

THE TRIBUNAL RESUMED ON THE 16TH DECEMBER, 2005 AS FOLLOWS:

OPENING STATEMENT WAS DELIVERED BY MS. O'BRIEN AS FOLLOWS:

MS. O'BRIEN: Sir, in these public sittings, the Tribunal intends to hear further evidence pursuant to paragraph (d) of its Terms of Reference. Paragraph (d) relates to acts and decisions of Mr. Charles Haughey, and provides as follows:

Whether Mr. Charles Haughey did any act or made any decision in the course of his Ministerial offices to confer any benefit on any person making a payment referred to in paragraph (a), or any person who is the source of money in paragraph (b), or any other person in return for such payments being made or procured or directed, any other person to do such an act or make such a decision.

Paragraph (d) is connected to paragraphs (a) and (b) of the Tribunal's Terms of Reference, which respectively provide as follows:

Paragraph (a): "Whether any substantial payments were made directly or indirectly to Mr. Charles Haughey, (whether or not used to discharge monies or debts due by Mr. Charles Haughey or due by any company with which he was associated or due by any connected person to Mr. Charles Haughey within the meaning of the Ethics in Public Office Act 1995 or discharged at his direction) during any period when he held public office commencing on 1 January, 1979, and thereafter, up to the 31 December, 1996, in circumstances giving rise to a reasonable inference that the motive for

making the payment was connected with any public office held by him or had the potential to influence the discharge of such office.

Paragraph (b) of the Terms of Reference: "The source of any money held in the Ansbacher accounts for the benefit or in the name of Mr. Charles Haughey or any other person who holds or who has held Ministerial office or in any other bank accounts discovered by the Tribunal to be for the benefit or in the name of Mr. Haughey or for the benefit or in the name of a connected person within the meaning of the Ethics in Public Office Act 1995 or for the benefit or in the name of any company owned or controlled by Mr. Haughey."

The Tribunal has already heard evidence in connection of both paragraphs (a) and (b) of its Terms of Reference over the term of January 1999 to May 2002. In total the Tribunal has to date tracked payments and sources of money which appear to amount to a figure in the region of IRi½8.5 million.

It will be recalled that on 24th September, 1998, the Tribunal sat in public and made a statement setting out the Tribunal's then interpretation of its Terms of Reference.

At paragraph No. 24 of its interpretation, the Tribunal stated as follows:

"Before passing on to outline some of the procedures the Tribunal proposes to adopt, there is one further aspect of the interpretation of the Terms of Reference which should

be mentioned. This concerns the investigative part of the Tribunal's functions. In performing this part of its functions, the Tribunal envisages that in most cases it will proceed from an examination of payments, if any, within the ambit of Term of Reference (a) or the source of funds, if any, within Term of Reference (b) before going on to investigate whether Mr. Haughey made any act or decision within Term of Reference (d). In other words, it anticipates that it would proceed in performing its investigative functions from examining what appear to be "payments" or "sources of funds", if any, to investigating what might appear to be the potentially related acts or decisions. At the same time, if any "act" or "decision" appearing to come within the ambit of Term of Reference (d) is brought (or comes) to its attention, then the Tribunal would not be precluded, as part of its investigative function, from examining any such act or decision to see whether it came within Term of Reference (d); that is, whether evidence was available which was relevant to be led in public, indicating that there was a relationship to a payment within Term of Reference (a) or a source of funds within Term of Reference (b)."

One of the matters into which the Tribunal has pursued inquiries in the course of its private investigative work on foot of the procedure envisaged and elaborated on in paragraph 24 of the Tribunal's interpretation of the 24th September 1998 was the granting of Irish citizenship to

foreign nationals by the Minister for Justice. The Tribunal decided that it should review files held by the Department of Justice relating to aspects of the Irish Nationality and Citizenship Acts 1956 and 1986, including the operation of the investment-based naturalisation scheme which was adopted in 1988. Orders for production of the relevant files by the Department of Justice were made.

I wish to make it clear that the Department of Justice did not resist the making of the orders in question and that the procedure was adopted so as to extend to persons affected by such orders, including the recipients of Irish citizenship, an opportunity to make submissions in connection with the intended orders.

The Tribunal reviewed all of the files produced by the Department of Justice on foot of those orders. Having undertaken that review, the Tribunal decided that the naturalisations, to which I will refer more fully in the course of this Opening Statement, warranted further scrutiny, having regard to the following considerations:

Firstly, it appeared that the majority of the naturalisations were made against the advice of senior officials within the Department of Justice.

Secondly, it appeared that Mr. Charles Haughey had directly intervened in relation to one of the naturalisations.

Thirdly, it appeared that the persons naturalised may have had connections to a person who, from evidence heard by the Tribunal, may have made a payment to or may have been a

source of funds in a bank account held for the benefit of Mr. Charles Haughey within the meaning of paragraphs (a) and (b) of the Tribunal's Terms of Reference.

The names of the persons naturalised, all of whom were of Palestinian and Lebanese origin, and the dates of their respective naturalisations were as follows:

Mr. Ibrahim Moubarak, certificate granted on 3 June, 1981;

Mr. Razouk Daher, certificate granted on 3 June, 1981;

Mr. Philip Noujaim, certificate granted on 3 June 1981;

Mr. Kamal Fustok, certificate granted on 3 June, 1981;

Mr. Bechara Anis Shoukair, certificate granted on 29 September, 1982;

Mr. Michael Albinia, certificate granted on 29 September, 1982;

Mr. Slieman Youssef Moubarak, certificate granted on 29th September, 1982;

Mr. Wael Khairi had a certificate granted on 19th September, 1982;

Mr. Mohamad Moubarak, then a minor, certificate granted on 29th September, 1982;

Mr. Mehzen Youssef Moubarak, then also a minor, certificate granted on 29 September, 1982;

Mr. Kamal Moukarzel, certificate granted on 8 December, 1982;

Mr. Adnan Moubarak certificate granted on 8 December, 1982;

Ms. Leila Moubarak certificate granted on 8 December 1982;

Mr. Antoine Ghorayeb, certificate granted on 8th December

1982;

And finally Ms. Faten Moubarak, then a minor, certificate granted on 4 May, 1990.

All of these certificates of naturalisation to which I have referred were issued when Mr. Charles Haughey was Taoiseach. The records in relation to these naturalisations appear to have been kept by the Department of Justice on the same file. In the course of its private inquiries, the Tribunal has been informed by Dr. John O'Connell, former Ceann Comhairle and former member of the Oireachtas, who appears to have sponsored and promoted the majority of these applications, that all of these persons were relatives of or were connected to Mr. Mahmoud Fustok and that Mr. Kamal Fustok, who was naturalised on 3 June 1981, was the younger brother of Mr. Mahmoud Fustok.

It will be recalled that in July 1999, the Tribunal heard evidence in connection with a lodgement on the 19th February, 1985, of IRi½50,000 to an account in Guinness & Mahon Ireland Limited in the name of Amiens Securities Limited. At this remove, IRi½50,000 may not seem to be a particularly large sum of money, but that sum must be viewed in the context of money values at that time. Some two years later, in 1987, the Taoiseach's annual salary was approximately IRi½47,000.

The Amiens Securities account, to which I have referred, was an account from which it appears that payments for the bill-paying service operated by Haughey Boland on behalf of

Mr. Haughey were made. It will be recalled that the bank's records show that the source of this lodgement was a cheque payable to cash drawn on an account of Dr. John O'Connell, former Ceann Comhairle and former member of the Oireachtas.

And I think a copy of that cheque should be on the screen.

Now, Dr. O'Connell, in his evidence to the Tribunal, stated that the check was in respect of a payment by Mr. Mahmoud Fustok, a Saudi Arabian diplomat with connections to the Saudi royal family, to Mr. Haughey, and which Mr. Fustok had asked Dr. O'Connell to transmit to Mr. Haughey on his behalf.

Mr. Fustok, in the course of the Tribunal's private inquiries, informed the Tribunal that the payment was for a race horse which he had purchased from Mr. Haughey, and as he had purchased and sold so many horses, his records did not extend back to 1985. Mr. Fustok has not to date attended to give evidence to the Tribunal, although requested.

Mr. Haughey, in his evidence to the Tribunal on the 2nd and 3rd October 2000, stated that while he recalled Mr. Fustok purchasing a yearling from Abbeville Stud, he had no particular recollection of the payment in 1985 through Dr. John O'Connell, but believed that the payment in question was in respect of a yearling purchased by Mr. Fustok. Mrs. Eimear Mullhearn, Mr. Haughey's daughter, who ran Abbeville Stud at that time, had previously given evidence on the 8th July, 1999, but she recalled that

Mr. Fustok had purchased a yearling from Abbeville Stud, but that she had no involvement in that transaction and knew nothing of the payment of £1/250,000 in February 1985.

No records are available for Abbeville Stud dating from that period.

The 15 naturalisations to which I have referred were all granted on the basis of residency within the State pursuant to the Irish Nationality and Citizenship Acts 1956. The first 14 applications were granted solely under that Act of 1956, and the final naturalisation, to Ms. Faten Moubarak, was granted under the Act of 1956 as amended by the Act of 1986.

In order to put the inquiries which the Tribunal intends pursuing in these public sittings in context, it is necessary to refer briefly to the relevant provisions of that legislation.

Section 15 of the 1956 Act is the operative section which empowers the Minister for Justice, on receipt of an application, to grant a certificate of naturalisation if he is satisfied of a number of conditions, principally relating to notice and to proof of residence. The notice condition requires that at least one year's notice of applicant's intention to apply for naturalisation should be given. The residency conditions are twofold and require, firstly, that the applicant should have been resident continuously within the State during the twelve months preceding the application, and secondly, that the applicant

should have been resident within the State for four years during the eight years preceding the date of the applicant's notice of intention to apply.

Section 16 of that Act of 1956 conferred a discretion on the Minister for Justice to issue a certificate of naturalisation even though the notice and residency conditions had not been met in a number of limited instances, including where the applicant is a naturalised Irish citizen acting on behalf of a minor child and where the applicant is a woman who is married to a naturalised Irish citizen. There are other technical and indeed substantive conditions and requirements which an applicant must satisfy, but for the purposes of the Tribunal's inquiries in the course of these public sittings, the provisions to which I have referred are the salient provisions.

