

A P P E A R A N C E S

THE SOLE MEMBER: Mr. Justice Michael Moriarty

FOR TRIBUNAL: Mr. John Coughlan, SC

Mr. Jerry Healy, SC

Ms. Jacqueline O'Brien, BL

Instructed by: Michael Heneghan

Solicitor

FOR THE DEPARTMENT OF

COMMUNICATIONS, MARINE &

NATURAL RESOURCES:

Mr. Richard Nesbitt, SC

Mr. Diarmuid Rossa Phelan, BL

Instructed by Matthew Shaw

Chief State Solicitors Office

FOR DENIS O'BRIEN: Mr. Eoin McGonigal, SC

Mr. Gerry Kelly, SC

Mr. James O'Callaghan, BL

Instructed by: Owen O'Connell

William Fry Solicitors

FOR TELENOR: Mr. Eoghan Fitzsimons, SC

Ms. Blathna Ruane, BL

Instructed by: Kilroy Solicitors

FOR MICHAEL LOWRY: Mr. Rossa Fanning, BL

Kelly Noone & Co.,

Solicitors

FOR FINE GAEL: Mr. Anthony O'Connor, BL

Instructed by: Kevin O'Higgins & Co.,

Solicitors.

OFFICIAL REPORTER: Mary McKeon SCOPIST: Viola Doyle

I N D E X

| Witness:       | Examination: | Question No.: |
|----------------|--------------|---------------|
| Denis O'Connor | Mr. Healy    | 1 - 9         |
| Sean Barrett   | Ms. O'Brien  | 10 - 34       |
| Mr. Fitzsimons | 35 - 39      |               |
| Daniel Egan    | Ms. O'Brien  | 40 - 181      |
| Mr. Fitzsimons | 182 - 188    |               |
| Mr. O'Connor   | 189 - 196    |               |
| Mr. Fanning    | 197 - 198    |               |

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, THE 15TH  
OF OCTOBER, 2003, AT 11AM:

MR. HEALY: The short delay this morning, Sir, was occasioned by the fact that the Tribunal legal team had discussions with the other legal teams, explaining the up to date position with regard to the Tribunal's contacts with Mr. Michael Andersen and his lawyers. And it now appears, as a result of a meeting as a result of a telephone conference call this morning with Mr. Andersen's lawyers, that it may be possible to arrange for Mr. Andersen to give evidence, admittedly it will be in the new year, and almost certainly after all the other evidence has been heard, but, nevertheless, it will be preferable to have his evidence, than not to have it, of course.

At the moment, as has already been indicated in

evidence, Mr. Andersen is involved in an arbitration with AMI, the company of which he was formerly effectively the Chief Executive or Managing Director, and that arbitration is expected to be concluded sometime in the new year.

The extent to which Mr. Andersen is precluded from giving evidence at the moment is not exactly clear, but the Tribunal is hoping to have a meeting with his lawyers, from which it will be clear, I expect, sometime later this week or early next week, that he will be able to come and he will be able to give evidence within a reasonable timescale, and that might, therefore, obviate any need for any application, subject, obviously, to what any of the other interested or affected parties think. And I think if there is any if there are more developments in relation to this matter, then obviously they'll be mentioned in the course of Tribunal proceedings early next week.

CHAIRMAN: Yes.

MR. HEALY: Mr. Denis O'Connor, please.

MR. FANNING: I wonder, Sir, before Mr. O'Connor gives evidence, certainly for the record that I appear for Mr. O'Connor, instructed by Kelly Noone Solicitors. My understanding is that on a previous occasion my colleague, Mr. O'Donnell, made an application for limited representation for Mr. O'Connor. My

understanding is that was either declined or not ruled upon at that stage. As on previous occasions that Mr. O'Connor has given evidence, it's been thought that his evidence was ancillary or subsidiary to his client, he is an accountant by profession, his client being my other client, Mr. Lowry.

It seems to me the evidence he is being asked to give this morning is evidence independent of Mr. Lowry, and is evidence that bears upon his own recollection of events in a primary capacity, and in those circumstances, I am, in fact, renewing an application for limited representation this morning on his behalf.

CHAIRMAN: Well, I'll note that application, Mr. Fanning, but it does seem to me that the status quo is not going to prejudice anybody. I can't see any particular point in, for the very limited and piecemeal instance of evidence this morning, in making a separate limited Representation Order. So I will simply protract the present situation whereby Mr. Lowry's Representation Order extends to Mr. O'Connor's evidence, as it has on the couple of occasions he has testified in the past. Thank you.

DENIS O'CONNOR, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

Q. MR. HEALY: As you know, this morning's evidence is simply related to one event or episode in 1995, of which you can give some evidence, and on which you

have given the Tribunal some assistance in the form of a Memorandum of Intended Evidence. And I think you have a copy of that memorandum?

A. That's correct.

Q. You have given evidence before, so very briefly I'll go through the memorandum, and I don't think very much arises out of it.

What you were being asked about was the aftermath of the All Ireland Final of 1995, when according to information made available to the Tribunal, it would appear that there was a meeting between Mr. Michael Lowry and Mr. Denis O'Brien. That occurred in, according to the information made available to the Tribunal, in a public house in Leeson Street. You were, at the time, I think you had you met Mr. Lowry, and it's in that context, and in the context of your dealings with Mr. Lowry that day, that you were asked to give your version of what you could recall of meeting Mr. Lowry in a public house in Leeson Street after the All-Ireland Final, isn't that right?

A. That's correct.

Q. You say: "I have difficulty in recalling the events surrounding the All-Ireland Final of 1995, due to the time which has elapsed. It is my recollection that I went to same with my wife, and that we would have had tickets in the Cusack Stand. I further believe that I

would have got the tickets from either Michael Lowry or my late father. On balance, probably from my late father.

"In the course of probably a telephone conversation, Michael Lowry would have asked if my wife and myself were interested in meeting for a drink after the match. I agreed, and he said to go to Hourican's in Leeson Street. Michael Lowry would have given me directions, as I had never been there previously, and indeed, would not have been clear as to the exact location until actually arriving there.

"I believe that I would have driven to the match in my own car and parked in the Fairview area. I would have certainly left Croke Park after the match, but cannot recall whether I waited for the presentation. I may have because Dublin won. If I did, I would have left Croke Park at approximately 5:20pm. I would have certainly walked to my car and driven over the East Link, through Ringsend, down Leeson Street and probably parked in Earlsfort Terrace. If I stayed for the presentation I probably arrived at Hourican's at about 6:15, 6:20pm. If not, I probably arrived at around 5:55 or 6 p.m..

"I recall there were people present who had the appearance of being at the match. The pub was full, with standing room only. Michael Lowry was not there when we arrived, and we stood at the bar to the left

inside the door. I can recall the late Sean Murray being there when I arrived, but I did not engage in chat with anyone until Michael Lowry arrived. When Michael Lowry arrived he joined us for a drink, and I can recall discussing the match with him, being introduced to Sean Barrett by him" that's Mr. Sean Barrett TD, then a Minister, isn't that right?

A. Correct.

Q. "I cannot recall when Michael Lowry arrived, but it could easily have been any time up to 7/7:15pm. My wife and myself would probably have left sometime between 7:30pm and 8:30pm. I did not see Denis O'Brien, and have no recollection of Michael Lowry" sorry, I think I must have misread something a moment ago.

A. 8:00pm

Q. "My wife and myself would probably have left somewhere between 7:30pm and 8pm. I did not see Denis O'Brien, and have no recollection of Michael Lowry leaving Hourican's, although he circulated in Hourican's and left our group. When leaving, I would certainly have made Michael Lowry aware of my exit. Until the issue arose I was not aware that Michael Lowry attended a VIP reception."

