late July, early August, you spoke with Martin Macken and contacted Des Richardson and Sean Fleming to update them on this request. Sean Fleming advised you should also provide the following documents in addition to providing the Moriarty Tribunal with the Cash Receipts Book: 1. A listing of pick-me-ups, is that correct?

A. That's true, yes.

Q. "2. I would have to ask the Moriarty Tribunal if they were interested in donations received by Des Hanafin's Burlington Hotel office from 1989 to 1982 as these would not be included in the Cash Receipts Book."

A. That's correct, yes.

Q. Now I think that you then said that in a meeting with the Moriarty Tribunal on the 11th August 1999, counsel and solicitor to the Tribunal attended at Fianna Fail

Headquarters on the 11th August 1999 and you gave the three Cash Receipts Books, two manual and one computerised to them. You also included a list of the pick-me-ups.

A. That's true, yes.

Q. In response to questions from you, counsel confirmed that they had no interest in the Des Hanafin donations or in the donations made by means of golf classics, is that correct?

A. That's correct, yes.

Q. The Members Draw or the National Collection, counsel did not require the records of these donations?

A. That's true, yes.

Q. You gave the Cash Receipts Book and the pick-me-ups list to the members of the Tribunal legal team and you told them that they were listed, that these listed off every fund raising donation with the above exceptions.

A. That's correct.

Q. The pick-me-ups, the National Collection and golf classics.

A. Yes, they wouldn't include the pick-me-ups or National Collection or golf classics.

Q. You say before you left them, that's counsel and solicitor, you offered to provide further assistance if required. You then left them in private to work on examining the records?

A. That's correct.

Q. Now you say that under the heading 'The Second List/Extract' at the time of the Moriarty Tribunal on the 11th August 1999 you were not aware of the documents which,

the document which has recently been referred to as the second list or the extract and you were not aware of the identity of the donors recorded as anonymous.

A. That's correct.

Q. While you had previously noted the anonymous donors in the Cash Receipts Book for 1989, you believed that the identity of these donors was truly anonymous?

A. That's true, yes.

Q. You did not know then that in fact the backup documentation, which is voluminous in terms of all donations, could identify these donors, is that correct?

A. That's true, yes.

Q. And you were not then aware of how it was that these entries came to be made and entered as anonymous?

A. That's true, yes.

Q. So can I take it that at that time, your state of mind was that these were truly anonymous donations as far as you were concerned?

A. As far as I was concerned, they were anonymous donations.

Q. And you had no reason to believe anything else to the contrary, isn't that correct?

A. That's true, yes.

Q. And the Tribunal lawyers who were looking at it saw the documentation that you had access to, isn't that correct, at that time?

A. They did, they certainly saw the documentation I was familiar with.

Q. That you were familiar with?

A. Yes.

Q. And the information which, in those circumstances, was conveyed was that the Tribunal lawyers were also of the view that what was in the documents, that recorded anonymous donations, is that correct?

A. Could you repeat the question.

Q. Recorded anonymous donors only, is that correct?

A. Sorry, would you mind repeating the full question?

Q. Yes, yes, I'll try. What you produced to the Tribunal lawyers was the Cash Receipts Book?

A. Yes.

Q. Which recorded anonymous donors, isn't that correct?

A. It recorded certain donations as anonymous, yes.

Q. And that was your state of mind yourself personally?

A. That's true, yes.

Q. And that's what you showed to the Tribunal lawyers, isn't that correct?

A. The Cash Receipts Book, yes, I did.

Q. With donors described as being anonymous, isn't that correct?

A. That is true, yes.

Q. And therefore in those circumstances, conveyed your state of mind to the Tribunal lawyers, isn't that correct, by showing them that document?

A. I suppose, yes, I did.

Q. And this isn't a criticism, it's just that you believe they

were truly anonymous and every one else believed they were truly anonymous at the time?

A. I certainly believed they were truly anonymous, yes.

Q. You say you truly believe they were anonymous. Is there a suggestion anyone else shown documents by you could have believed anything to the contrary?

A. No, Sir, I wasn't suggesting that.

Q. No. Now, you say that backup documentation existed, was you believe disclosed to the Moriarty Tribunal in a letter on the 13th July 1999 were in respect of a cheque payment of €65,000 by the Irish Permanent Building Society to Fianna Fail in June 1989?