It appears from the departmental file that the first set of applications for naturalisation arose from representations apparently made by Dr. John O'Connell to the Aliens Section of the Department of Justice in June 1980. The representations were made on behalf of:-

Mr. Ibrahim Moubarak,

Mr. Razouk Daher,

Mr. Philip Noujaim,

And Mr. Kamal Fustok.

At that time, Mr. Charles Haughey was Taoiseach and Mr. Gerard Collins was Minister for Justice. The Aliens

Section, which was a small section in the Department of Justice, was at that time run by Mr. Peadar O'Toole, who was then an assistant principal in the Department of Justice and who reported to Mr. John Olden, then Assistant Secretary. While Mr. O'Toole has assisted the Tribunal in its private inquiries, the Tribunal has, to a considerable extent, relied on information furnished by Mr. Olden.

It appears from the records of the Department of Justice that formal applications were received from the applicants on the 16th December, 1980. Mr. O'Toole furnished a memorandum regarding these applications to Mr. Olden on the 17th February, 1981, in which he expressed certain reservations surrounding the applicants' proof of residence within the State. Mr. Olden has informed the Tribunal that he advised the then Minister, Mr. Collins, that there was no basis for excusing the applicants from the requirement of the giving one year's notice of intention to make an application (being the notice to which I referred earlier) and that there was no independent evidence that the applicants had resided in the State for the requisite period. This advice was recorded by Mr. Olden, and on Mr. O'Toole's original memorandum, which he has informed the Tribunal he would then have transmitted, together with his advices, to the Minister.

By letter dated 24th February, 1981, from Mr. Gerard Collins to Dr. John O'Connell, Mr. Collins stated as follows:

"Dear John,

"I have considered your representations on behalf of Mr. Ibrahim Moubarak and three other Lebanese men who have applied for certificates of naturalisation.

"One of the statutory conditions which must be fulfilled before I can award a certificate of naturalisation is that the applicant has given notice of his intention to make the application at least one year prior to the date of his application. As there was no notice of the applications before June 1980, I am therefore not in a position at present to grant the applications, and I must defer consideration until June next.

"However, I shall grant the applications when the year's notice has been satisfied, provided that all the other preconditions for naturalisation are fulfilled."

It appears that further correspondence was received from each of the applicants on 20th May, 1981, in which they each indicated their wish to seek naturalisation as soon as possible. And on 27th May, 1981, Mr. O'Toole furnished Mr. Olden with a submission in respect of these applications recording that the applications had been submitted on the 18th February, 1981; that consideration was deferred until the expiry of the requisite 12-month notice period; that notice was given in June 1980; and that the Gardai had stated that the applicants were of good character and that they had resided in the country as claimed by them.

Mr. Olden has informed the Tribunal that as the Gardai had confirmed that the applicants had resided in the country as claimed by them, he forwarded Mr. O'Toole's submission to the Minister and confirmed to the Minister that the Minister had already agreed to the naturalisation of the applicants when the notice period expired. This advice was also recorded in hand at the foot of Mr. O'Toole's submission of 27th May, 1981.

It appears from the departmental files that each of the applicants was informed by letter dated 2nd June, 1981, that their applications for naturalisation had been approved, and it further appears that certificates of naturalisation issued to each of them on the 3rd June of 1981.

Dr. John O'Connell has informed the Tribunal that these four applicants, who were all of Lebanese origin, were introduced to him by a medical colleague, Dr. Mahmoud Barbir, who was also a Lebanese citizen and who had graduated from the Royal College of Surgeons in Dublin.

According to Dr. O'Connell, Dr. Barbir told him that the applicants were refugees who had fled their country at the outbreak of the civil war in the Lebanon, and that Dr. Barbir was helping them at his home in Dublin.

Dr. O'Connell was apparently asked by Dr. Barbir if Dr. O'Connell would inquire, as a member of the Oireachtas, about the possibility of the applicants obtaining passports or travel documents.

Dr. O'Connell has informed the Tribunal that he had sought the advice of an official of the Immigration Department, who interviewed the applicants and gave them application forms to complete, which they did, and that Dr. O'Connell and friends of his who had met the applicants acted as referees.

Dr. O'Connell has told the Tribunal that he then checked the United Nations Charter and discovered that refugees from war-torn countries could be supplied with travel documents. This fact, he has informed the Tribunal, he brought to the attention of the then Taoiseach, Mr. Charles Haughey. He later learned that travel documents had been issued to the applicants. Dr. O'Connell has indicated that while making representations on behalf of these four applicants and subsequent applicants connected to them, he spoke to both Fianna Fail and Fine Gael Ministers.

Mr. Gerard Collins has informed the Tribunal that while he has no detailed recollections of the applications, it appears from the copy file made available to him by the Tribunal that notice of the four applications was received in June 1980 through Dr. O'Connell and that formal applications were lodged in December 1980. In the early 1980s, Mr. Collins was not apparently closely acquainted with Dr. O'Connell. He has informed the Tribunal that he had no discussions or contact with Dr. O'Connell in relation to the applications. He recalls that Dr. O'Connell and his private secretary were in regular

contact with Mr. Collins' private secretary regarding the applications. His recollection is that Dr. O'Connell was anxious that the applications would be processed without delay.

Mr. Collins has further informed the Tribunal that he believes that it is probable that Mr. Haughey informed him that Dr. O'Connell had been in contact with Mr. Haughey regarding the four applications, and that Mr. Haughey conveyed to Mr. Collins Dr. O'Connell's anxiety that the applications should be processed speedily. As Mr. Collins was not closely acquainted with Dr. O'Connell, and as there was, to Mr. Collins' knowledge, a close acquaintance between Mr. Haughey and Dr. O'Connell, it was not unusual that such inquiries would have been made indirectly through Mr. Haughey.

Mr. Collins has informed the Tribunal that in granting certificates of naturalisation to these four applicants after the expiry of the 12-month notice period, he would have relied on the report of the Gardai which confirmed that the applicants had resided in the country for the period stated in their applications. He has noted that the applicants were informed that he had approved their applications for naturalisation by letter dated 2nd June, 1981, as Mr. Collins would not have been in his office to supervise the writing of letters, as at that time an election was imminent, it appears to Mr. Collins that the letters were signed by his private secretary, Mr. John

Kirwan, and it is probable that he would have authorised

Mr. Kirwan to notify the applicants of his decision.

There was a change of Government on 30th June, 1981.

Mr. Charles Haughey ceased to be Taoiseach, and the late

Mr. Jim Mitchell was appointed Minister for Justice, and

Dr. John O'Connell was appointed to the office of Ceann

Comhairle of the Dail. On the 10th November, 1981, six

further applications for naturalisation were received by

the Aliens Section of the Department of Justice through the

office of the Ceann Comhairle, Dr. O'Connell. The

applications were made by the following:

Mr. Mahmoud Moubarak, then a minor, who was a brother of

Mr. Ibrahim Moubarak, who had been naturalised on 3 June

1981;

Mr. Mehseu Yousef Moubarak, who was also then a minor

brother of Mr. Ibrahim Moubarak;

Mr. Bechara Anis Shoukair;

Mr. Michael Albinia;

Mr. Slieman Youssef Moubarak; and

Mr. Wael Khairi.

It appears from the departmental file that by memorandum

dated 9 December, 1981, Mr. O'Toole briefed Mr. Olden and

the late Mr. Mitchell's private secretary in relation to

the applications. Mr. O'Toole noted that there was no

previous record in the Department or in the Aliens Office

in Dublin of the presence in the State of the applicants;

that the applicants had not given the statutory advance

notice of at least 12 months prior to their applications; that the statutory prerequisites of naturalisation had not therefore been satisfied, and that the applicants should be required to account for themselves to the Aliens Registration Office.

The Tribunal understands that the Aliens Registration Office was a division of the special branch based in Dublin Castle and with which all non-nationals resident in the State at that time were obliged to register. The Tribunal also understands that the Aliens Registration Office was the agency responsible for investigating the residency of non-nationals applying for residency-based naturalisations.

By letter dated 23rd December, 1981, the late Mr. Mitchell informed Dr. O'Connell that 12 months' notice had not been given, and that he would defer consideration of the applications until December 1982, when he would grant the applications provided all other preconditions for naturalisation were fulfilled. The naturalisation of the four applicants of full age was accordingly deferred until December 1982, when the notice period would be satisfied.

In relation to the applications of the of the two minors, the Minister informed Dr. O'Connell that these applications should be made on their behalf by their parent or guardian.

As regards the two minors, Mr. Olden has informed the Tribunal that as recorded in the departmental documents, he advised the Minister on the 8th February, 1982, against granting certificates of naturalisation to them on the

basis of the information then available. As appears from the contents of his memorandum, which is on the departmental files, the two minor children were brothers of Ibrahim Moubarak, who had been naturalised on 3 June 1981.

It appeared to Mr. Olden and to Mr. O'Toole that the statutory preconditions of the 1956 Act had not been met, and Mr. Olden advised the Minister, at that time, in the following terms:

"To grant certificates in these cases without, at the very least, some proof that the youths are living here and are not equally or better placed for naturalisation in some other country is, in my opinion, pushing our liberality very far."

It appears that the late Mr. Mitchell decided that he would grant certificates of naturalisation to the two minors in view of their brother's Irish naturalisation, and he so informed Dr. O'Connell by letter dated 26th February, 1982.

As the late Mr. Mitchell is deceased, the Tribunal is not in a position to further queries regarding this matter with him, and the Tribunal's inquiries will be pursued with the departmental officials and with Dr. John O'Connell, from whom the Tribunal expects to hear evidence.

Prior to any of these applications being progressed, there was a further change of Government, and on 9th March, 1982, Mr. Haughey was reelected Taoiseach and the late Mr. Sean Doherty was appointed Minister for Justice. Although the six applications to which I have just referred were

received during the late Mr. Mitchell's tenure as Minister for Justice, and although a certain approach appears to have been adopted by the late Mr. Mitchell to the applications of the minor children, no certificates of naturalisation were issued to the applicants during his tenure.

It appears from the departmental file and has been noted by Mr. Olden that a letter dated 8th September, 1982, from Dr. John O'Connell, who had continued in the office of Ceann Comhairle, was received by the late Mr. Sean Doherty in relation to the six applications. The letter stated as follows:

It's headed "Private and Personal". It's to Mr. Sean Doherty, TD, Minister for Justice.

"Dear Sean.