I think you're aware that Mr. Michael Lowry himself has provided the Tribunal with a Memorandum of Intended Evidence, in which he says that he went to

Hourican's licensed premises, that Mr. O'Brien arrived that the premises were extremely crowded, and that he and Mr. O'Brien agreed to go across the road to Hartigan's. You are aware of that?

A. I am aware of that.

Q. Your recollection is that you didn't see Mr. O'Brien in the public house?

A. Correct. I don't even know if I would have known Mr. O'Brien at the time, to be frank with you, you know.

Q. And I suppose to be fair, you have also said that Mr. Lowry, when he joined you, he had a drink with you, you discussed the match. You think that Mr. Lowry spent some time in the public house while you were there in other parts of the public house, is that right?

A. Correct, yeah. I certainly have a kind of a recall of him heading down towards the back of the pub, you know. He certainly was circulating, as I am sure any Minister would have been

Q. I was going to say that. I am not being facetious when I say he may have been working the room, but that is what politicians have to do on these occasions?

A. Correct.

Q. So he would have been out of your sight, is that correct?

A. Correct.



MR. HEALY: Thanks very much, Mr. O'Connor.

CHAIRMAN: Anybody got any matters to raise with

Mr. O'Connor arising out of that? Mr. Fanning?

Thanks for your further assistance, Mr. O'Connor.

THE WITNESS THEN WITHDREW

MS. O'BRIEN: Mr. Sean Barrett, please.

SEAN BARRETT, HAVING BEEN SWORN, WAS EXAMINED AS

FOLLOWS BY MS. O'BRIEN:

CHAIRMAN: Good morning, Mr. Barrett. Thank you for attending.

Q. MS. O'BRIEN: Morning Mr. Barrett.

Mr. Barrett, again your evidence to the Tribunal today relates to your recollection of events on the evening of the 17th September of 1995 after the All-Ireland Cup Final on that day. And the Tribunal raised this matter with you on foot of information provided by Mr. Michael Lowry, that you were one of the persons in whose company he recalls that he was on that evening in Hourican's licensed premises. And I think you have assisted the Tribunal by providing a Memorandum of Intended Evidence. And I don't know if you have a copy of that with you in the witness-box?

A. I do.

Q. What I propose doing is taking you through that, Mr. Barrett, and there may be just one or two very short questions that I wish to raise with you at the completion of your memorandum.

A. Grand.

Q. Now, you have informed the Tribunal that you probably would have attended the All-Ireland Final on the 17th September, 1995, but that you have no particular recollection of the match or the events after the match, is that correct?

A. Correct.

CHAIRMAN: I suppose just to set the scene, Ms. O'Brien. I think it is the situation, you had been quite a long serving Fine Gael member for Dun Laoghaire/Rathdown, and at this stage you had been appointed to the Cabinet?

A. That's correct.

Q. MS. O'BRIEN: You state that it's possible that somebody would have asked you if you were going for a drink after the match, and that you would have said you were going to Hourican's. You state that at that time you were Minister for the Marine, and the Department had premises on Leeson Street, across the road from Hourican's, and you would have frequented that establishment. You would not, however, have associated Mr. Michael Lowry with Hourican's?

A. When I say "frequented", I don't want to give the impression that I was in there every evening, but very often I would go in for a sandwich at lunchtime or something. Yes, I would go in there occasionally for a drink, yes.

Q. You state that while Mr. Denis O'Brien may have been in Hourican's on the evening in question, you have no recollection of seeing him there. You would have recognised Mr. O'Brien, although you would not have known that Mr. O'Brien was applying for the second GSM licence, and it would have made no impact on you if you saw Mr. O'Brien coming into the pub to meet with Mr. Lowry. Is that correct?

A. That is correct.

Q. You informed the Tribunal that you knew the late Mr. David Austin for a number of years, and you often played golf with him in Killarney Golf Club. You would have considered that the late Mr. Austin was a supporter of the Fine Gael Party, and you recall Mr. Austin mentioning that in his view the Fine Gael Party were unprofessional in their approach to fundraising. You state that you were uncertain as to how the late Mr. Austin came to be involved in the organisation of the 1995 golf classic and the New York fundraising event later that year.

A. Could I just since I spoke to you last, I just want to be absolutely certain about this. Mr. Austin, I understand, was a member of a committee that was set up to run the golf classic, and I can recall Mr. Austin mentioning to me that if other parties could raise funds in the States, why couldn't Fine Gael. And I think he may have taken it upon himself

to set about organising that function.

Q. I think we have actually had quite lengthy evidence in relation to it, and I think you are probably correct in that, Mr. Barrett. Thank you.

You state that you would have known at that time that the you would not have known at that time that the late Mr. Austin was particularly friendly with Mr. Michael Lowry or Mr. Denis O'Brien, but you would have known that Mr. Austin had a wide circle of friends and acquaintances. Is that correct?

A. That's correct.

Q. Now, just two matters, short matters arising out of that, Mr. Barrett: You state there that you wouldn't have known that Mr. Austin was particularly friendly with Mr. O'Brien. But on the basis of your quite lengthy friendship with the late Mr. Austin, would you have known that there was a friendship between them, or would you have been aware of it?

A. Well, not necessarily, no. I mean, the late David Austin had, as I said, a wide circle of friends, and he was a very outgoing sort of person, and because of his position in the Smurfit Group he would have had contact with various business people because they would be attending functions and so on, and I wouldn't have any particular reason for knowing that he was friendly with Mr. Denis O'Brien or he wasn't. I mean, I never discussed it.

Q. It wouldn't have occurred to you?

A. Yes.

Q. What about in relation to Mr. Michael Lowry, who, of course, was a Cabinet colleague of yours and you would have known quite well, and Mr. Austin, who seems to have been certainly a close acquaintance of yours; would you have been conscious at all of a friendship between them over and above, if you like, the kind of acquaintanceship that a Minister might have with somebody like Mr. Austin, who was a supporter of the Fine Gael Party?

A. Well, we were only a short time in Government at that stage. I mean, you are talking about we went into Government, I think, November/December of '94, so there was a it was only about ten months later. I wouldn't have known that I wouldn't have any reason to know that Michael Lowry would be particularly friendly with David Austin. I don't know how often he would have met him, but... He may have met him through me, to be honest with you, I am not absolutely certain.

Q. But you weren't conscious of a friendship between them over and above that acquaintanceship?

A. Not particularly, at that stage.

Q. Would you have been aware subsequent to that, of a closer connection between them?

A. I think when the late David Austin got involved in

fundraising, he may have, may have had more contact with Michael Lowry. Could I honestly tell you, in my opinion David Austin, in any fundraising events, did it, in my opinion, purely to help the Fine Gael Party.

He was at that stage, he was he liked John Bruton as an individual, and wanted to help the Party.

I don't think there was anything, no ulterior motive for him getting involved, other than helping the Party, because we did have a debt, let's be honest about it, and we had to get rid of it. And I don't think there was any other reason for him getting involved at that stage.

Q. Can I just ask you as well; you say that you refer to the late Mr. Austin as having been a supporter, if you like, of the Fine Gael Party, and you also refer to his involvement as a member of the committee that organised the golf classic, and also the New York fundraiser prior to that golf classic, which I think was in October of 1995, and the New York fundraiser was in early November. Had you any knowledge of Mr. Austin being actively involved to that level in Fine Gael fundraising?