A. A copy of the receipt and copy of the cover letter received with the donation was forwarded to the Moriarty Tribunal.

Q. We have heard evidence from Dr. Farrell in relation to that.

A. Yes.

Q. That was part of the backup documentation in respect of that donation?

A. That is true, yes.

Q. Now, that was not recorded of course in the Fianna Fail Cash Receipts Book as being an anonymous donation?

A. I believe it wasn't, yes.

Q. Now, sometime in late March/April 2000 in the context of a query from the Flood Tribunal, you sought and received the assistance of Sean Fleming, is that correct?

A. That is true, yes.

Q. And during your discussion, Sean Fleming informed you that he knew the identity of the donors whose donations were recorded as anonymous, is that correct?

A. That is true, yes.

Q. On another occasion subsequent to this, Sean Fleming mentioned to you that what has since been referred to as the second list/extract, and he told you that it was in one of the filing cabinets in your office and you told him that you were unaware of such a document?

A. That is true, yes.

Q. In early May 2000, you located the list/extract, isn't that correct, in the filing cabinet which Sean Fleming had indicated?

A. Yes, that is true.

Q. At the time you saw this document, you did not advert to the fact it may have been of assistance to the Moriarty Tribunal and during mid May 2000 the Flood Tribunal requested and was provided with details of the identity of the donors whose donations have been recorded as anonymous?

A. Yes.

Q. Dealing with the events of the 15th and 16th June 2000, by letter dated 15th June 2000 the Moriarty Tribunal requested, through Frank Ward & Company, that Fianna Fail provide copies of the 1989 records of the Party to the Tribunal, isn't that correct?

A. That is true, yes.

Q. You understood this to be a request for a copy of the Cash

Receipts Book for 1989 as inspected by the Tribunal in August 1999?

A. That is true, yes.

Q. On the evening of the 15th June 2000, you had the Cash Receipts Book for 1989 photocopied, you then attempted to contact the solicitor to the Tribunal in order to give these, have these copies transported over to the Tribunal.

You were unable to contact him. You left a message for him and then placed the photocopies in an envelope in your own office?

A. That is true, I did, yes.

Q. The next morning you were on your way to a Fianna Fail conference in Malahide when you got a message on your mobile that the solicitor to the Tribunal had returned your call?

A. That is true.

Q. At approximately 10:30am you rang him, that's the solicitor to the Tribunal, and informed him that you had the copies ready for him and that you would get them brought over to the Tribunal that morning and you informed him you would be in Malahide for the day?

A. I did, yes.

Q. I think you say that as you had recently dealt with the Flood Tribunal on the issue of anonymous donations, you raised such issue with the solicitor to the Moriarty Tribunal, is that correct?

A. I did, yes.

Q. You asked him if he was interested in the donations recorded as anonymous and he informed you that he was.

A. That is true, he did.

Q. You then informed him that it was possible to establish the identity of virtually all the donors.

A. I did.

Q. "Although the best way to do this was to go through the backup files, I suggested if he was only interested in 1989, the quickest way for him to do it was to use the extract or list."

A. I suggested that, yes.

Q. Of which you had recently become aware. "I offered to send it to him as soon as I could." In the meantime, you would get 1989 photocopies sent to him that morning.

A. That's true, that's what I agreed.

Q. At approximately 11:30am while in Malahide, you rang a number, a member of staff in Fianna Fail Headquarters and asked him to deliver the envelope in your office to the solicitor to the Tribunal.

A. I did, yes.

Q. Shortly afterwards you received a call from the solicitor to the Tribunal asking you how soon you could get the, what you describe in your copy statement, Mr. Fleming's word 'extract' in quotation marks and which you know the Tribunal refers to as the second list, isn't that correct?

A. That's true.

Q. Delivered to him. You offered to leave Malahide

immediately and deliver the document in the early afternoon. You then went back to the office, copied the document and delivered it to the Tribunal. The same afternoon, the 16th June 2000, you handed it to one of the senior counsel to the Tribunal and went through it with counsel.

A. That is true, I did.

Q. You say in conclusion it was never your intention to, nor did you ever set out to withhold any relevant documentation from the Moriarty Tribunal.

"2. It has been the instruction to all Fianna Fail staff we are to cooperate with the Tribunal.