"I am very sorry for troubling you so much, especially at the present time, when you have so many problems to contend with.

"My anxiety now is about the six Lebanese who have applied for naturalisation certificates. As you are aware, there is a particular interest in this matter.

"The thing that worries me, however, is that I was given to understand that the two younger Moubarak brothers failed to call to your Department with their elder brother on request.

"This is not so. They called there last February and signed the necessary documents.

"I should be most grateful if you would, as a personal favour to me, look into this matter as soon as possible with a view to regularising the position.

"Best wishes

"Yours sincerely, Dr. John O'Connell."

And there appears to be a manuscript note at the bottom right on the copy letter on the file, which appears to read: "There are No documents for minors to sign. There is no record of any" I think it's "issue" or possibly "attendance" but we can take that up with the appropriate officials in the course of examination.

Shortly after receipt of that letter, Mr. Olden has informed the Tribunal that he must have discussed the six applications with the Minister, as he recorded on the 23rd September 1982, that the Minister was satisfied that the applicants had been in the country for the stated period; that the Minister was further satisfied that they had complied with the other requirements of the Act; that the Minister was prepared to dispense with them having to wait for a full year after they gave notice of their intention to apply; and that accordingly, the Minister had directed that they be naturalised forthwith on the payment of the appropriate fee.

And a copy of that document I think is on the overhead projector.

And it reads: "The Minister is satisfied that these aliens have been here for the stated period. He is further

satisfied that they comply with the other requirements of the Act, and he is prepared to dispense them with having to wait the full year after the date of notice of intention to apply. Accordingly, he has decided that they be naturalised forthwith on payment of the fee."

It appears from the file that by letter of September 1982, the Minister confirmed the position to Dr. O'Connell.

Certificates of naturalisation subsequently issued to the four applicants on the 29th September, 1982. It will be recalled from my remarks at the outset of the Opening Statement that the Section 15 conditions, which applicants for naturalisation based on residency were obliged to meet, and of which the Minister was obliged to be satisfied, including the 12-month notice period, was not a condition that the Minister had a discretion under the Act to waive.

The two minor applicants were also naturalised on 29th September, 1982.

Mr. Olden has informed the Tribunal that it appears from the departmental file that there were developments in relation to all of these applications in October 1982, and that Mr. Olden brought these developments to the attention of Mr. Doherty on 6th October, 1982. On 4th October, 1982, it appears that the Aliens Registration Office, which was a division of the special branch based in Dublin and to which I have already referred, had certain doubts regarding a number of Lebanese nationals who had registered with the office. These included the six who had just then been

naturalised on 29th September, 1982. Mr. O'Toole recommended that the Aliens Registration Office should be instructed to proceed with their inquiries to ascertain how, as claimed by the applicants, they had lost their passports, and to get detailed reports of the business in which they were engaged and evidence of their residence since 1974. Mr. Olden, the Assistant Secretary, agreed with Mr. O'Toole's recommendation and brought this matter to the attention of the late Mr. Doherty and asked for permission to request the Aliens Registration Office to proceed with the investigations proposed by Mr. O'Toole.

There is no record that these investigations were authorised by the late Mr. Doherty.

And again there is a copy of that memorandum on the overhead projector.

It's from a Mr. Skelly to Mr. O'Toole. It reads:

"On Monday, 4th October 1982, Detective Garda Paddy Carmody called to this office and gave me 17 history sheets (photocopies attached) in respect of Lebanese/Palestinian nationals.

"Six of the persons named therein were granted certificates of naturalisation on Wednesday, 19th September, 1982.

"On Friday, 24th September, 1982, D/Garda Carmody rang me regarding Mr. Michael Albinia, Mr. Slieman Moubarak, Mr. Khairy Wael and Mr. Shoukair Bechara. He said he had received a telephone enquiry from SIB Garda Headquarters about the four (whether they had been naturalised or what).

He mentioned to me that he had history sheets for the seventeen who had reported to ARO in November 1981. I asked him what date, and he replied, "looking at my diary the 22nd." When asked why reports on these aliens were not forwarded to the Department, he answered that he was not satisfied with their stories that they had all lost their passports. He added that the parents of some of them had been killed in the troubles in the Lebanon. I asked him to call to the Department on Monday, 27th September, with the history sheets. He rang on that day and Tuesday 28th to say that he was not able to come over, and the remainder of the week he was on rest days and did not call until yesterday.

"D/Garda Carmody said he has not replied to the inquiries from Garda Headquarters. All the aliens stated that they had arrived in this country in 1973/74 through London and were living at Dublin addresses since then. They said they had not reported to the Gardai sooner because they were afraid that they would be required to leave.

"This morning I rang D/Garda Carmody for some additional information. He informed me that the seventeen aliens arrived at ARO individually and completed the history sheets themselves. They were not accompanied by anyone.

(It seems to me that six of the history sheets were completed by one person and eleven by another). D/Garda Carmody also stated that he had not seen the aliens since 22nd November, 1981, which incidentally was a Sunday."

And it's signed J. A. Skelly, dated 5th October 1982.

Then below that is a memorandum from Mr. O'Toole to Mr. Olden, the Assistant Secretary, dated 6 October 1982:

"Six members of the group have since been naturalised (including two young brothers of a Lebanese who was naturalised in June 1981).

"Should Aliens Registration Office be instructed to make their inquiries now and get detailed reports of the business engaged in by the aliens since they came here, how they lost their passports, particulars and evidence of stay here since 1974, etc."

Then at the very top of the page there appears to be and Mr. Olden has confirmed that this is his handwritten note to the late Mr. Doherty "Minister, there is something 'odd' about these cases. May the investigations suggested at X below go ahead?" That's also dated 6th October of 1982.

Four further applications were received by connected persons in November 1982. These applications were made by:-

Mr. Kamal Moutarzel,

Mr. Adnan Moubarak,

Mrs. Leila Moubarak and

Mr. Antoine Ghorayeb.

It appears from the file on 30th November of 1982 the Minister's private secretary recorded that the Minister was satisfied from information available to him that the four

applicants had been in the country since 1974, and that he wished to have them naturalised immediately.

And a copy of the private secretary's handwritten note is on the overhead screen, and you see it refers to the four applicants. And below that it states:

"The Minister is satisfied from information available to him that the above 4 'aliens' have been in the country since 1974 and wishes to have them naturalised immediately". And it's signed "Runai Aire, dated 30th November of 1982."

On the same date, that is on 30th November, 1982, Mr. Olden has informed the Tribunal that he advised the late Mr. Doherty in a typewritten note that he, Mr. Doherty, would be leaving himself open to serious criticism if he went ahead with the naturalisations of the latest four applicants. Mr. Olden stated in his memorandum that the material on the file was not adequate to enable the Minister to satisfy himself that the conditions for naturalisation had been met, and that apart from one or two applicants, there was nothing to justify their being exempted from the residency or notice requirements.

The Minister's private secretary recorded the Minister's response on the same date, the 30th November, 1982 in the following terms:

"Minister said to go ahead and naturalise, as he had already decided, and that he would be providing satisfactory written evidence."

And a copy of that memo is on the overhead projector.

It reads:

"Minister,

"I have to point out that not only would the decisions to naturalise these Lebanese be extremely difficult to defend if challenged, but the validity of the naturalisations might be in doubt.

"We have serious doubts as to whether there is adequate evidence of the aliens' residence here to justify a decision that they comply with the residence requirements.

We believe that the courts would require that adequate and verifiable evidence should be available on record to justify the exercise of statutory powers, which is subject to the decision maker's being satisfied that certain conditions are fulfilled. The notes on file would not, we think, be adequate. (Quite clearly, save in perhaps one or two cases, there is nothing in their case that would justify their being exempted from the residence requirements, or indeed the requirement that they give a year's notice of intention to apply for naturalisation).

You will be leaving yourself open to serious criticism if you go ahead with the naturalisation" then above that, there is a note from the Runai Aire, also dated the 30th November, recording "Minister said to go ahead and naturalise, as he has already decided that he would be providing satisfactory written evidence."

Mr. Olden has informed the Tribunal that it appears from

the file that following the receipt of Garda reports in respect of these four applicants, he again furnished the late Mr. Doherty with his written advice.

And that's the document of the 3rd December,

It's headed "Lebanese". And it reads:

"Minister,

"Garda reports on the four Lebanese have now been received.

"The reports do not say that the four have resided here for

any period, and as I have said, we are not at all satisfied

that there is adequate evidence that they qualify for

naturalisation. (Our doubts must now relate to some of the

earlier naturalisations of Lebanese also).

"These four have not, of course, made any formal

application, and the 'history sheets' dated 22/11/1981 (a

Sunday) do not constitute "notice of intention."

"A couple of Lebanese (minors) have been naturalised

without being required to comply with the normal conditions

on the grounds that they had 'Irish associations' because a

brother had already been naturalised. It seems to us that

the decision in those cases is highly questionable.

"We suggest that you consult the Attorney General before

you take a decision in these cases".

It's dated 3rd December, 1982, and it's signed by

Mr. Olden.

Mr. Olden has informed the Tribunal that his recommendation

to the Minister that he consult with the Attorney General

prior to taking a decision in the cases was the strongest

possible stance that he could take as a civil servant in circumstances where a Minister was proposing to take a course which he, Mr. Olden, considered to be outside the limits of the Minister's discretion.

The late Mr. Doherty's private secretary recorded the late Mr. Doherty's direction in manuscript on a copy of the typed memorandum on the 3rd December, 1982, in the following terms, and it reads:

"Minister said that he was satisfied that these people had given a year's notice of intention orally and wished to have them naturalised today."

It appears that certificates of naturalisation issued to the four applicants on the 8th December 1982. This was some six days prior to a further change of Government on 14th December, 1982. During the late Mr. Doherty's tenure as Minister for Justice, 10 of the 15 applications into which the Tribunal is inquiring in these public sittings were granted.

As I have already mentioned, on 14th December, 1982, there was a change of Government. Mr. Charles Haughey ceased to be Taoiseach and the late Mr. Doherty ceased to be Minister for Justice. Mr. Michael Noonan was appointed Minister for Justice and served in that capacity from the 14th December, 1982, to the 14th February, 1986. He was succeeded by Mr. Alan Dukes, who served from 14th February 1986 to the 10th March 1987.