A. No, because at that stage Mr. Austin would have been sort of in a high position within the Smurfit Group, and I would say he had more time on his hands and was more involved in the Fine Gael Party. It was just I think it was because that John Bruton had

become Taoiseach, and as I said, he particularly liked him, and he wanted to do something to help. But that was the reason why he got involved, it wasn't for any other reason that I am aware of.

Q. I am not suggesting that at all, I just wanted to clarify whether you knew of him being actively involved at the organisational level, in any event, prior to those two events?

A. I think he was as conscious as I was that we had to do something to get rid of a debt and to raise money, and he was very good at it, I have to say.

Q. There is no doubt about that. I take it, Mr. Barrett, that you followed some of the evidence that's been heard by the Tribunal in relation to the funds that were raised for the New York fundraiser?

A. Yes.

Q. I take it that you were aware from the evidence, or from following it in the newspapers, that a donation of  $\frac{1}{2}$ 50,000 (sic) came from Esat/Telenor?

A. Yes.

Q. In dollars, sorry, I should correct myself. And I take it that you are also aware that Mr. Austin placed that fund into an offshore account in his name in Jersey. Were you aware of that evidence?

A. Yes.

Q. And I suppose, as somebody who had been involved in fundraising and who knew Mr. Austin, were you

surprised that Mr. Austin would have dealt with a donation in that fashion?

A. Well, I have no reason for believing this, but knowing the man, I would think that what happened was that it was a very sensitive issue to invite somebody who had received a contract from the Government to a fundraiser, and knowing Mr. John Bruton, he wouldn't particularly like that, in case there would be any misunderstanding. And David Austin was one of these people that wouldn't see anything wrong, insofar as that it wouldn't dawn on him that, you know, he was doing anything improper. And my guess, and this is purely a guess, that having received the money and not wanting to disclose that he had it, he was so honest that he put this money away and waited for an occasion to pay it over to Fine Gael, and that when he got the opportunity at the '97 election, and he was very ill at the time, he made a donation as if it was his, but it was the money that he had and wanted to get rid of. But I wouldn't think there was any intention at any stage of him misappropriating the money or wanting to use it himself, and I think this I think it was purely something that he and he alone decided, that this was the way he would, you know, give the money for the purpose for which it was originally given, without embarrassing anybody.

Q. You would think that his motivation at the time was



that he realised that it was a very sensitive matter to be taking a donation of \$50,000 US from the consortium that had just

A. We are having a Tribunal because of the fact that, you know, it's been investigated because people may think that, you know, it was some sort of a payment for a contract, but in my opinion, and from what I know, certainly I wouldn't, and none of my colleagues in Government would ever accepted money under those circumstances. But I think it was purely accidental that he had got this money and then realised that, you know, it wouldn't be well thought of if it arrived in the Fine Gael bank account, and that purely he put it away and then he found a way of getting rid of it into Fine Gael, where he wanted it to be, and my experience of David Austin was that he was an extremely honest man and wouldn't be involved in any sort of wrongdoing in that respect.

Q. Nobody suggested that for a moment.

A. I appreciate that, but I am just making my point.

Q. Yes, of course. But you'd agree with me, it was a very unorthodox way to deal with fundraising on the part of a political party?

A. Well, it would. But knowing the man, he just probably the right thing would have been to give it back, but he probably just decided that, you know, this was a donation, and he didn't see anything wrong

with it, and he just eventually passed it over to

where it originally was supposed to be.

Q. You are aware

A. But I am purely guessing now, I mean I have no

evidence of this. But knowing the person, that's the

way I feel that he dealt with it.

Q. Have you also followed the evidence that the Tribunal

heard in relation to the manner in which this was

invoiced on the Telenor side, Mr. Barrett?

A. Yes.

Q. I think you will be aware, then, that a false invoice

was raised in respect of this payment that was made by

Telenor at the time?

A. Well, I don't honestly know too much about this at

all, you know what I mean?

Q. But you'd accept that that's nothing to do or you

wouldn't be you wouldn't characterise that as being

an orthodox means of fundraising, would you?

A. No, no, I would not.

MS. O'BRIEN: Thank you, Mr. Barrett.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FITZSIMONS:

Q. MR. FITZSIMONS: Just on the question of unorthodox

means of fundraising: Were not a lot of the political

parties raising their funds in that manner at that

time by accepting invoices?

A. Well, I didn't know about this until it actually

broke. I mean, I wasn't certainly wasn't involved

in any of that type of

Q. Of course, I appreciate that, Mr. Barrett. But it was a practice that we believe

A. I believe it wasn't the first time it was done.

Q. It wasn't the first time it was done. The evidence has been that this contribution was actually in Mr. Austin's hands before he heard that Mr. Bruton would be horrified at the thought of receiving such a contribution. And I think you have indicated that he had great admiration for Mr. Bruton. Can we take it that it would have been an incredible embarrassment for him to have to admit that he had, if you like, overstepped the mark in his enthusiasm to benefit the Fine Gael Party?

A. I would accept that, yes.

Q. And

A. That would be my reading of it.

Q. Yes, of course. Well, it's a logical absolutely logical reason, and he, therefore, if you like, left the money aside until it could be conveniently transferred to Fine Gael funds?

A. That's correct.

MR. FITZSIMONS: Thank you, Mr. Barrett.

CHAIRMAN: Thanks very much for your attendance and assistance, Mr. Barrett.

THE WITNESS THEN WITHDREW

MS. O'BRIEN: Mr. Daniel Egan, please.

CHAIRMAN: I think, Mr. Egan, you have indicated you'd prefer to affirm, of course.

DANIEL EGAN, HAVING AFFIRMED, WAS EXAMINED AS FOLLOWS

BY MS. O'BRIEN:

Q. MS. O'BRIEN: Thank you, Mr. Egan.

Mr. Egan, you have furnished the Tribunal with a Memorandum of Information, and what I propose doing with you, if it's agreeable to you, is taking you through that. I'll also be referring you just to a short number of documents after your memorandum is completed, and there will be one or two matters that I want to discuss with you in more detail, if that's agreeable to you?

A. That is, yes.

Q. Now, your memorandum it's in Book 40, Sir, at Divider 11 and it's dated the 17th January, 2003.

And you have a copy of that in the witness-box, do you?

A. Yes, I have.

Q. You say you have been associated with the Fine Gael Party since spring of 1978. You were an employee of the Party from April 1978 to May 1984. Since 1984, you have also worked on occasions for the Party in a voluntary capacity, and in a professional capacity, mainly during elections. Is that correct?

A. That's correct, yes.

Q. You state that you never held any position at any

level of the Fine Gael Party. You state that the Opening Statement to the Tribunal was incorrect to state that you were Head of Young Fine Gael in the late 1980s. You never held any position with Young Fine Gael. While an employee of the Party you acted as organiser of that unit of the Party. You never stood for election for public office, is that correct?

A. That's correct, yes.

Q. You stated you were never involved in any fundraising activities on behalf of the Fine Gael Party. You have never made a financial contribution to any public representative, or to any candidate seeking public office. You have never been asked by any third party to act as a go-between for the making of a financial contribution to any political party, or to any public representative, or to any candidate for public office.

A. That's correct.

Q. You state that in 1995 you were approached by the late Mr. Jim Mitchell. You were asked if you would consider working as an adviser to Mr. Denis O'Brien. You understood that Mr. O'Brien wished to raise his public profile, and that of Esat. You had two initial meetings with Mr. O'Brien to discuss what was required and to discuss terms and conditions. As part of building a profile, you advised Mr. O'Brien on developing a relationship with members of the political establishment. You advised Mr. O'Brien to

attend fundraising events being held by the various political parties. These events provided an opportunity to meet senior political figures in an informal setting. Such events also provided the opportunity of meeting a cross-section of business and professional people which would also help build the public profile of Mr. O'Brien and of Esat. The aim of the exercise was to project Esat as a serious contender for the new licence. Building a strong public profile for Esat during the tender process period would also have significant marketing benefits if the company was successful in obtaining the licence. Is that correct?