3. At the time of the making of the records available to Moriarty Tribunal, I was of the belief that I was fulfilling its question."

A. That's true.

Q. So if we could just be sure about certain facts so, Mr. Dolan. The Tribunal requested the records, isn't that correct?

A. That is true, yes.

Q. You, when the Tribunal lawyers came to look at the documents, identified the Cash Receipts Book, isn't that correct, as the records, the pick-me-ups and identified the other items, the draw, the National Collection, golf classics and Des Hanafin collections of 1979 to 1982, is that correct?

A. My understanding of when the Tribunal requested records was

that they wanted a record of all donations received, all fund raising donations received during that time. I felt that by supplying the Cash Receipts Book, supplying the pick-me-up listing, supplying Des Hanafin documents, if they were required, also National Collection, draw, golf, those areas would give a listing of all donations received by the Party during that period and so that's why

Q. No, no, you weren't asked that you were doing anything underhand in relation to it, Mr. Dolan. What I want to establish is this, you were asked for all records, isn't that correct?

A. I think the Tribunal's letter was record of all donations.

Q. Record of all donations?

A. Yes, record of all donations, yes.

Q. Records of all donations?

A. Yes, yes, a record of all donations.

Q. Well I am just trying records of all donations is what you told me, records.

A. Okay.

Q. Now, I just want to, what was furnished was incomplete, do we agree on that?

A. It listed off all donations.

Q. Mr. Dolan, let's be very clear about this, it listed donations and recorded some as being anonymous, isn't that correct?

A. That is true, yes.

Q. There were other records there, you were unaware, for

example, of what the Tribunal describes as the second list and what Mr. Fleming describes as the extract.

A. That is true, I was unaware of that.

Q. That formed part of the records, isn't that right?

A. I would consider that the records of the Party would primarily consist of the primary books of entry, for example, the Cash Receipts Book, any backup documentation that would have provided evidence of those records, for example, copy receipts, any documentation that may have come in in connection with the donation, for example, covering letters, that is what I consider to be records.

My understanding of what you refer to as the second list is that it is something that Mr. Fleming would have actually used in terms of working papers for himself rather than necessarily part of the records.

Q. I see. When did you arrive at that conclusion, Mr. Dolan?

A. Well, looking at the, what you refer to as the second list, it effectively looks like basically a note, a hand written note Mr. Fleming would have actually used.

Q. Yes. And you say it doesn't form part are you offering evidence, are you offering sworn evidence here to suggest that that did not form part of the records?

A. No, it obviously forms part of all the documentation.

Q. The records?

A. That is relevant.

Q. Are you suggesting it's not, Mr. Dolan? That's all I am trying to ascertain.

A. It does form part obviously of the fund raising documentation, that is certainly true.

Q. But it existed unbeknownst to you at that time?

A. That is true.

Q. So it wasn't given to the Tribunal lawyers at that time?

A. That is true, yes.

Q. Now, all I am trying to find out is why and isn't the answer to that because you didn't know of its existence at that time?

A. Ultimately yes, I did not know of its existence.

Q. At the time you didn't know?

A. At the time I did not know.

Q. At the time?

A. At the time I did not know, that's correct.

Q. To such an extent that at the time it was your state of mind that the Cash Receipts Book, where it recorded donations as being given anonymously, you believed them to be truly anonymous donations?

A. I did, yes.

Q. And there is no reason why anybody else should have a different view, isn't that correct?

A. From looking at the Cash Receipts Book, certainly not.

Q. Now, when you became aware more recently of the existence of this particular document, in the first instance, it didn't immediately occur to you, and there is no particular criticism in relation to that, that you should have brought it to the attention of this Tribunal?

A. That's true.

Q. You were dealing with some other matters at that time?

A. That is true, yes.

Q. And I think when the Tribunal's solicitor contacted you even more recently for photocopies or a copy of the records, isn't that correct?

A. Yes.

Q. That it was you then who mentioned to him that it was possible, according to your own statement, to identify most of the donations which were attributed to anonymous donors because you had this other document, is that correct?

A. I informed the solicitor that it was possible to identify the identity of the anonymous donors but that was more in the context of having seen us identifying those anonymous donations in another body in the context of using the entire backup documentation rather than specifically this second list.