As of the date of Mr. Noonan's appointment, there were no

applications for naturalisations pending on behalf of any persons connected with those I have mentioned. From a review of the departmental files, Mr. Olden has noted that an inquiry was received in the Aliens Section from Dr. O'Connell regarding the possible naturalisation of a Lebanese woman, one Mrs. Nahida Khairi, who was married to Mr. Wael Khairi, who had been naturalised in September 1982. An application for naturalisation was received from Dr. O'Connell's office in respect of Mrs. Khairi on 25th February, 1983. Mr. O'Toole forwarded a submission to Mr. Olden in respect of the application on the 25th February, 1983, in which he stated as follows it's to Mr. Olden:

"We have received an application for naturalisation from a Lebanese who was married in London on the 21 December, 1982, to Wael Khairi, a Palestinian who was given an Irish certificate of naturalisation on the 29th September, 1982.

At that time he gave two Dublin addresses 18 Frankfort Park and 62 Inchicore Road.

"At the time of his naturalisation, the former Minister, Mr. Doherty, was satisfied that he had been here for the statutory period of five years, and he was prepared to dispense with some of the statutory 12 months' advance notice. Routine Garda inquiries were not made, but there was no record of his presence in the State at any time since 1973 when, it was claimed, he came here.

"Dr. O'Connell, TD, has submitted this latest application,

as he did all the others on file.

"The wife of a man who is naturalised Irish may be naturalised without complying with residential preconditions, etc., and in the ordinary course an application like this would be submitted for approval as a matter of course.

"I cannot recommend that the practice be followed in this case, as I doubt the bona fides of the wife as well as the husband. She was living in England for 3 years before her marriage, she claims, but now she claims that she was living in Ballinteer. If she is here, she is here illegally, since there is no application for an Irish visa that I know of.

"I recommend that a Garda be sent to the address to check whether or not she is there and to examine her passport for details of landings, etc."

Then on the top right is a note from Mr. Olden, who has informed the Tribunal that he forwarded the submission, together with a copy of the entire file, to Mr. Noonan and advised the Minister that the civil servants had serious doubts as to whether the applicant qualified for naturalisation.

And Mr. Olden's note is on the top right-hand side, and it reads: "As you will see from the file (see in particular notes flagged A and B) we have serious doubts as to whether these Lebanese qualify for naturalisation."

And then at the bottom left-hand side, I think that's

either Mr. Noonan's handwriting or his private secretary,

"Minister agrees ask Gardai to expedite".

On the 18th April, 1983, it appears that Dr. O'Connell's private secretary contacted the Department to indicate that Dr. O'Connell intended to call into the Department the following day regarding the possible naturalisation of three minors who were the children of Mr. Adnan Moubarak and Mrs. Leila Moubarak, who had each been naturalised on 8th December, 1982. It is not apparent from the Department file and Mr. Olden cannot recall whether Dr. O'Connell did call to the Department in April 1983, but as application forms were received on behalf of the three minors, Mr. Olden is of the view that it is probable that Dr. O'Connell did so.

It appears from the file that the Minister agreed to meet Dr. O'Connell in connection with these matters. Mr. Olden has informed the Tribunal that prior to meeting with Dr. O'Connell, Mr. Noonan asked to see the file, and Mr. Olden has noted that he received a formal typed memorandum from Mr. O'Toole dated 20th September, 1983, which he, Mr. Olden, forwarded to Mr. Noonan, and that he included a handwritten note at the top of the memorandum in which he urged caution in dealing with these cases. And the memorandum reads as follows:

It's a note from or a memorandum from Mr. O'Toole to Mr. Olden, the Assistant Secretary.

"Assistant Secretary,

"The Minister wishes to see this file before he speaks to

Dr. O'Connell on the 21st.

"There are four separate applications on this file for naturalisation (two of which, received in May 1983, have not been examined yet). The other two have been scrutinised carefully. The first, from Mrs. Nahida Khairi, wife of a man who was naturalised in September 1982, and the second by Mrs. Leila Moubarak on behalf of three young children. She was naturalised in December 1982. In the normal course, such applications (consequential naturalisations) are examined only cursorily and granted almost as a matter of course; but the background to these applications is far from normal, and some investigation of the applicants was made.

"1. Mrs. Nahida Khairi, Lebanese, applied formally on the 23/2/83, claiming that she had lived in England from 1979 to 1982 and in Dublin in 1983. She married Mr. Khaira in London on the 21/12/82; she gave 26 Beach Drive, Ballinteer, County Dublin, as her address. In view of doubts of the bona fides of herself and her husband (see para following) the statement was investigated, and it appears that neither she nor her husband had any residency at the address given. They are known to the occupants (caretakers, seemingly) but were seldom seen there. It became evident from her passport (issued London 17/12/82, around the time that she married Mr. Khaira) that she went away from Ireland or Britain shortly after and returned on

the 30/3/83. Her passport was sent to the Department on the 8 April by a Detective Officer whose statements about the Lebanese are questionable. He said that they were coming to live at the Ballinteer address. On the 21st June, when they called to this Department to collect the passport to travel abroad, I found out that they had travelled here from London to Dublin the previous day. They were leaving shortly afterward. We have since obtained a police report that the couple were resident in London and that she was booked on a flight from London to Malaga about a week after I saw them.

The naturalisation of Mr. Khaira was completed by direct instruction of the Minister in September 1982, instructions which were given before the usual Departmental and Garda inquiries had been completed satisfactorily. The Departmental opinion at the time was that the bona fides of his application (and those of some others on file) was far from evident. See Tabs X and Y, 1982, on file.

"Your previous submission to the Minister dated 25 February 1983 is tabbed Z. Garda inquiries seem to justify the misgivings of the Department about these applications. The background of several other applications on file is also unsatisfactory.

"2. Application for naturalisation of children of a married couple who have been naturalised. Earlier comment immediately hereunder. A check established that the family were not at the address stated."

And at the very top of that copy document is a handwritten note from Mr. Olden to the Minister, to the then Minister, Mr. Michael Noonan: "We would urge caution in dealing with these cases". And that's dated the 20th September of 1983.

Mr. Olden was aware that the Minister was meeting with Dr. O'Connell but was not present at the meeting. He has noted from the file that Mr. O'Toole prepared a handwritten note and placed it on the file in relation to the meeting between Mr. Noonan and Dr. O'Connell which it appears, from that note, took place on the 21st September, 1983, and appears to have related primarily to the minor children of the Moubaraks.

And it reads: "Dr. O'Connell came to see Minister on 21 September 1983 about the children of the Moubaraks, in particular one of them who needs some kidney treatment in USA and does not have a passport. Could anything be done about an Irish passport? Senator Kennedy could get the girl into the USA, but only for a specified time, and this could not be spelt out. I was present.

"The Minister said there were unresolved questions, including the whereabouts of the Moubarak family, who were not at the address in Ireland stated, and the odd fact that the Moubaraks declared in their naturalisation application that they had no children. Also the children were all born in the Lebanon, when the parents were supposed to be living here. Dr. O'Connell could not explain these details, but he had no doubt about the children.

When asked, he did not know whether the sick child could get or had a Lebanese passport; he will find out about it.

He thought there was a difficulty about Lebanon passports, but he was told that Mrs. Khairi got a Lebanese passport in London in December 1982.

The Minister asked the family to call into the Department to see Mr. O'Toole about these unresolved issues.

Dr. O'Connell stated that could be arranged. Minister suggested that his Department would write to the Moubaraks to ask them in."

And at the top of that handwritten note, there appears to be a further note made by Mr. O'Toole, which appears to read as follows: "I spoke to security section which ordered the recent Garda investigation. Told best to let sleeping dogs lie. I agree, POT, dated 21/11/84."

Mr. Olden cannot recall, and it is not apparent from the Department file, whether the Moubaraks ever called to the Department to meet with Mr. O'Toole about the unresolved issues referred to in the course of Mr. Noonan's meeting with Dr. O'Connell. However, in Mr. Olden's experience, it was Mr. O'Toole's practice to note any significant developments in the cases he was handling, and accordingly, in the absence of a note on the file, it is probable that the Moubaraks did not meet with Mr. O'Toole. It appears that none of these applications were processed during Mr. Noonan's tenure as Minister for Justice or during Mr. Dukes' tenure as Minister for Justice.

On 10th March, 1987, there was a further change of Government. Mr. Charles Haughey was reelected as Taoiseach; Mr. Gerard Collins was appointed for a further term as Minister for Justice. On the 12th July, 1989, following a further election, Mr. Collins was succeeded by Mr. Ray Burke.

By March of 1987, Mr. Olden, who had been appointed Secretary General to the Department of the Gaeltacht, had been succeeded as Assistant Secretary for the Division of the Department of Justice, which included the Aliens Section, by Mr. Cathal Crowley. The Aliens Section by then was headed by Mr. Bryan O'Brien, who reported directly to Mr. Crowley. Mr. Crowley has informed the Tribunal that in March 1987 an issue arose in relation to the possible naturalisation of the minor children that had initially been mooted in 1983, and in relation to a further connected minor, Ms. Fat em Moubarak. Mr. Crowley would have discussed the matter with Mr. O'Brien and would have consulted the file, and on the 29th July, 1987, Mr. Crowley furnished Mr. Collins with a written memorandum setting out the position in relation to a number of applicants and setting out the Department's attitude to these applicants. There were four minor applicants. Three of them were children of Adnan Moubarak, who had been naturalised in 1981, and one of them, Ms. Faten Moubarak, was the daughter of Mr. Slieman Moubarak, who had been naturalised in 1982. The Tribunal understands that the civil servants, including

Mr. Crowley, were concerned about the naturalisation of these minor children for two reasons: Firstly, in their original applications, the fathers of these minor children had made no reference to any of these minors, even though the forms requested information concerning the applicants' children. Secondly, and as the Tribunal understands, of greater significance as far as the civil servants were concerned, was the possibility that the applications of the fathers, which had been residency-based, had been obtained fraudulently, as appeared from subsequent investigations undertaken by the Department and by the Gardai that their fathers may not have had the requisite residence in the State to warrant their original naturalisations.

In his memorandum to the Minister, Mr. Crowley referred to the fact that the possibility that the initial naturalisations had been based on fraudulent applications had been adverted to in discussions relating to these minors between the previous Minister, Mr. Michael Noonan, and Dr. O'Connell in September 1983.

And a copy of that memorandum should be on the overhead projector.

Now, the memorandum initially refers to a list, and it states: "The attached note lists 4 categories of "Friends of Mr. Fustok."