A. That's correct.

Q. You state that you also arranged meetings between Mr. O'Brien and Mr. Enda Kenny, and between Mr. O'Brien and Mr. Richard Bruton. The purpose of these meetings was to enable Mr. O'Brien to explain his interest in the second GSM licence, and to outline his credentials to Ministers of commercial departments.

You inform the Tribunal that the meeting between Mr. O'Brien and Mr. Kenny took place at Government Buildings. You escorted Mr. O'Brien to the meeting, but you did not attend the meeting itself, is that correct?

A. That's correct.

Q. You have informed the Tribunal that while waiting in a corridor for the above meeting, Mr. Richard Bruton walked by and stopped to speak to you. You introduced Mr. Bruton to Mr. O'Brien and explained the nature of your business. You asked Mr. Bruton to give Mr. O'Brien an opportunity to state his case to him. Mr. Bruton, although somewhat reluctant, agreed to meet with Mr. O'Brien later that evening. And you state that you were not present at that meeting.

A. That's correct.

Q. And then finally, you state that at your meeting with Mr. Davis, that's Mr. John Davis, and other members of the Tribunal legal team on the 18th November, in response to a specific line of questioning you very tentatively suggested that Mr. Phil Hogan may have assisted in arranging the meeting between Mr. O'Brien and Mr. Kenny. You have informed the Tribunal that you are now satisfied that this was not so. At that time, you knew people who worked in Mr. Kenny's private office and you would have made the arrangement through them directly, and you wish to apologise to Mr. Hogan for the confusion.

A. That's correct.

Q. And in fact, I think, indeed, that was explained to Mr. Hogan at the time he gave evidence.

A. Yes, I understand that also, yes.

Q. Now, Mr. Egan, you have informed the Tribunal that you

were involved professionally with the Fine Gael Party from 1978 to May 1984. You then left the employment of the Party, and since then, on occasion, I think you have worked both in a voluntary and a professional capacity, is that right?

A. That is correct, yes.

Q. I think at one stage, correct me if I am wrong, I think you were Special Advisor to Mr. John Bruton, perhaps during the last months of his tenure as Minister for Finance in 1986, is that right?

A. That is correct, but, of course, at that time I wasn't an employee of the Party, I was working in the Department of Finance.

Q. Of course, you were.

A. So it wasn't a Party position.

Q. Apart from that position, were there any other positions that you held professionally with Fine Gael between, say, 1984, when you left, and 1995, being the time we are talking about at the moment?

A. I did act as, for a period, but I can't remember the exact time period, I did act for a period as Secretary to the Fine Gael Group to the Peace and Reconciliation Forum here in Dublin Castle. That would have been I didn't check the dates now before I came in.

Q. I think, perhaps, I can assist you on that because the Tribunal made inquiries. I think the Forum itself actually commenced in November of 1994, and it



completed its business in February of 1996?

A. Well, I was certainly there at the latter stage. So I would have been there during the second half of '95 and the till the end.

Q. Well, were you not Secretary to the delegation through the entire of the Forum?

A. Oh no, no. Senator Brian Hayes he wasn't a senator at the time, he was working in Fine Gael Party Headquarters at the time. He was Secretary to the Fine Gael Group, certainly in the earlier stages, and I was asked to become Secretary of the Group. He was appointed to the Senate, I think, in the sometime during I am not exactly sure of the exact date now. He was appointed to the Senate, and I was asked to become Secretary to the Forum when he was appointed to the Senate.

Q. Well, would he have been appointed to the Senate as part of the Taoiseach's nominees to the Senate?

A. No, a vacancy arose in the Senate after John Bruton became Taoiseach, and it must have been one of the Taoiseach's nominees who had died, I suspect, and in that situation, the Taoiseach has the right to make another nomination. I am just going on recollection now. That's my recollection. So the Taoiseach at the time appointed Brian Hayes. That's my recollection.

Q. So it would have been sometime early in 1995, mid-1995, around about that time?

A. Around about mid- I think around about mid-

Q. Can you recall who was on that delegation, the Fine Gael delegation to the Forum on Peace and Reconciliation?

A. Some of them yes, I can, some of them.

Q. And just assist us, could you tell us who was on that Forum? Were they all TDs or members of the Oireachtas?

A. No, they weren't. Some of them were TDs. I can't remember whether some of them were Senators or not. Some of them were public representatives and some of them were not public representatives at all.

Q. And you had an office here in Dublin Castle, had you?

A. Well, the Party had an office.

Q. And you would have used the facility of that office?

A. Yes, on occasions, not very much. I had a desk in Party Headquarters, actually, at the time. So I mainly worked from there.

Q. So you were between Party Headquarters in Mount Street and Dublin Castle?

A. Yes, I used to come to Dublin Castle on the days the Forum actually met.

Q. Was that a full-time position?

A. No, no, no.

Q. To what extent did it involve your time?

A. Approximately I think the arrangement was it would be one day a week at the beginning, and then after

this it was a half day a week, and on the day the Forum sat itself, I used to attend the group the day it sat.

Q. Now, when you left the employment of Fine Gael in 1984, did you pursue a career, then, in the private sector?

A. No, no. After we left on good terms, I'd like to state that. I went to college in London for a year in 1984 to 1985. So I went to the London School of Economics for a year.

Q. And then were you operating as a consultant from then on?

A. Well, no. Not really, no. I worked for a recruitment firm for quite a period of time afterwards. Then I did various research projects for people, and I act as an independent agent, I suppose you'd call it. I don't like the word "consultant", it's kind of I act as an independent agent. I give people do some script writing, do promotion work for some people, and I carry out some private research on my own behalf. So basically that's what I do.

Q. And was that private research in connection with the academic studies that you had pursued?

A. Yes, it is. Yes, it is.

Q. And what was your particular area of interest?

A. Well, in the London School of Economics I did a Masters degree in economic science and European

studies. And I remember I did a special course as well there on modern capitalism, with particular emphasis on marketing.

Q. That's also very interesting.

A. It was yes, at the time, yes.

Q. In January, 1995, you say that you were then approached by Mr. Jim Mitchell, is that right?

A. That's correct, yes.

Q. Did you know at the time that Mr. Mitchell, the late Mr. Mitchell, was a consultant to Mr. O'Brien, or to Esat Telecom?

A. I can't remember whether I knew at the time now, whether he was or not. I am sure he told

Q. I am sure

A. Well, if I didn't know it at the time I realised it fairly shortly afterwards, yes.

Q. And he asked you, inquired whether you'd be interested in acting as a consultant for Mr. O'Brien, is that right?

A. That's correct, he did yes. I didn't know Mr. O'Brien now at all at that stage, I'd never met him.

Q. And I think you said in your memorandum that you attended two initial meetings with Mr. O'Brien to try and ascertain what was required and what your terms and conditions would be?

A. Yes, that's my recollection, yes. I am fairly certain that happened, yes, yes.

Q. And what did you understand that Mr. O'Brien, if you like, wanted in terms of advice or assistance or agency from you, as you have termed it?