Q. Now you then brought, after yourself and the solicitor had made arrangements, you brought the copies of the 1989 Cash Receipts Book and this particular document, isn't it, to the Tribunal?

A. I didn't personally bring the copies of the but I brought this other document, yes, I did.

Q. So you arranged for the Cash Receipts Book to be sent to the Tribunal, isn't that correct?

A. That is true, yes.

Q. You then yourself brought the extract/list or list/extract

which comprised, I think, of three pages, isn't that correct, yourself?

A. I did, yes.

Q. And that is how you, that is how you brought it to the, you yourself brought it physically to the attention of the Tribunal, isn't that correct?

A. That is true, yes.

Q. As being the way of identifying the donors who were described as being anonymous?

A. It would be one way of identifying some donors described as anonymous but obviously there would be the other matters.

Q. I just want to ask how you, Mr. Dolan, why you yourself did it as financial controller of Fianna Fail, that's what you did, didn't you, with this Tribunal?

A. My intention was to facilitate the Tribunal by providing the easiest quickest method for the Tribunal to identify 1989 donations.

Q. Absolutely, that's what you did. I am not criticising that. I am just trying to establish the facts. And it wasn't until I think that was a Friday, is that correct, that particular

A. Yes.

Q. Meeting took place and it wasn't until the following Monday that what we would describe as the backup documentation, that is the photocopies which Mr. Fleming had made of the instruments and some letters, I think or internal memos, were made available to the Tribunal, just again to

establish the fact that that's what happened physically?

A. I believe certainly, it was certainly early the following week, it may have been Monday.

Q. Yes. Now, the Cash Receipts Book or Cash Receipts Book were kept where?

A. Kept in my office. They were offices which I appreciate had been Sean Fleming's office.

Q. And were they kept in a filing cabinet?

A. I am not sure where they were originally but they were moved around quite a lot due to inquiries with different bodies.

Q. And this I think second list or extract, where was that kept?

A. Once again I am not sure where it was originally but I believe it moved around and certainly ended up in a filing cabinet in my office.

Q. And where was the backup documentation, that is the photocopies of instruments or covering letters or matters of that nature, where were they kept?

A. I think they are quite voluminous in nature but a couple of different locations, I am not sure offhand but some of them would be kept in filing cabinets in my office to which I don't have general access at any stage I notice some of the material that Sean Fleming would have had in his office in his time as my predecessor would have been moved up to archive storage. So

Q. So the Cash Receipts Book may have been around because

there had been various inquiries perhaps going back as far as the Beef Tribunal or matters of that nature, I am not sure?

A. I am not aware of that.

Q. The backup documentation, as you describe it, that is photocopies of instruments and matters of that nature, may have been in a number of locations to provide for space, is that correct?

A. Yes, I am not actually sure. I think the majority certainly have been in my office but I can't say for definite that they all were.

Q. In filing cabinets which would be mainly historical in nature?

A. Yes.

Q. But wouldn't be used on a daily basis or need to?

A. Yes.

Q. And this extract or list, what filing cabinet was that kept in in your office, do you know?

A. Certainly the cabinet that I located it in would have been one of the filing cabinets in my office.

Q. One of the what?

A. One of the filing cabinets in my office would have a variety of material in it.

Q. What was it filed under?

A. It actually wasn't filed, it had just I think been put in there loosely.

Q. Loosely?

A. Yes.

Q. In between files?

A. I think it had fallen between files.

Q. It had fallen between files?

A. Yes.

Q. Well, just to understand this, I take it the filing cabinet has a number of cardboard file covers inside, would that be correct?

A. It does, yes.

Q. And are they on these runner type

A. In that particular drawer, no, they were just on top of each other.

Q. On top of each other?

A. Yes.

Q. And this particular document, when you say they were on top of each other, were they stacked or filed length ways, just stacked on top?

A. Just stacked, yes.

Q. And this particular list was between some files?

A. It seems, it was under one of the files basically.

Q. It was under the files?

A. One of the files.

Q. Under the bundle of files. As if it was placed there as opposed to fallen there, it could hardly have fallen there?

A. I don't think, sorry, I don't think it had fallen.

Q. And that was in a different location, can I take it, or a different filing cabinet to the, what I might describe as

the more general backup documentation, photocopies of instruments and matters like that?