"Numbers 3 and 4 (two individuals) are unknown to us. If it is intended that they be granted Irish citizenship, no doubt the necessary applications will be made and examined.

They will of course need to comply with statutory requirements, e.g. residence here, marriage to an Irish citizen, etc.

"No. 1 are the children of Adnan Moubarak, who (with his wife) became an Irish citizen in 1982. There was an application in 1983 to have the three children made Irish citizens, but serious difficulties arose. Essentially the problem was that to proceed with the application would necessarily raise the question of whether the applications for Mr. and Mrs. Mubarak's own naturalisation were fraudulent not only with regard to themselves but also with regard to their referees. This centred around the question of whether the applicants were resident here having regard in particular to: -

"(A) the fact that the applications made no mention of children (information which is required), and

"(B) the fact that had the Moubaraks been resident here during the period claimed, one of the children would prima facie have been born here and would be an Irish citizen already.

"No. 2 relates to a child of Slieman Moubarak. We have no application in this case, but if we did get one, the same difficulties would arise as mentioned above. In this case, Mr. Moubarak stated positively in his own application that he had no children and stated that he was single. This was in November 1981 the child in question is stated to have been born in 1977.

"The possibility that the Moubarak naturalisations were based on fraudulent applications and that in fact these people did not reside here at all was adverted to in discussions between a previous Minister (Mr. Noonan) and Dr. John O'Connell, who had been a referee to their applications."

And that's dated 29th July 1987.

Mr. Cathal Crowley has informed the Tribunal that he was aware that there was pressure from the Taoiseach's Office in relation to these applications and, in particular, in connection with Ms. Faten Moubarak. Mr. Crowley's view is that Mr. Collins decided to adopt the same approach which had been adopted by his predecessor, Mr. Michael Noonan, namely neither to grant nor refuse the applications but to adopt a 'not to proceed' formula, as Mr. Crowley puts it.

Now, it appears from the file that on 8th September, 1988, Mr. Collins received a letter from Mr. Charles Haughey. It's the 8th September 1988; it's addressed to Mr. Gerard Collins TD, Minister for Justice.

"Gerry,

"I would be grateful if you would look as sympathetically as possible at the question of granting Irish citizenship to the Miss Faten Moubarak of 42 Willbrook House, Northbrook Avenue, Dublin 6.

"This girl is twelve years of age, and her father Slieman Moubarak, of the same address, is an Irish citizen. He is very anxious that his daughter who resides here should

become a citizen also.

"I would be grateful if you would look into this case and let me know whether there is any problem about it and whether there are any further details that you would require.

"With kindest regards.

"Yours sincerely,

"Charles Haughey."

Now, the letter, it appears, was acknowledged by Mr. Collins on the 9th September, 1988.

"Dear Taoiseach,

"You were in touch with me recently on behalf of Ms. Faten Moubarak, 42 Willbrook House, Northbrook Avenue, Dublin 5, regarding her wish to obtain Irish citizenship.

"I am having inquiries made in this matter, and I will be in touch with you again in the near future.

"Best wishes.

"Yours sincerely,

"Gerard Collins, TD

"Minister for Justice."

Mr. Crowley has informed the Tribunal that a follow-up inquiry from the Taoiseach's Office by letter of the 14th December, 1988, resulted in a further query to Mr. Crowley from the Minister's private secretary on the 15th December of 1988. Mr. Bryan O'Brien, who headed the Aliens Section, has informed the Tribunal that this follow-up appears to have prompted Mr. O'Brien to furnish Mr. Crowley with a

memorandum dated 6th January, 1989, in which he, Mr. O'Brien, recommended that Faten Moubarak should not be naturalised.

It reads:

"Mr. Crowley,

"The Taoiseach's Office has made further inquiries about the possible naturalisation of Ms. Faten Moubarak, whose address is given as 42 Willowbrook House, Northbrook Avenue.

"Ms. Faten Moubarak is the daughter of Mr. Slieman Moubarak, who was naturalised in September, 1982.

"Thom's directory lists Ibrahim Moubarak for 42 Willbrook House.

"At the Minister's request last May I gave him a list of options in relation to a number of naturalisation cases, including that of Ms. Faten Moubarak see Tab A.

"The nub of the matter is that written evidence of 5 years' residence was not produced in respect of Faten's father, Slieman Moubarak, prior to his naturalisation, nor is there evidence that he is here now. Were his naturalisation free from doubt and were his daughter resident here now, there would be no problem about her naturalisation. Given the doubts about his naturalisation and his and her residence here now, I recommend that Faten should not be naturalised.

If, however, her case is to be processed, we would need a formal application from her, and we would then have to investigate her father's residence here and his

naturalisation in 1982.

"I recommend that the Minister be examined what he wants done about the Faten Moubarak case."

Mr. Crowley has informed the Tribunal that he forwarded that memorandum to the Minister's private secretary on the same date expressing a suggestion that if the Minister still did not wish to go ahead with the application, steps should be taken to remove the matter from the Justice Outstanding Issues List in the Taoiseach's Office.

And I think we can see that note, and it reads:

"Runai Aire, the Minister is familiar with the case (and the problem that to proceed with the daughter's application would necessarily raise the question of whether her father's naturalisation was obtained fraudulently).

Nevertheless the matter is obviously on the Taoiseach's Office list of unfinished cases and may continue to be so.

If the Minister does not wish to go ahead with the 'Application', you might arrange to have it off the list."

Mr. Crowley has informed the Tribunal that his impression at the time was that Mr. Collins did not wish to act against the advice of his civil servants, but was under considerable pressure from the Taoiseach. Mr. Crowley has further informed the Tribunal that he was ultimately directed to meet the Taoiseach in relation to the Faten Moubarak application, and it was his understanding that the issue should be brought to a conclusion at his meeting with the Taoiseach, and that ultimately it was the Taoiseach who

would determine the matter," as Mr. Crowley has put it in his Memorandum of Intended Evidence.

Mr. Crowley has informed the Tribunal that he met with Mr. Haughey at Mr. Haughey's office in Merrion Street.

There was no other person present at the meeting.

Mr. Crowley had a level of acquaintance with the Taoiseach, mainly from his previous service in the Law Reform Division, when Mr. Haughey had been the junior Minister in charge. According to Mr. Crowley, the meeting was entirely cordial. The Taoiseach was fully conversant with the background to the application and with the concerns and resistance of the civil servants. It is Mr. Crowley's recollection that the Taoiseach took the view that for humanitarian reasons, and in the light of the case to be made by the applicant as an independent juvenile alien resident here, Ms. Faten Moubarak should be naturalised, and even if there were doubts regarding the bona fides of her father's naturalisation, she should not be "visited with the sins of the father", as the Taoiseach put it, according to Mr. Crowley.

Mr. Crowley has informed the Tribunal that following his meeting with the Taoiseach, he made a handwritten record on a copy of the memorandum dated 6th January, 1989 that is Mr. O'Brien's memorandum to Mr. Olden and is satisfied that the note constitutes an accurate record of what occurred at his meeting with Mr. Haughey. The note records as follows:

"Discussed with Taoiseach at Minister's request. The girl (14) has been here for the required period, and there are humanitarian reasons (she can't travel). Send form to T on completion to be for decision (positive). Even if father's case is in doubt this is not strictly relevant."

Mr. Crowley has informed the Tribunal that he was in no doubt that a decision on the matter had been made at his meeting with the Taoiseach. The application form was to be forwarded to the Taoiseach. It would be completed and returned to the Department, and the application was to be approved, and a certificate of naturalisation was to issue.

Mr. Crowley has also informed the Tribunal that it was his impression that the family of Faten Moubarak was known to Mr. Haughey, and that Mr. Crowley understood from Mr. Haughey that Faten Moubarak's father was involved in the bloodstock industry.

While Mr. Crowley cannot be certain as to the precise date of his meeting with Mr. Haughey, it was his impression that it was Mr. Gerard Collins who directed him to meet with the Taoiseach.

The Tribunal made inquiries of Mr. Collins in the course of its private investigative work, and he has informed the Tribunal (and it is apparent from the Department file) that a certificate of naturalisation was not granted to Faten Moubarak during Mr. Collins' tenure as Minister for Justice. In relation to Mr. Crowley's meeting with Mr. Haughey, Mr. Collins has informed the Tribunal that

during the period in which Mr. Haughey was Taoiseach, his office (that is, Mr. Haughey's office) had a policy of establishing high level contacts with the heads of various departments. Mr. Collins' understanding was that this policy enabled Mr. Haughey to have a direct line of contact to departments so that he could personally follow up matters directly with the officials concerned. Mr. Collins thinks it unlikely that he would have asked Mr. Crowley to meet Mr. Haughey about any matter which had been raised with Mr. Collins directly by Mr. Haughey, such as the Faten Moubarak application, as Mr. Collins believes that Mr. Haughey would have expected him to respond personally to such a matter. Mr. Collins has added that he would certainly not have authorised Mr. Crowley to negotiate and conclude matters on behalf of the Department with Mr. Haughey in relation to the application.

As I have already mentioned, it is evident from the departmental file that a certificate of naturalisation was not issued to Ms. Faten Moubarak during Mr. Collins' tenure as Minister for Justice.

Mr. Crowley's doubts concerning the date of his meeting with Mr. Haughey arise from a date which appears beside his handwritten note on the memorandum of 6th January 1989.

The date, which is in manuscript and which is in a different hand, is 1 May 1/9/90. Mr. David McAuliffe, who was at the time a higher executive officer assigned to the Aliens Section, has confirmed to the Tribunal that the

handwritten date "1 May 1990" was written by him. He cannot recall why he did so, although, as will become apparent, Ms. Faten Moubarak's application and certificate of naturalisation were processed by the Aliens Section during the early days of May 1990.

It appears that the inquiries from the Taoiseach's Office to the Minister's Office regarding Faten Moubarak continued throughout 1989, and that Ms. Paula Connolly, who was then an Executive Officer in the Department of Justice attached to the Minister's Office, has noted from documents made available by the Department of the Taoiseach that she apparently received and handled a number of inquiries from the Taoiseach's Office. These include a record of contacts between Ms. Connolly and the Taoiseach's Office on 24th April 1989, when Ms. Connolly apparently informed the Taoiseach's Office that she thought an official from her Department had spoken to the Taoiseach about three weeks earlier and that she would check the position again.