A. Well, when I met him I had never met him before now, I didn't know anything well, I knew a little bit about him from the public arena. I knew of Esat, and I knew they were a small telecom company, but I had never met Mr. O'Brien before that. So I went along to see, first of all, what kind of a person he was and to see could we get on together. I wouldn't like working for somebody unless we got on very well together, and see what kind of a person he was. I told him my background generally. And I told him particularly he was interested in the fact that I had been at the London School of Economics, and I remember I discussed a few ideas with him at the time, because I mentioned to you earlier that I attended some seminars on marketing, and I remember one of them had been relating to Richard Branson and the kind of concepts that there is between personalities and business, and I mean, we see that. We see that, for instance, with Michael O'Leary and Ryan Air, and you see it particularly in the fashion world, with Versace, and how individuals become associated with businesses, and the actual name becomes quite valuable in itself.

So I discussed some concepts with him in that regard,

about promoting his name and promoting the company and promoting him associated with the company. Because I was also interested he was the only person at the time who had a public face, none of the other consortiums had a public face. So he was the only one. So I thought it would be quite a strong value in him promoting himself, in promoting the company as well at the same time, and I mentioned also that at the end, if he won the licence, it would be enormously valuable after winning the licence that, the fact that he and Esat had a very public profile.

Q. And his name would be in the public domain?

A. Very much so.

Q. That first meeting that you had with him, do you recall was Mr. Mitchell also present?

A. No, he wasn't.

Q. He wasn't. You just arranged a meeting on your own, is that right?

A. I arranged it with his secretary. I can't remember her name. I can't remember her name. But I arranged it through his secretary.

Q. Did you go to his office on that occasion?

A. I did.

Q. Do you recall whether it was a short meeting or a lengthy meeting?

A. I'd say it was about half an hour, the first meeting I think, I think so.

Q. Then you had a second meeting with him?

A. I don't remember the second meeting. I think I went along to the second meeting because in the interim, as I said, I hadn't known him previously, so I inquired about some people who had known him, as to what he might be like to work for. So the second meeting was to tell him I was prepared to

Q. Work for him?

A. Yes. That was quite a short meeting.

Q. And was that also in his office?

A. Yes, it was, yes.

Q. And do you remember was there a lengthy gap between the first meeting and the second meeting, or were they fairly close in time?

A. It was a matter of a couple of weeks, I think.

Q. I think you have informed the Tribunal that an intrinsic part of the advice that you gave to him was that he should attend events that were being run by political parties?

A. Yes, that is correct, yes. In fact, I remember saying to him very clearly that he shouldn't associate himself specifically with any one political party, that it wouldn't be a very wise thing to do.

Q. And are you certain that you gave him that advice, Mr. Egan, about associating himself with other political parties?

A. Well, I didn't use the word "associate" now. I think

I probably used the words that it would be wrong to become too identified with any one political party because he was in the business world, and we all know there was, there are quite a range of political parties. So I think for anybody involved in, particularly in a high profile company, I think it's not a good idea to become too clearly identified, I don't think I used the word "associated" now, identified with any one political party.

Q. I see. It's just that Mr. O'Brien has furnished to the Tribunal information in relation to the events that he either attended or sponsored during 1995, and early into 1996, and apart from one event that was run by another political party, all the events that he attended or he sponsored were run by the Fine Gael Party. So I was just wondering, did you give him that advice

A. I remember very distinctly giving that advice, yes.

Q. Right. Apart from those two initial meetings with Mr. O'Brien, do you recall did you have any further meetings with Mr. O'Brien?

A. Oh, yes, I did, yes. But I don't have

Q. Obviously you met with him when he was going along to Government Buildings to meet Mr. Kenny?

A. Yes.

Q. But do you remember other meetings apart from that?

A. Yes, I do remember other meetings, but I don't have



dates for the meetings. But I do remember other meetings in his office, yes.

Q. Do you recall what they related to, those other meetings; what you might have discussed on those occasions?

A. Well, there was a general I remember being at a meeting in his offices were down by the Grand Canal, I think. I remember being in a basement office there early one morning, and we were discussing how the bid was going and what our assessment of the various other tenders were at that stage, as to what the state of play was. So I remember that meeting quite well.

Q. Do you remember who was at that meeting in the basement office in Mount Street?

A. I do remember Jim Mitchell being at that particular meeting, yes, but that is the only meeting at which I recall I am pretty certain that was the only meeting that Jim Mitchell and I and Denis O'Brien were actually together.

Q. And was there anybody at the meeting other than yourself and the late Mr. Mitchell and Mr. O'Brien?

A. I can't honestly say now. My recollection is there was, but I can't say who they were. I can't say who they were. I think there were, possibly, but I wouldn't be absolutely definitive about that, I think there were possibly a couple of other people from

Mr. O'Brien's office, but I don't recall who they were.

Q. Do you recall at all, or could you even roughly recall when that meeting might have taken place? You were saying, I think in your evidence, that

A. Well, certainly the meetings it took place, I am just I am going to look up the note that was sent to me yesterday about the meetings that took place with Richard Bruton.

Q. I think I can assist you. They were on the 17th May?

A. Was it? I would have thought it was before that, I would have thought, but I couldn't be definitive about it now.

Q. I think you were saying, were you, that what you were discussing is how the other bids were doing and how the process was going along?

A. Yes, the general state of play as to how we thought Esat was doing.

Q. Was doing?

A. Yes. And I remember being asked my opinion I think it was at that particular meeting, I remember being asked my opinion as to what I thought might be important factors in the bid, given the fact that I had close involvement in political life generally and had actually worked in the Department of Finance, as you referred earlier; what might be the kind of what did I think might be the thinking. So I

remember giving some opinions on that.

Q. Do you think, then, that that meeting was before the actual bid was lodged, which was the 4th August of 1995?

A. Oh, yes, I would think so, yes. I'd be fairly certain it was, yes.

Q. Do you remember attending is your recollection, then, that it was probably before the 17th May when you

A. I couldn't be absolutely certain now about that particular point because I haven't actually kept any diaries from that period.

Q. Do you think it was early on in your consultancy to Mr. O'Brien?

A. All I can say is I would be certain it was before August. So I am not going to say otherwise. That's all I can say.

Q. Do you recall attending any other meeting like that, whether Mr. Mitchell was at it or not?

A. No, I am absolutely certain there was only one because I remember that one quite clearly, that that was the only one.

Q. Well, do you remember any other meetings that Mr. Mitchell, the late Mr. Mitchell wasn't at, but which you may have had with either Mr. O'Brien or anybody else from Esat at which you might have discussed either what you'd be looking for in a bid or

how the bids were progressing, or indeed any aspect of the activities of Esat Digifone in trying to secure this licence?

A. I did I am trying to remember now I did have contact with other people in Esat, but one of them was related to a totally different matter. And I did have some contact with, I recall, Sarah Carey. I can't remember whether that was face to face contact or telephone contact with Sarah Carey, who was she was involved in public relations with the company at the time.

Q. And do you remember what your contact with Sarah Carey was about?

A. I am sure we discussed aspects, but I can't remember definitively. I am sure we discussed aspects of raising the profile of because one of the suggestions that I had made, which I understand Esat took on board, I had mentioned to Denis O'Brien very early, I can't remember what meeting now, but I had mentioned to him early on that I thought he should, as part of the bid well not as part of the bid sending in, but that he should establish part of his operations not exclusively in Dublin, that he should establish part of his operations in the midwest, and I understand that as part of Esat that was actually done later because there just being a specifically Dublin bid, I thought if he had more a national bid and a

better spread. So he thought that was an interesting point, and I understand afterwards that that was actually done, that part of the Esat operation was actually established in Limerick shortly afterwards.

Q. We know from information provided by Ms. Carey, and indeed from her Memorandum of Intended Evidence which we have from her, and which has been circulated, that she played some role in relation to arranging for or putting into place some of the contributions that Mr. O'Brien or Esat Telecom or Esat Digifone, whoever it was, made to Fine Gael. And I wonder do you recall, did you have any discussions with Ms. Carey about that aspect of Esat Telecom's activities?