A. Yes.

Q. Now, I think you say that you located it because Mr. Sean Fleming informed you of where to locate it?

A. That is true, yes.

Q. And he told you the filing cabinet to go to and where to find it?

A. Yes, that is true.

Q. And was it where he told you it would be?

A. I had to search for a while.

Q. It was not in the right filing cabinet?

A. It was in the right filing cabinet, yes.

Q. Now can I take it that if you had not been informed by Mr. Fleming where to locate this particular document, if you had just come across the document in the normal course of your work, it would probably have meant very little to you, is that correct?

A. It would have meant very little to me.

Q. Thank you very much.

A. Thank you.

MR. BRADY: I have no questions, Sir.

CHAIRMAN: Just in conclusion, your own discipline, Mr. Dolan, like that of your predecessor Mr. Fleming is accountancy?

A. I am a chartered accountant.

CHAIRMAN: And in answering Mr. Coughlan as you have in relation to anonymous donations, we are of course talking about the substantial anonymous donations which potentially fall within the Tribunal's Terms of Reference or at least can be the business of the Tribunal, you are not applying your remarks to a certain number of small anonymous and fully anonymous donations which were recorded as such in the Cash Receipts Book and would in fact have been furnished anonymously by post or otherwise?

A. That is true, yes.

CHAIRMAN: Thank you very much for your assistance.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. John Magnier.

MR. JOHN MAGNIER, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

Q. Thank you, Mr. Magnier. You provided the Tribunal with a Statement of Evidence dealing with certain issues raised in a letter from the Tribunal dated the 16th June 2000 and I think you have a copy of that statement with you, have you?

A. Yes.

Q. The queries were raised in connection with evidence you were required to give concerning contributions to the Brian Lenihan fund, isn't that correct?

A. That's right.

Q. And you say that in the late 1980s you became aware that Brian Lenihan was seriously ill. You say you recall seeing him, you believe, in the Senate and you were really shocked by his physical appearance and by how unwell he looked. You go on to say, "Around that time, as far as I remember, I was approached by Paul Kavanagh who was seeking contributions to fund expensive medical treatment for Mr. Lenihan in the United States. I was only too glad to support such a cause and agreed to give €20,000. I was anxious and I believe I stressed that I particularly wanted the contribution to be completely anonymous. From investigations carried out by my staff and my bank, Allied Irish Banks plc, St. Patrick's Bridge, Bridge Street branch, I am now satisfied my contribution of €20,000 was made up of two bank drafts each of €10,000 drawn on that branch." And you furnish the Tribunal with copies of the drafts and we will refer to them in a minute.

"I myself have no recollection of the transaction." You go on to say; "In the ordinary way I would have instructed someone of my senior staff to see that it was done. I have had inquiries made among my own staff but no one has any recollection of the matter. This is not surprising as in any one year, they" - meaning your staff - "would handle thousands of financial transactions." You say, "I have been informed that there are no records in existence to

show the manner in which the payment was journalised in my accounts as the underlying records of the time no longer exist. Such a payment would normally, I am informed, have been charged to. This statement, I hope, covers the various matters raised by the Tribunal, except for the second last paragraph of the letter referred to. In that context, I wish emphatically to say that Mr. Charles Haughey never approached me directly or made any personal request for funds for either himself, the Fianna Fail Party or the Brian Lenihan fund."

If I just clarify one or two matters about the statement, Mr. Magnier. If you look at the second paragraph, you say that in the late 1980s you became aware that Mr. Brian Lenihan was seriously ill and you then go on to mention an approach you received from Paul Kavanagh. I take it you know Paul Kavanagh?

A. He came to

Q. Do you know Paul Kavanagh, I mean

A. Well I met him. He came the first time I think I met him was he came to lunch in Fethard and to my memory, he asked for a donation.

Q. Mmm-hmm, and I take it that that was in 1989, was it?

A. I can't say exactly, it's just a matter of record whenever it was.

Q. Well we don't have any records of it, I take it the only record you have is the cheque, is that right?

A. I mean we don't have any records.

Q. That's my point.

A. And it's taken us sometime to put all this together, as you probably know.

Q. I understand. The cheques that you have provided to the Tribunal, if we can put them on the overhead project for just a minute, or the drafts rather, are dated the 8th June 1989 and so I assume we can take it from that that the approach you received from Mr. Kavanagh was in 1989?