I think we have a copy of that handwritten record. I just want to make clear this is a record that was produced to the Tribunal by the Department of the Taoiseach, and it relates to contacts between staff in the Taoiseach's Office and members of staff in the Office of the Minister for Justice.

And we see there that the middle entry reads: "Spoke to Paula" that's Ms. Paula Connolly. "She thinks an official from her Department spoke to the Taoiseach about 3

weeks ago will check position again." And that was dated 24th April, 1989.

Apart from these records from the Department of the Taoiseach, there is nothing on the Department of Justice file relating to any further developments in these applications between January 1989 and May of 1990.

From the Department of Taoiseach records, it would appear that the matter of Faten Moubarak's naturalisation was regularly pressed by the Taoiseach's Office with the Minister's office for the remainder of Mr. Collins' term as Minister and after Mr. Burke's appointment. As already mentioned, Ms. Connolly has no recall of these contacts, and in providing the Tribunal with assistance in the course of its private investigations, she has relied entirely on the records of the Department of the Taoiseach.

Those documents record that on 5th April, 1990, the Taoiseach's Office raised the matter with Ms. Connolly again by telephone, and that she informed the Taoiseach's Office that the Taoiseach was aware of what was happening on the case and that no correspondence was to issue.

The note says: "I telephoned Paula again she maintains that the Taoiseach is aware of what's happening on this case no correspondence to issue." And that's dated 5th April 1990.

Ms. Connolly has informed the Tribunal that at this remove, she cannot recall what her source of information was with regard to the information that she relayed to the

Taoiseach's Office. However, in the normal course of events in relation to telephone queries received, she would have directed the query to the appropriate division, which in this particular case was the Aliens Division. She has informed the Tribunal that she may also have conveyed to and received information from the Minister's private secretary in relation to the case, but she has no specific recollection.

The departmental file includes a completed application for naturalisation by Slieman Moubarak on behalf of his daughter, Faten Moubarak, dated 1 May 1990. There is nothing on the file to indicate from whom, how or when that application form was received. Moreover, there is no other document at all on the departmental file recording any of the inquiries from the Department of the Taoiseach or any other developments in the matter from January 1989 to 1st May 1990, being the date of the application form.

A certificate of naturalisation, dated 4th May 1990, was issued to Faten Moubarak. There appears to be a manuscript entry on the bottom left-hand corner of the copy certificate on the departmental file, which appears to read as follows: "Delivered by hand to Oifig an Taoiseach, David McAuliffe, 4 May 1990".

Mr. David McAuliffe, who appears to have signed this note, was a higher executive officer working within the Aliens Section at that time. In response to inquiries raised with him, he has noted that he prepared the certificate of

naturalisation for Ms. Faten Moubarak, and that it is most unusual that he would have done this without an accompanying submission. Hence, he is inclined towards the belief that he was asked to prepare a draft certificate only. He cannot recall by whom, and can only suggest that such a request would probably have come to him from one of his line managers. Mr. McAuliffe has noted that the certificate was signed by Mr. Michael Mellett, who was an Assistant Secretary in the Department but was not the Assistant Secretary in the Aliens Section at the time, but may well have been standing in for Mr. Crowley if the latter was not available.

Mr. McAuliffe has noted that he made an annotation on the bottom left-hand corner of the certificate of naturalisation that issued to Ms. Moubarak. He believes that he did this to show that the certificate had been delivered by hand to Oifig an Taoiseach and not sent to the address shown on the naturalisation application form. In that record, Mr. McAuliffe cannot recall if he delivered the certificate by hand to Oifig An Taoiseach or arranged to have it delivered, or if arrangements were made by another person and he simply recorded the means of delivery. He is sure, however, that he would not have known where to send the certificate to or known where it had been sent unless he was so advised either beforehand or afterwards.

Mr. Michael Mellett, who was Assistant Secretary at the

time and signed the certificate of naturalisation, had administrative responsibility for the Finance, Personnel and Information Technology Divisions of the Department. His area of responsibility did not include the departmental section which dealt with naturalisations and citizenship.

Mr. Mellett has informed the Tribunal that his encounters with matters concerning naturalisation were limited to occasions when the appropriate Assistant Secretary in the Department was unavailable. In such a case, he believes that a member of the section dealing with naturalisation would come to him with documents such as certificates of naturalisation that required the signature of an assistant secretary.

Mr. Mellett has confirmed that the signature on Ms. Faten Moubarak's certificate of naturalisation is his signature.

Mr. Mellett has no recollection of signing the certificate, nor does he have any recollection of who brought the certificate to him for his signature, but believes that it would most probably have been either Mr. David McAuliffe or perhaps an official from the Minister's Office.

Mr. Mellett has no recollection of having received any background information prior to signing the certificate of naturalisation.

The Tribunal has also made inquiry of both Mr. Crowley, who was Assistant Secretary at the time, and Mr. Dermot Cole, who was Principal Officer in the Aliens Section, but neither of them believes that they had any input into the

processing of the application form or the issuing of the certificate of naturalisation, as they were both involved at that time in chairing meetings of EU officials in Dublin Castle in connection with the EU Presidency which was then held by the State.

Mr. Ray Burke who was at the relevant time Minister for Justice, has informed the Tribunal that the first time he saw a copy of the relevant file in this matter was when it was furnished to him by the Tribunal with its letter of 8th November, 2005. He has further observed that as can be seen from the file, he did not make the decision on the naturalisation of Ms. Faten Moubarak, nor did he deal with the processing of her application.

What is clear from the departmental file is that there is no record of any Ministerial decision. The only record of any decision regarding the Faten Moubarak naturalisation is the note made by Mr. Crowley on the memorandum of 6 January 1989 of his meeting with Mr. Charles Haughey.

In the course of its private investigative work, the Tribunal has brought all of this material to the attention of Mr. Haughey for his comment. The Tribunal has been informed by his solicitors that they have not been in a position to discuss any Tribunal matters with Mr. Haughey in view of his ill health.

In the course of these short sittings, the Tribunal will wish to inquire into the circumstances surrounding the grant of certificates of naturalisation to the applicants,

all of whom, it will be recalled, were related to Mr.

Mahmoud Fustok. In making these inquiries, the Tribunal would intend focusing on the following matters:

- (i) the extent of the interventions made by Mr. Haughey.
- (ii) whether such interventions as were made were in the nature of representations commonly made by politicians to members of the Cabinet or whether such interventions, by virtue of Mr. Haughey's position as Taoiseach or by virtue of the attendant circumstances, amounted to something more significant than such representations.
- (iii) the extent to which such interventions influenced the grant of certificates of naturalisation to the applicants.

CHAIRMAN: Thank you very much, Ms. O'Brien, for that.

I think we probably should proceed to the first witness before lunch, and the only very brief addition to your very full opening that I would make would relate to the observation that you made early in your remarks, to the effect that the making of orders in respect of these and other files that were received by the Tribunal from the Department of Justice, Equality and Law Reform reflected a wish for procedural fairness rather than any question of reluctance on the part of the Department, and indeed I think it's right that I should observe that at all stages of the Tribunal's dealings with the Department, at both Ministerial, Secretary General, and other official levels, including retired personnel, the assistance and cooperation afforded to the Tribunal has, at all stages, been prompt,

efficient and courteous.

Very good.

MS. O'BRIEN: Mr. Bryan O'Brien, please.

BRYAN O'BRIEN, HAVING BEEN SWORN, WAS EXAMINED BY

MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Thanks, Mr. O'Brien.

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

Mr. O'Brien, you have assisted the Tribunal in the course of its work, and you have provided the Tribunal with a Memorandum of Intended Evidence. And I wonder, do you have a copy of that document in the witness box with you? If you haven't, I can arrange to have one handed up to you.

A. If I could have one handed to me.

Q. Yes, of course.

(Document handed to witness.)

Q. MS. O'BRIEN: What I propose doing, Mr. O'Brien, is just taking you through your Memorandum of Intended Evidence, and then there may be one or two matters that we may come back to discuss in a little more detail, and we may refer to some of the small number of documents that you have referred to in the course of your memorandum, if that's agreeable to you.

Now, in your Memorandum of Intended Evidence you have informed the Tribunal that you joined the Department of Justice in 1973. You were assigned to the division of the Department which included the Aliens Section in October of 1983, and you remained in that position until August of

1989; is that correct?

A. That is correct.

Q. You state that during the period you spent working in that division, you held the grade of Principal Officer, and you reported to Mr. John Olden, who was then Assistant Secretary. Mr. Olden was succeeded as Assistant Secretary by Mr. Cathal Crowley in the mid-1980s. Mr. Peadar O'Toole, Assistant Principal Officer, was directly involved in the operation of the Aliens Division until he retired in 1986, and Camillis Hogan succeeded him; is that correct?

A. I am not quite sure whether Olden was there when I came to the section. It's possible Mr. Crowley was there. I am not absolutely sure of that.

Q. You are not absolutely certain of the dates on which one succeeded?

A. I am not certain that Mr. Olden was there when I arrived. In other words, I worked with Mr. Olden in another capacity, and I may have got mixed up on it.

Q. I see. From the documents available, it appears that in January 1989, during Mr. Gerard Collins' tenure as Minister for Justice, you were involved in the processing of an application for naturalisation by a minor, Ms. Faten Moubarak. Ms. Moubarak was the daughter of Mr. Slieman Moubarak, who was naturalised on 29th September, 1982, when the late Mr. Sean Doherty was Minister for Justice.

Mr. Slieman Moubarak's application was one of a series of applications by Lebanese and Palestinian nationals dating

from June 1990 which had been promoted by Dr. John

O'Connell. I think that's correct, isn't it?

A. That is my understanding from reading the file. I mean, I wasn't there for the early part

Q. No, I appreciate that entirely, Mr. O'Brien.

You have informed the Tribunal that it is clear from the documents on the Department file that you would have been aware that certain political representations had been made to the Minister, Mr. Gerard Collins, in 1988, and in particular, on the 8th September 1988, the Minister had received a personal letter from the Taoiseach asking him to look sympathetically at the granting of Irish citizenship to Faten Moubarak.