A. No. No. I never discussed with anybody in Esat, I have made it clear in paragraph 3 of my statement, I was never involved with fundraising activities on behalf of the Fine Gael Party, ever. I have never discussed fundraising, Fine Gael fundraising with anybody.

Q. I accept that, but I am wondering did you know that Esat and Mr. O'Brien were making these fairly sizable contributions? I think, in all, over the 15 months, they came to  $\text{€}22,400$ , apart from the \$50,000 we were speaking of earlier with Mr. Barrett, did you know that they were being made?

A. No, I did not, no.

Q. Now, apart from Ms. Carey, do you recall who else you had meetings with in Esat?

A. I remember I had a meeting with a Jarlath Burke from Esat, yes. He was an exceptionally bright person.

Q. We certainly saw that yesterday here, because

A. Oh I see. Sorry, I wasn't aware he was here yesterday. Sorry. I wasn't aware he was here yesterday. I thought he was an exceptionally bright person.

Q. And do you recall what that meeting was about?

A. Yes, I do. It was about a matter which was troubling Esat at the time. It was quite a complex technical matter. It was about those routers, I think they were called.

Q. Auto dialers and routers?

A. Yes, yes. I remember he gave me a long exposition as to what was involved. They were quite I mean, there is technical matters involved which I found very difficult, but he was very good, I remember, at explaining them at the time, and I understand he was involved he was he was involved in their legal team, but I just told him I didn't necessarily want to be involved in anything to do with that, you know, that that was a totally separate matter, but he explained it all to me at the time.

Q. Well, how did he want to involve you in it? I just want to try and establish that.

A. He said there were difficulties. Because that was public knowledge at the time, that there were a lot of difficulties between Esat and the Department, and he was explaining those difficulties to me. I said I thought it was very interesting, but I said I didn't see it as part of my remit with Esat at the time.

Q. What, I suppose

A. Sorry, he didn't ask me to be involved in any way.

Actually Denis O'Brien I think it was Denis O'Brien said "You should talk to Jarlath Burke about that problem."

Q. Well, was that just for your general interest?

A. It was just for my general knowledge, yes, because I knew it was a big issue at the time because they were quite a small company and this was quite a significant matter to them.

Q. And they weren't asking you to provide any assistance in the course of your consultancy in relation to this problem?

A. No, they didn't, no.

Q. Apart from Ms. Carey, then, and Mr. Burke, do you recall meetings with anybody else in Esat Telecom or Esat Digifone?

A. I don't recall other meetings, no.

Q. You don't?

A. No.

Q. Now, you say in your memorandum, you have informed the

Tribunal that you arranged two meetings well, in fact, you arranged one meeting independently for Mr. O'Brien?

A. Yes.

Q. That was with Mr. Enda Kenny?

A. That's correct, yes.

Q. Now, I think you have said in your memorandum that the view was that Mr. O'Brien should meet Ministers of commercial departments?

A. Yes.

Q. Now, can you just tell me, whose view was that?

A. That was certainly my view, and I expressed that view to Denis O'Brien at one of the earlier meetings, that he should meet Ministers of commercial departments, yes.

Q. Why did you think at the time that that would assist him?

A. Well, it was fairly basic thinking on neither of us knew how the process of the bid was going to go, and it was, it was possible that well, I thought at the time it was quite likely, I don't know whether it did or not subsequently, but I personally thought at the time that it might be quite likely that this might be discussed at Cabinet level at some stage, and it would be valuable to talk specifically to Ministers in commercial departments who would possibly have something to contribute to the debate.



Q. So you thought it would, if you like, advantage his position if those Ministers had met him and knew about him?

A. Oh yes.

Q. If they were ultimately discussing it in Cabinet?

A. If they were informed, yes. It was to inform them, yes.

Q. In relation to the meeting with Mr. Kenny, and as I said, we were able to assist you, I think, through extracts from Mr. O'Brien's diary, Mr. Kenny's diary and Mr. Richard Bruton's diary as to the dates of these meetings?

A. That's right.

Q. And we'll just put on the overhead projector the extracts from those three diaries. I think the first one is Mr. O'Brien's diary for the 17th May, 1995. Do you remember that there on the monitor?

A. Yes, I do.

Q. If you like, we can arrange to have a hard copy?

A. No, I have a hard copy here.

Q. You'll see it, "5pm - Enda Kenny" and at "7:30pm - Richard Bruton". Then if we just look at Mr. Kenny's diary, you can see at "5:00pm - Dan Egan." Can I just ask you in relation to that entry, and just in relation to how you went around about arranging the meeting with Mr. Kenny; did you contact Mr. Kenny directly, or how would you have gone about making this

arrangement?

A. Well, at that time I knew one of the people working in Mr. Kenny's private office. I don't have a direct recollection, but I am fairly certain that that is how I would have done it, that I wouldn't have spoken to Mr. Kenny directly at the time, even though I knew him very well. I would have known Mr. Kenny since I started working for the Party back in 1978, and of course, Mr. Kenny is from Mayo and I am from Mayo as well.

Q. You'd have known each other well?

A. Very well, yeah, yeah.

Q. I suppose he was Minister

A. He was Minister at the time, and I wasn't directly I wasn't working for the Party at the time so I would have gone through the formal channels rather than and I would have most likely as I said, I knew one of his private secretaries at the time who worked in his private office, as distinct from the Ministerial office.

Q. I presume when you were making that arrangement to meet with Mr. Kenny, you would have indicated that the purpose of it was for Mr. Kenny

A. Absolutely. It wasn't I would have told him yes, I am certainly sure it wasn't to meet me, yes.

Q. It's just that in his diary he has "Dan Egan", and I'm

slightly puzzled by that.

A. I know, I am certainly sure I wouldn't have arranged a meeting well, I don't know, I am trying to think

Q. In any way other than completely openly?

A. Absolutely, yes.

Q. Just an extract from Mr. Richard Bruton's diary.

You'll see he has an entry at 7:30pm for Mr. Denis

O'Brien?

A. Yes.

Q. Now, in your memorandum you informed the Tribunal and stated that the meeting took place in Government

Buildings. I think at the time Mr. Kenny was Minister

for Tourism and Trade, isn't that right?

A. That's correct, yes.

Q. Can you assist at all as to why the meeting would have been arranged in Government Buildings?

A. When I say "Government Buildings", I meant in the

Ministerial offices in Leinster House at that time. I

presume it's still the case, there was what was called

the "Ministers' Corridor", which was attached to Dail

Eireann. So when I say "Government Buildings"

Q. That's what you meant?

A. That's what I meant, yes.

Q. I see. Now, you went along with Mr. O'Brien that day?

A. That's correct.

Q. And we see from the diaries that the meeting was arranged for 5:00pm. So presumably you went a little

earlier to make sure that you were punctual for the meeting?

A. We were punctual, yes, but we were kept waiting.

Q. How did it come about that you met Mr. Bruton at the time, Mr. Richard Bruton?

A. It came about because we were kept waiting. That's why I have a quite a clear memory of the meeting because I hadn't in fact, even though I had worked for Fine Gael, it was the first time actually I had been on that, in that particular corridor, the ministerial corridor. And the reason it stuck in my mind was I thought it was, well I didn't think it was a very good arrangement that they were just left standing in a corridor. There was no waiting room or anything. There was just a line of offices, quite small offices, and we were just left standing in a corridor for quite a long time. So I didn't think it was a very satisfactory arrangement; that is why it stuck in my mind.