A. I'd say most certainly.

Q. And was that the first time that you had ever met Mr. Kavanagh?

A. I am not sure.

Q. Did you know Mr. Kavanagh before he made that approach to you?

A. I knew who he was.

Q. Yes? You knew

A. It may have been the first time I met him. I am not sure.

Q. I see. In any case, when you say you knew who he was, what do you mean by that?

A. Well he was the Fianna Fail fund raiser.

Q. Mmm-hmm. You say that you met him at lunch in Fethard. I presume he didn't come uninvited and that there was some prior contact?

A. I am sure.

Q. And that that prior contact would have been by telephone or it might have come from somewhere else?

A. I am sure he must have contacted me.

Q. At the time that he contacted you, can you remember whether he gave you any indication of how much money in total he was trying to collect?

A. No, I can't remember that.

Q. Right. And you say that you agreed to give €20,000. Can you recall whether he mentioned to you any figure that he thought might be an appropriate donation?

A. I say I agreed to give 20,000 because of the evidence. I wouldn't have remembered if we hadn't found all this.

Q. Mmm-hmm. Are you saying that you wouldn't have remembered making the contribution at all?

A. Vaguely I remember that we made a contribution to the Brian Lenihan fund but I wouldn't have been sure what the amount was.

Q. I see.

A. Though I think we did tell you that we thought that the €20,000 sounded correct but at that time we didn't have records which we subsequently got or the bank got apparently.

Q. I just want to clarify one thing that you said just a minute ago. While I appreciate you mightn't remember all the details, you surely didn't forget at any time that you had made a contribution to the Brian Lenihan fund, whatever the amount?

A. It's not something that would be on my mind, you know?

Q. You did recall seeing Brian Lenihan in the Senate and you say that you were shocked by his physical appearance.

A. I was.

Q. So clearly you remember that?

A. Well that's a different thing. When you see somebody like that, it's just, you know...

Q. I assume that if you can recall being shocked by his physical appearance, it's hardly likely that you could forget having contributed in some way to helping him out?

A. I mean I didn't say I forgot but you know the impression of seeing him was definitely more on my mind than what we gave him. To tell you the truth, I wouldn't have been sure what we gave him but I am sure now.

Q. You say you were anxious and stressed that you wanted the contribution to be completely anonymous. I just want to be clear about that because people use the expression 'anonymous', I am sure I use it myself when perhaps something else is meant. I take it that you must have handed the cheque to somebody or arranged for it to be sent to somebody, handed the drafts rather, I beg your pardon, to somebody or arranged for them to be sent to somebody?

A. Obviously I would have asked somebody to do it, yeah.

Q. What do you mean by stressing that the contribution should be completely anonymous?

A. Just exactly that, at both ends I would have wanted it anonymous at home and I would have wanted it anonymous at the other end.

Q. So

A. And I regret the fact that it has to be, you know, brought

out in public at all.

Q. Mmm-hmm. But I think you understand why it has been brought out in public, don't you?

A. It's not for me to comment on that now.

Q. Do you understand why it's being brought out in public?

A. Well I am not really sure of that.

Q. Well, so that you will be under no misapprehension, what the Tribunal is trying to do is this: It's trying to see how much was contributed in total to the fund. The Tribunal understands from evidence that the fund was put into a particular account in the Fianna Fail Party Leader's Fund and the Tribunal is trying to establish whether the money that was contributed did in fact go into that fund and whether that money, when it went into the fund, was used for the purpose for which it was intended. Do you understand that now?

A. As you tell me, yeah.

Q. And I am sure, I accept that you never intended that your contribution should have become public, but you can understand why the Tribunal is anxious to establish what and how much was contributed?

A. As you say.

Q. And you say you wanted it to be anonymous at home, as you put it, and anonymous at the receiving end?

A. That's right.

Q. Because you had been approached personally, obviously there was always going to be some degree of identification, isn't

that right?

A. Just explain that now.

Q. It was unavoidable that there was going to be some degree of identification because there had been a personal approach by Paul Kavanagh to you?

A. It's no big deal, like, that a few people know about it but I would just prefer that it wasn't anonymous.

Q. The method you chose, if I can put it at your end, to ensure that it was anonymous was to have two bank drafts made out to fictitious persons, is that right?