Following that representation, it is also clear from the file that there were further inquiries made by the Taoiseach's Office. You have informed the Tribunal that these inquiries prompted you to furnish the Assistant Secretary, Mr. Crowley, with a memorandum dated 6th January, 1989, in which you recommended that Faten Moubarak should not be naturalised. The problem, as you saw it, and as a number of your predecessors had identified, was that written evidence of five years' residence was not produced in respect of the naturalisation of Faten Moubarak, Slieman Moubarak, nor was there evidence that Slieman Moubarak was resident in the country at that time. However, you advised that if it was decided that her case should be processed, the Aliens Division would need a formal application from

her and would then have to investigate her father's residence in this country and his naturalisation in 1982.

A. Yes.

Q. You have informed the Tribunal that you had noted from the file that Mr. Cathal Crowley, Assistant Secretary, forwarded your memorandum to the Minister's private secretary seeking a decision from the Minister?

A. Yes, he forwarded it on the same day that I had written the note.

Q. I see that. You state that it further appears from a handwritten note on the copy of your memorandum of the 6th January, which is on the departmental file, that Mr. Crowley discussed the case with the Taoiseach at the Minister's request and that subsequently Faten Moubarak was naturalised. Mr. Slieman Moubarak's application as a naturalised Irish citizen for a certificate of naturalisation for his daughter, Faten Moubarak, is dated 1 May 1990, and her certificate of naturalisation is dated 4 May 1990. But of course by then you had left the Alien Section, so that's information which you have solely from having had access to the file; isn't that right?

A. That is correct.

Q. And you state finally that in August of 1989 you left the Aliens Section and had no further involvement with the matter.

A. That is correct, until I heard about it in the summer of this year.

Q. Yes, of course. Now, I don't know I know you were sent copies of the documents which the Tribunal has circulated in relation to its sittings. I wonder, do you have a copy of that set of documents with you in the witness box, Mr. O'Brien? If not, I can arrange to have one handed up.

A. Perhaps if I can look at that one.

(Documents handed to witness.)

Q. MS. O'BRIEN: And you have those documents before you?

A. Yes, I have.

Q. Now, I think you said in your memorandum that you had joined the Aliens Section in October '83, and you were there til August of 1989; isn't that right?

A. That's correct, yes.

Q. I take it that you maybe you weren't involved, but you would have been aware that Mr. Noonan was meeting with Dr. O'Connell in relation to applications that were then being mooted; would you have known about that at the time?

A. At the time that Mr. Noonan met Dr. O'Connell, I have no recollection of it, but if it was in the period when I was in charge of the division, I would be surprised if I had not been aware of it, but I have no recollection of it.

Q. We know from Mr. Crowley's Memorandum of Intended Evidence that he has informed the Tribunal that shortly after Mr. Collins' appointment as Minister in March of 1987, he prepared a submission that was in fact on the 29th July, 1987; and could I just ask you to look at that, it's at Divider 42.

In fact, it's a document that we have already had on the overhead projector during the course of the Opening Statement. And I think in his memorandum, Mr. Crowley has indicated that he would have been briefed in relation to the matter by you, and he would then have prepared his submission for the Minister. Would you agree with him in that?

A. Yes, I would agree that he would have been briefed. I am not sure who briefed him. It's possible that I briefed him. It's possible that the Assistant Principal, who would have been working to me and who would have been in day-to-day charge of the Aliens Section, could have briefed him.

Q. Right. Mr. Crowley has said that an issue arose in relation to this matter in July of 1987. Were you aware of any issue that had arisen around that time? Because there certainly isn't, I don't think, anything on the file that would indicate what the issue might have been.

A. I have no direct knowledge or recollection of anything happening in July of 1987. There was an issue generally about naturalisations, but I could not tie it in with any of the names mentioned there, or I couldn't say that it was particularly prevalent in July of '87.

Q. Right. Now, can I just show you a document that you appear to produce in May of 1988, and in fact you referred to it in your memorandum of the 6th January of 1989, the one that we were referring to. And if you just go to Divider 49, I

think there should be a copy of that document behind it.

A. There is, yes.

Q. And it appears that you prepared a would you refer to it as a submission to the Minister? Would that be the correct way of referring to it?

A. Yes. The handwritten material at the bottom I would refer to as a submission to the Minister.

Q. We'll just put it on the overhead projector. It should be there behind Divider 49 in the book that you have. Now, if we just take it from the top.

It's headed "Applications for naturalisation of Moubarak children and others.

"The present request is for the naturalisation of

1. Mohamad Koram and Zena Moubarak, the children of Adnan and Leila Moubarak, who was naturalised in December, 1982.

"2. Faten Moubarak, the child of Slieman Moubarak, who was naturalised in September, 1982.

"3. Mahmoud Abdul Karem and his wife Siada Abdul Karem.

"4. Ali Youssef Moubarak and his wife Amiera Kubrai Moubarak.

"There were submissions that the naturalisations of Adnan and Leila Moubarak and Slieman Moubarak were obtained by fraud. It is suspected that they were not resident here and naturalised. (5 years' residence is required for naturalisation).

"Option and consequences.

"Moubarak children:

"1. Have the requests dropped; there would then be no investigation of 1928 naturalisations.

"2. Process the applications; this would necessitate checking on the authenticity of the 1982 naturalisations.

Should the suspicions of fraud be confirmed, it would prove embarrassing for Dr. John O'Connell and perhaps for the then Minister. (The original applications were sponsored by Dr. O'Connell).

"3. Naturalise the children; this would be on the basis of their parents being Irish (through naturalisation) and given doubts about fraud in their cases, it would seem unjustifiable to naturalise the children."

We can just skip over the next one, because it doesn't actually relate to the matters the Tribunal is inquiring into.

"Additional notes.

"Dr. John O'Connell was one of the three referees who signed the application form of Slieman Moubarak."

I think you have written "Minister, there were quite a number of applications in this group in the early 1980s please see detailed note 68/1/448 attached.

"Bryan O'Brien,

"25/5 /88". Do you see that?

A. Yes.

Q. In that, you had set out the options available to the Minister with regard to the applications of these minor Moubarak children; isn't that right?

A. They are set out in the note. I am not certain that I wrote the portion that is typed, because my signature is not on it as such. However, if you look at Slieman up at the top, where it is written in in biro, that is my writing. So I'm not I cannot swear as an absolute fact that I wrote that note, but I wouldn't be surprised if I did.

Q. Well, if you didn't write it or prepare it, you clearly adopted its contents?

A. I adopted it, or I may have discussed it with somebody who was working to me and asked him to write it on those lines, and then I submitted it to the Minister.

Q. And they were your views at the time?

A. They were my views.

Q. Otherwise you wouldn't have submitted them to the Minister?

A. That's correct.

Q. Can you recall at all what or how the matter arose particularly as an issue in May of 1988?

A. No, I cannot recall from that time. The first I heard of this matter recently was when I was contacted about it last summer, and then when I got the papers, I was able to say, "Yes, I remember these facts and these questions"; but had you asked were you asking me to recollect them without access to the files, I would have no recollection of them.

Q. Would I be correct in thinking, though, that this is a submission that would have more probably than not been prepared at the request of the Minister or because of some

inquiry being made by the Minister?

A. More than likely, again, judging by correspondence on the files, an inquiry from his office, from the office, from the private office of the Minister.

Q. Of course, because that's the way an inquiry would come through the Aliens Section. It would come from one of the members of the Minister's staff?

A. That's correct, yes.

Q. Then I think there is your memo of the 6th January of 1989, and that's at Divider 49?

A. Yes.

Q. And I think you know, of course, how that memo arose. It arose because of an initial, I think, letter from Mr. Haughey to Mr. Collins dating from September of 1988, and then followups from the Department of the Taoiseach; isn't that right?

A. I know it because it's written there.

Q. Exactly, of course. You know it because of your access to the departmental file?

A. Yes.

Q. In fact, maybe if we just look at that letter of the 14th December, 1988. It was from the Taoiseach's private secretary to Mr. John Kirwan, who we know was the Minister for Justice's private secretary at the time, Mr. Collins. It's at Tab 48. It's dated the 14th December 1988:

"Dear Private Secretary,

"The Taoiseach has asked me to attach herewith a list of

cases which have been sent to your office over the past few months and to which, according to our records, no reply has yet been received.

"As the Taoiseach requested us to take up most of these case personally with your office perhaps you would arrange to furnish suitable replies as a matter of urgency."

If we then just look behind that to the list of cases I think it's difficult to read there; it might be easier from the document in your book.

It's Ms. Faten Moubarak, 42 Willowbrook House, subject of problem, wish to obtain Irish citizenship. Date, sent to your office: 8 September 1988, and then dates of reminders: 14 October 1988, 30th November 1988.

And if we just look back to the letter itself of the 14th December, you'll see I think there is a handwritten note there from I think probably Mr. Kirwan, the Minister's Private Secretary, to Mr. Crowley: "I need an immediate explanation re the item marked X below". In fact it was the Faten Moubarak matter that was marked X on the list of cases attached.

Now, this list that was being sent at the time, that would be a list of all outstanding queries, isn't that right, between the Taoiseach's Office and the Minister's Office; it didn't just relate to queries regarding naturalisations?

A. I have no knowledge of that. I mean, I wasn't in the Minister's Office. I assume that's the way they operated.

Q. Yes, well, we can ask Mr. Crowley to confirm that as well.

Then there is your memo here of the 6th January of 1989.

And I think, just before we go to that, if I can bring you over the page to Divider 50, there is actually a document which I think records the inquiries which you made of various personnel within the section that then enabled to you prepare your memo of the 6th January; isn't that right?

A. That is correct, yes.

Q. If we just look at those. I think the first one is from you to Camillis Hogan, and I think Camillis Hogan was your Assistant Principal that worked in the section?

A. That's correct.

Q. It reads: "Camillis, is there an application form complete in respect of Ms. Faten Moubarak? There are no Moubaraks in the telephone directory? Are they in the voter's register or Thom's directory?" Signed Bryan.

A. Yeah.

Q. I think the next is a note, it appears from Mr. McAuliffe, to Mr. Hogan, again in relation to this query. It reads:

"Camillis, a check was made by ARO with their colleagues in Donnybrook Garda Station to ascertain if the name 'Moubarak' appeared on the voters register, and the result proved negative. In fact there was no name recorded for 42 Willowbrook House on the list.

"A copy of the" I'm not sure what that word is "A copy of the entry in Thom's Directory is enclosed herewith.

The name Ibrahim Moubarak appears". That's David McAuliffe, 3 January 1989.