Q. And Mr. Bruton just happened to come along, is that right?

A. Yes, that was just by pure chance because it was in that particular corridor and the Dail was sitting that evening, so that's why they were there.

Q. Again, clearly you knew Mr. Richard Bruton quite well on a personal footing?

A. Well, I wouldn't necessarily say on a personal

footing, but I would have known him since 1981 or '82.

But I wouldn't have known him at a personal level, no.

Q. And he came over to greet you or to have a word with you?

A. He came over to speak to me, yes he did.

Q. You then introduced Mr. O'Brien, is that correct?

A. That's correct. I just because we had already previously at one of the meetings, I mean, he had been one of the people that we had said we would like to meet among ourselves. Now, I did say in my statement that well, I suppose I took advantage of the situation, I was a little bit concerned about it afterwards actually, what I did, because Mr. Bruton appeared somewhat reluctant to me at the time, but he agreed to meet him.

Q. He agreed to the meeting?

A. Yes.

Q. Now, you say in your statement that you didn't you said that you agreed amongst yourselves that

Mr. Richard Bruton was one of the Ministers that, if

you like, you would target as being a Minister that

Mr. O'Brien should meet?

A. Yes.

Q. Can you recall were there any other Ministers that you identified as Ministers that Mr. O'Brien should meet?

A. I can't recall any other Ministers on the Fine Gael side, I can't, no.

Q. And other than on the Fine Gael side?

A. No, I can't - sorry, on the Fine Gael side, I can't.

I may have suggested Ministers from other parties,

but

Q. You wouldn't have been in a position

A. I wouldn't have been in a position to access that. I

am pretty certain I did say, but that would have been

only general advice, I wouldn't have been in a

position to do anything about it. I would probably

have suggested he should have met Mr. Proinsias de

Rossa at the time and also Mr. Pat Rabbitte.

Q. But you, of course, wouldn't have been in a position

to put those meetings in place?

A. That is correct.

Q. You wouldn't have had those same contacts that you had

in Fine Gael?

A. It would certainly have been much more difficult to

have done so.

Q. You say that you didn't attend the meeting with

Mr. Kenny; that Mr. O'Brien went in and he had the

meeting in private with Mr. Kenny?

A. Yes.

Q. You, presumably, introduced them though?

A. Oh, yes, I did.

Q. And in fairness to Mr. Kenny, Mr. Kenny has assisted

the Tribunal, and it appears that he has very little

recollection. In fact, he has no recollection of the

meetings, which I suppose wouldn't be in the least unusual because he would be meeting numbers of people, numerous people daily in his capacity as he was then, Minister for Tourism and Trade?

A. That is true.

Q. Did you leave Government Buildings then, having introduced Mr. Kenny to Mr. O'Brien?

A. No, I waited in the corridor, waited in the corridor.

Well, the meeting with I think my recollection is that the meeting with Mr. Kenny was delayed. But I can't remember whether we actually left that corridor or not. We certainly left the corridor between the two meetings because we had to come back a second time, and I waited I stayed with Mr. O'Brien between the two meetings, but I can't remember where we spent the time.

Q. I see. Do you recall whether the meeting between Mr. Kenny and Mr. O'Brien was a lengthy meeting or a short meeting?

A. No. I recall there were about each of them was about 15 minutes, I would have thought now.

Q. About 15 minutes?

A. Yes, that's my recollection.

Q. In the meantime you had made the arrangement with Mr. Bruton, who you say was somewhat reluctant

A. He it wasn't anything that he said, it was just something I thought in his demeanour. It wasn't

anything that he said. It's just that I noted

something in his demeanour.

Q. Do you recall was that arranged there and then for 7:30?

A. Yes, it was.

Q. And where was the venue, do you recall?

A. The same place, the same corridor, in his office.

Q. So you and Mr. O'Brien then left Government Buildings after the meeting with Mr. Kenny was complete, and then did you both return for his meeting with Mr. Bruton?

A. Yes, we did. Yes, we did.

Q. And then you introduced Mr. you, of course, had already introduced Mr. O'Brien to Mr. Bruton, but presumably you remained for some pleasantries with Mr. Bruton and Mr. O'Brien?

A. I remember on both occasions I left very quickly. I just said that I didn't have anything to say at the meeting, that I wasn't going to stay there.

Q. I see. And again, the meeting with Mr. Bruton, did you wait for Mr. O'Brien until that was

A. I waited in the corridor. I remember that point. I actually waited in the corridor.

Q. Can I ask you this: Why would you have waited outside at those meetings?

A. There was no other place to wait.

Q. I don't mean it in that way. Why would you not have



attended the meetings?

A. Well, actually I did consider it at the time. I didn't even ask Mr. O'Brien. I just considered it in my own mind at the time because I don't like attending meetings where I am not have any direct involvement. I didn't have anything to say at the meeting. I wasn't going to be saying anything on behalf of Mr. Denis O'Brien.

Q. Would it not have assisted Mr. O'Brien, though, because, as you say, you knew both Mr. Richard Bruton and Mr. Kenny for many years from your early days in Fine Gael? Would it not have assisted Mr. O'Brien in some ways just to have you there as some moral support, I suppose?

A. Well, I thought the opposite, because I didn't know Mr. Denis O'Brien awfully well, you see, so I had never met him before I agreed to work for him, and I had a different view, that I thought a third person might make it more awkward for him. That it's much easier if I was at a meeting with somebody, I wouldn't like to have a third person sitting at my shoulder listening to me. I thought it might be more easy if it was just person to person. That's what I thought at the time.

Q. And tell me, before the meetings, did you discuss with Mr. O'Brien or did you chat to him on the telephone, or indeed on your way from his offices down to

Government Buildings, as to what he might usefully say to Mr. Kenny or to Mr. Richard Bruton?

A. Well, yes, I remember one aspect of it. He was anxious to project the fact that this was that Esat was an Irish company. Now, I know things have changed substantially since, but at the time Esat was an Irish company, so he was quite anxious to project that particular fact, that it was an Irish company employing Irish workers, and if it got the licence, was likely to employ a lot more Irish workers. So that was the one particular point that stuck in my mind that he wanted to project. I said I thought it would be easier for him to make a case personally, rather than me sitting over his shoulder. I did consider from another point of view, that I might have gone in to see how he performed, but I decided it wasn't any of my business really.

Q. Apart from him projecting the fact that this was an Irish company, was there anything else?

A. That particular point stuck in my mind because it was also tied up with the point I made to him about establishing part of his enterprise in Limerick. So this was again emphasising this was an Irish company.

I don't remember other points that he made now.

Q. Can I just refer you to a letter, which I think, in fact, the Tribunal sent you a copy of yesterday; a letter of the 27th June from Mr. Kenny to Mr. O'Brien.

I think there is one on the overhead projector now.

Now, I should say that Mr. Kenny has endeavoured to assist the Tribunal by providing a copy of the note from Mr. O'Brien which Mr. Kenny's letter refers to, but to date, he hasn't been able to identify a copy of it in his own files. But you see, it's a letter of the 27th June, 1995. It's from the Office of the Regulator Minister for Tourism and Trade. It's addressed to Mr. Denis O'Brien, Esat Telecom, 8 Upper Mount Street, Dublin 2. And it states:-

"Dear Denis, just a note to thank you for your letter which I received recently. I was happy to meet with you lately, and I do hope I will have the pleasure of meeting you again in the future."

And it's signed Enda Kenny, TD. And you'll see just up on the right-hand side in manuscript, it's CCed "Dan Egan". Below that CCed, and we weren't quite able to make out who that might have been, I don't know if you can help us at all in that, Mr. Egan?