A. As you showed the evidence, that's correct but I wouldn't, you know, remember it.

Q. I see. Well, the first bank draft, the one on the overhead projector, you can see it on the monitor in front of you, is made out to a Jim Murphy and if we can have the second one for a minute, it's the same date and it's made out to a Jim Casey and the two bank drafts are sequential, one is 759 and the other is 760, those are the two numbers. And I take it that you stand over the statement or the information that has been given to the Tribunal that there are no, there was no Jim Murphy and no Jim Casey?

A. That's right.

Q. What I want to ask you is, is that the way that you decided to keep this contribution anonymous, if you like, at home, as you put it?

A. That's right.

Q. Whoever was receiving these bank drafts would have to know

that as well, wouldn't they? Whoever was getting the bank drafts would have to know there was no Jim Murphy and there was no Jim Casey so that they could negotiate the two instruments?

A. Yes.

Q. So you or somebody had to say to Mr. Kavanagh or somebody else, "I am going to send on bank drafts, they are going to be made out to fictitious people but there's no problem, just go ahead and endorse them"?

A. To tell you the truth, I don't remember any of the details of the transaction other than we have unfolded this and we are just trying to give you the best statement of what it was all about.

Q. What I am trying to get at, or get from you, Mr. Magnier, is whether something like that did happen, to the best of your recollection, or whether it must have happened?

A. Well clearly it did happen.

Q. Yes, well you must have been - what I am trying to get at, is this the first time you did this, the first time you ever wrote a cheque or instructed a draft be made out to Jim Casey?

A. Oh I am not certain of that.

Q. That's what I am trying to get at. Was this a way that you might, a practice you might adopt to ensure anonymity at your end?

A. Well obviously we did in this case.

Q. And again you have informed the Tribunal that while there

are no records in existence to show the manner in which the payment was journalised in your accounts, you believe, from what you are informed, that it would have been charged to drawings?

A. Yes.

Q. Put down to your, to you or somebody else?

A. It would have been repaid by the partners.

Q. Have you any reason why two drafts were used?

A. No.

Q. Is it possible that you were asked to make a payment in two drafts?

A. I wouldn't recall that anyway so I couldn't really say.

Q. Lastly, you say that you wish to emphatically say that Mr. Charles Haughey never approached you directly or made any personal request for funds for either himself, the Fianna Fail Party or the Brian Lenihan fund.

A. That's right.

Q. And can you remember having any indirect approach from Mr. Haughey?

A. No.

Q. And the person who sought the contribution from you, Mr. Paul Kavanagh, didn't mention Mr. Haughey to you?

A. No.

Q. And you go on to say that you were never approached by Mr. Charles Haughey directly or made any personal request or received any personal request from him for funds for the Fianna Fail Party itself?

A. That's correct.

Q. Or for himself personally?

A. That's correct.

Q. And can I take it that you received no indirect approach from Mr. Haughey for funds for the Fianna Fail Party?

A. Well I got approaches from Fianna Fail for funds but never from Mr. Haughey.

Q. I understand that. You had no indirect approach from Mr. Haughey, nobody rang you up saying Mr. Haughey suggested I contact you to make a contribution to Fianna Fail?

A. No.

Q. And likewise, can you say, just to complete your statement here, that nobody else rang you up and suggested that you make a payment to Mr. Haughey personally?

A. No.

Q. Were you ever aware of the fact that Mr. Haughey was in financial difficulties?

A. No.

Q. Nobody ever suggested to you that he was in financial difficulties?

A. No.

Q. And you are not aware of any other persons, you may be aware from Tribunals now, but you weren't aware in the 1980s or 1990s of any other person who had made personal contributions to Mr. Haughey?

A. No.

Q. Were you aware of any requests received by any other

persons to make personal donations to Mr. Haughey?

A. No.

Q. Thanks very much.

CHAIRMAN: Mr. Power, in the context of the ambit of your client's statement, you haven't sought representation but I am aware you have cooperated as regards preparing the documentation that was made available so I will give you an opportunity to, if you want, to ask any matter for clarification.

MR. POWER: No.

CHAIRMAN: Very good.

MR. COUGHLAN: Those are the witnesses today.

CHAIRMAN: What time tomorrow morning?

MR. COUGHLAN: 10:30, Sir.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
FRIDAY, 21ST JULY 2000 AT 10:30AM.