A. No, I can't, actually I don't know. I don't recall this letter myself now. But I certainly would have advised Denis O'Brien that as he met people, that he should well, it would have happened anyway, but I remember him distinctly saying so, because it would be another point of contact, if he had met any senior politicians, to make sure that he wrote to them afterwards. But he would have done that anyway, but I

remember making that point. I don't actually remember I actually assumed that it was the Tribunal who had copied this letter to me. I don't recall getting that letter now.

Q. Do you remember at all whether you assisted Mr. O'Brien or had any input in drafting any letters that he might have sent to senior politicians in relation to meetings?

A. No.

Q. You don't?

A. No, I didn't I didn't assist him in any way in writing such letters.

Q. You see that, as I said, you have noticed already, it was CCed to yourself, but you don't recall the letter.

Did you kind of keep files within Esat Telecom's offices, or did you retain files at home in relation to your work with Esat, Mr. Egan?

A. I did for a period, but actually I have changed home three times in the last, since 1995, and at each stage as I changed I disposed of stuff, so I don't have any.

Q. I see. Now, apart from Mr. O'Brien's meeting with Mr. Kenny and with Mr. Bruton, do you know of any other meetings that he had with any Ministers during the time that you were associated with him?

A. All I can recollect is at one stage he had said, but I don't know where it happened or where the meeting took place, that he had said that he had met Mr. Lowry at

some function, but I can't remember what the function was at the time, but he had said that he had. Because it came up in one discussion as to what senior politicians he had met, and I do recall him saying that he had met Mr. Lowry, my recollection was it was at a golf function, but I am not sure.

Q. But it was your impression that he had met him at a function, as opposed to a meeting that had been organised for him?

A. Oh yes, at a function. That was my clear recollection, that it was at that time a function.

Q. Did you know anything at all about a tentative meeting, of which the late Mr. Jim Mitchell informed the Tribunal that it had been arranged, we think, for the evening of the 7th February, 1995, between Mr. Lowry and Mr. O'Brien, it was to take place in Fine Gael Headquarters? Did you know anything of that meeting?

A. No, I don't, no. I'd be very surprised if a meeting took place at Fine Gael Headquarters.

Q. As we understand it, it didn't take place. It was a tentative arrangement?

A. I would be very surprised if it had been even arranged.

Q. You knew nothing of it?

A. Oh no, no.

Q. In relation to the 17th May, when you were in

Government Buildings on the Ministers' corridor with Mr. O'Brien, you were there for some time waiting to have your meeting with Mr. Kenny, and then later with Mr. Bruton. Do you recall that other than the Ministers' private secretaries, were there any civil servants at all present or passing along the corridor?

A. Well, there was certainly people passing along the corridor, certainly.

Q. Were there any civil servants

A. It was quite a busy place.

Q. Were there any civil servants, as far as you know, other than the Ministers' private secretaries?

A. Not that but I wouldn't know those people, so they could have been, but I don't know. I would have no knowledge of them.

Q. I see. If you had to guess at it, could you tell me roughly how many meetings you attended with Mr. O'Brien or with Esat personnel during the course of your consultancy?

A. You mean face-to-face meetings?

Q. Yes, or contacts. Firstly if we take face-to-face meetings?

A. Possibly seven, eight, possibly ten maybe. Ten at the outside.

Q. I see. And what about contacts?

A. There would certainly have been some telephone contact, but I wouldn't remember them as clearly now.

MS. O'BRIEN: I see. Thank you very much.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FITZSIMONS:

Q. MR. FITZSIMONS: Just a couple of short questions.

How long did you work for Mr. O'Brien, Mr. Egan, please?

A. I can't remember exactly when I started. I think it was sometime in possibly March of '95, but I can't be certain.

Q. When did you finish?

A. I finished when the licence was decided.

Q. Well, when was when did you finish, could you give us a month, please?

A. Well, I can't remember when the licence was actually granted, but it was that occasion. I am sure the information is available to the Tribunal.

Q. That's when you finished?

A. That's when I finished, yes.

Q. So just one other question: You mention that the auto dialer issue was a major concern in Esat Telecom at that time, and that Mr. O'Brien asked you to be involved in it by consulting with Mr. Jarlath Burke?

A. He didn't ask me to be involved. He just said it might be of interest to me. I remember those were the words that he used, that it might be of interest to me. It was in the public domain at the time.

Q. Of course. But your brief was to advise Mr. O'Brien on developing a relationship with members of the

political establishment, and I am quoting from your

own statement?

A. That's true.

Q. And he asked you to familiarise yourself with the auto dialer controversy?

A. He did, yes. He did.

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

Q. MR. CONNOR: Mr. Egan, I represent Mr. Kenny and Mr. Bruton, and I just wanted you to clarify two matters arising from your evidence.

You say that on the 17th May, 1995, you met Mr. Kenny on a prearranged appointment, isn't that correct?

A. That's correct.

Q. And that the appointment, then, with Mr. Bruton was arranged on the corridor, is that correct?

A. That's correct.

Q. The other matter I wanted to ask you about was the letter from Mr. Kenny to Mr. O'Brien which was copied to yourself.

A. Yes.

Q. That's a letter on Departmental notepaper?

A. Yes.

Q. From your experience, having worked in the Department of Finance, that letter, a copy of that letter would be on the Department file, is that correct?

A. I can't say whether it would be or not now because I was never responsible for correspondence



for any department, I just don't know.

Q. But you worked in the Department?

A. Oh, yes, yes, but I was never responsible for correspondence within any department.

Q. But having looked at the Departmental files, would you expect that that

A. I would expect, yes, yes. I would expect, yes.

Q. And that the letter which gave rise to that would be on that file also?

A. Oh, I would have thought so. If Mr. O'Brien had written a letter to the Department, I would expect that the letter would be there, yes, I would, yes.

MR. CONNOR: Thank you.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FANNING:

Q. MR. FANNING: Mr. Egan, I appear for Mr. Lowry. If I could just say to you, by way of introduction to the very brief questions I want to ask you; the Terms of Reference of the Tribunal in relevant parts that the Tribunal is now engaged in, do not encompass an investigation into the behaviour of the Ministerial office of Mr. Kenny, Mr. Richard Bruton or the late Jim Mitchell, but they do relate to my client, Mr. Lowry.

Now, conspicuous by his absence from your statement and your evidence is Mr. Lowry, apart, perhaps, from the passing reference you gave to Ms. O'Brien of a recollection that Mr. O'Brien may have mentioned to

you that he met Mr. Lowry once, possibly, at a golf classic. I think you said that a few moments ago to Ms. O'Brien. But apart from that, you didn't mention Mr. Lowry at all. May I take it from that, that you never approached Mr. Lowry on behalf of Mr. O'Brien in your capacity working for him?

A. That is correct.

Q. And may I take it that you never had any contact with Mr. Lowry on behalf of Mr. O'Brien in that capacity?

A. That is correct.

MR. FANNING: Thank you.

CHAIRMAN: Thank you very much, Mr. Egan, for your attendance and assistance.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: That is the available evidence today, Sir. There was another witness, but because of her circumstances

CHAIRMAN: I think there was a more substantial witness for today, but on very clear medical grounds, there was absolutely no alternative to deferring that testimony. And I think I have indicated the situation, regrettable though it is, and I am not in anyway diminishing the major elements involved in the European meeting, but it simply hasn't been possible for us to follow on with tomorrow and the next day sittings because of the security situation.

So Tuesday for the resumed evidence, for what I

anticipate will be a reasonably sustained slog for

quite some time. Thank you.

THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, THE 21ST OF  
OCTOBER, 2003, AT 11AM.