And then I think Mr. Hogan's response to you, based on the inquiries made by Mr. McAuliffe, which is also dated 3rd January 1989. And it reads, I think: "Bryan, there is no record of an application form having been received for Faten Moubarak. Ibrahim Moubarak is listed in Thom's directory for 42 Willbrook House". Signed Camillis, 31 January 1989?

A. Yes.

Q. These would have been inquiries that you set in train for the purpose of preparing your memorandum with your views as to what course should be taken regarding the Faten Moubarak application; is that right?

A. Yes, that's correct.

Q. Now, if we just look at your memo, it's from you to Mr. Crowley, and it reads: "The Taoiseach's office has made further queries about the possible naturalisation of Ms. Faten Moubarak, whose address is given as 42 Willbrook House, Northbrook Avenue. Ms. Faten Moubarak is the daughter of Mr. Slieman Moubarak, who was naturalised in September, 1982.

"Thom's directory listed Ibrahim Moubarak, 42 Willbrook House.

"At the Minister's request last May I give him a list of options in relation to a number of naturalisation cases, including that of Ms. Faten Moubarak see Tab A". I think that's the document we have just referred to.

A. Yes.

Q. "The nub of the matter is that written evidence of 5 years' residence was not produced in respect of Faten's father, Slieman Moubarak, prior to his naturalisation, nor is there evidence that he is here now. Were his naturalisation free from doubt and were his daughter resident here now, there would be no problem about her naturalisation. Given the doubts about his naturalisation and his and her residence here now, I recommend that Faten should not be naturalised. If, however, her case is to be processed, we would need a formal application from her, and we would then have to investigate her father's residence here and his naturalisation in 1982.

"I recommend that the Minister be asked what he wants done about the Faten Moubarak case". And it's signed by you?

A. Correct, yes.

Q. And you would have furnished that document to Mr. Crowley; is that right?

A. That is correct, yes.

Q. And presumably you'd have discussed it with Mr. Crowley, or you'd have had a chat about it, or you'd have certainly been aware that Mr. Crowley would then transmit that forward to the Minister's Private Secretary?

A. Yes.

Q. And I think we see the note there of Mr. Crowley's advice: "Runai Aire, the Minister is familiar with the case and the problem that is to proceed with the daughter's application would necessarily raise the question of whether her

father's naturalisation was obtained fraudulently, nevertheless the matter is obviously on the Taoiseach's Office of list of unfinished cases and may continue to be so. If the Minister does not wish to go ahead with the application, you might arrange to have it taken off the list."

And there, in your submission or advices to Mr. Crowley, in effect, you summarised what your view on the matter was: that firstly, there was a doubt about both Faten Moubarak's own residence and her father's residence at that time in the State, and also there were question marks over his entitlement to naturalisation at the time that it was granted to him in September of 1982; is that right?

A. Yes, because of doubts about his being here, in fact.

Q. Now, Mr. Crowley has told us that following this, he, at the request of the Minister, had a meeting with Mr. Haughey about it. Do you recall being aware at the time that Mr. Crowley was going to meet Mr. Haughey about this application?

A. No, I have no recollection of it.

Q. Right. Now, I think you left the section in, is it August of 1989?

A. August of '89, yes.

Q. Do you recall we have seen the various records of contact made with Ms. Connolly in the Minister's Department by the Taoiseach's Office, or in the Minister's Office from the Taoiseach's Office with queries about this throughout

1989. And just I'll refer you to Divider 51.

Here you will see a note of a specific contact on the 24th April of 1989. "Spoke to Paula". Paula Connolly in those days, I think, was Paula Doyle.

A. Yes.

Q. "Spoke to Paula. She thinks an official from her department spoke to the Taoiseach about 3 weeks ago. Will check position again 24 April 1989."

Now, Ms. Connolly says that obviously she can't remember these contacts. She has informed the Tribunal that she wouldn't have had any detailed knowledge of this matter and that any information which she relayed to the Taoiseach's Office would have been as a result of inquiries which she believes she would most likely have made of the Aliens Section.

And do you recall Ms. Connolly, or Ms. Doyle as she was then, making inquiries of you or of anybody else in the section in relation to this Faten Moubarak application?

A. No, not on the dates you mention. Obviously there had been inquiries in December of '88 which led to my note of the 6th January, but I have no recollection of any contacts after that.

Q. I see.

A. But then there would be many items on which contact or queries would have been raised.

Q. Of course.

A. You know, it could have been one of many, but I have no

recollection of it.

Q. Tell me, you say you have no recollection of Mr. Crowley going to meet with the Taoiseach in relation to this application. Do you know of any other occasion when Mr. Crowley met with the Taoiseach in relation to an application for naturalisation?

A. No, I have no recollection of any such meeting.

Q. I see. Can I just ask you, at that time in 1989, was there a legal adviser within the Department of Justice?

A. I have no recollection of a legal adviser. There was a legal section that dealt with the preparation of legislation, and many of the people in that division would have legal qualifications. But I have no recollection of a legal adviser as such.

Q. If legal advice was being sought by the Aliens Division or Aliens Section in relation to any particular matter, do you recall whether that advice was sought from lawyers within that section of the Department of Justice, or would the advice have been sought from the Attorney General's Office?

A. When I was there, I don't think anybody in the Aliens Division had a legal qualifications, any academic legal qualifications. If we were looking for legal advice, we would have gone either to the Chief State Solicitor's Office or the Attorney General's Office, as would be appropriate. We would not, to the best of my knowledge, have sought such advice from anybody within the Department.

Q. Very good. Thank you, Mr. O'Brien.

CHAIRMAN: Thanks very much for your assistance,

Mr. O'Brien.

We will adjourn for lunch now and take the evidence of the remaining witnesses for today at five past two, if that's suitable to you. Thank you.

THE TRIBUNAL ADJOURNED FOR LUNCH.

THE TRIBUNAL CONTINUED AFTER LUNCH AS FOLLOWS:

MS. O'BRIEN: Mr. Michael Mellet, please.

MICHAEL MELLETT, HAVING BEEN SWORN, WAS EXAMINED
BY MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Good afternoon, Mr. Mellett. Thanks for your cooperation so far.

Q. MS. O'BRIEN: Thank you, Mr. Mellett. I wonder, do you have a copy of your Memorandum of Intended Evidence with you in the witness box? We can hand one up to you; there is no difficulty at all. I think it's at Divider 10 in the book with which you were furnished.

A. Yes.

Q. What I am going to do, Mr. Mellett, I am just going to read it out to you, ask you to confirm that it's correct, and there are just one or two matters that I propose raising with you, if that's agreeable.

A. Very good.

Q. You informed the Tribunal that you served as an Assistant Secretary in the Department of Justice from 1988 to 1993. During this period you had administrative responsibility for the Finance, Personnel, Organisation and Information

Technology Divisions of the Department. Your area of responsibility did not include the departmental section that dealt with naturalisation and citizenship. Your encounters with matters concerning naturalisation were limited to occasions where the appropriate Assistant Secretary in the Department was unavailable. In such a case, you believe that a member of the section dealing with naturalisations generally was a rank of Higher Executive Officer or Assistant Principal would come to you with documents such as certificates of naturalisation that required the signature of the Assistant Secretary of an Assistant Secretary. You have confirmed that the signature on Ms. Faten Moubarak's certificate of naturalisation, dated 4th May 1990, is your signature. You have no recollection of signing the certificate, nor do you have any recollection of who brought the certificate to you for your signature, but you believe that it would have most probably been either Mr. David McAuliffe or perhaps an official from the Minister's Office. You have no recollection of having received any background information prior to signing the certificate of naturalisation. And is that correct?

A. That is correct, yes.

Q. Can we just have a look at the certificate for a moment, Mr. Mellett. I think it's virtually the last document in the book. It's at Divider 54. We've just put one on overhead projector. And as you said, that's your signature

there on the certificate?

A. That's correct, yes.

Q. I think you said in your memorandum that this wasn't your area of responsibility, the Aliens Section?

A. That's right.

Q. And that you would only be asked to sign a document such as this if the Assistant Secretary that did have responsibility for that section was out of the Department or was away or was otherwise not available; is that correct?

A. That's right, that's correct.

Q. I think we note from the Act itself that the decision to grant a certificate of naturalisation is a matter for the Minister; isn't that right?

A. Yes.

Q. So that any Assistant Secretary, in signing a certificate such as this, is doing so really as a delegate on behalf of the Minister; is that right?

A. Yes, yes, yes.

Q. It would be a dedicated authority to you?

A. Yes.

Q. I know you don't remember anything about this, and I suppose it wouldn't be reasonable to expect you to have a memory of it, but can I just ask you, in the ordinary course where you would be signing a document such as this, if you like, as a delegate on behalf of a Minister, would you look for some proof of the Minister's decision?

A. No. No.

Q. You wouldn't?

A. No, you would assume that the division that prepared the document had checked all of that out.

Q. Right. Now, you say that you don't recall being given any submission for any explanation in relation to this, but in the ordinary course, would you expect to have been given a submission in writing or some explanation about it, or would you be happy enough just to rely on the matter coming to you from the division?

A. You just simply rely on the matter put before you. Simply you'd be requested to sign it because the other Assistant Secretary in charge of the division wasn't available to sign it.

Q. I think you say in it that it probably would have been either Mr. McAuliffe or perhaps an official from the Minister's Office?

A. Yes.

Q. But you don't have any recollection of Mr. McAuliffe bringing this to you, do you?

A. I don't, actually. I made that statement on the basis that the document seems to have been prepared by Mr. McAuliffe. Even to the extent that the date is put in, except for the 4th, but I can't say it was Mr. McAuliffe.

Q. I see the point you are making. In fact the date, the 4th, doesn't appear to be Mr. McAuliffe?

A. No.

Q. Would it have been you?

A. That's mine, yes.

Q. So it would have come to you with the date blank, and you'd have inserted the date?

A. Yes.

Q. But that's the only reason you think it might have been Mr. McAuliffe?

A. That's all.

Q. Because he actually prepared and filled in the gaps on the certificate itself?

A. That's correct.

Q. Thank you, Mr. Mellett.

CHAIRMAN: Mr. Mellett, there wasn't anything conveyed to you, or you had no notion that this was going to be anything of a cause celebre in any sense, it was just an obligation between colleagues at senior level, and no doubt you would have availed of other assistant secretaries to help you out in other similar circumstances?

A. It's quite common, in fact, in relation, for example, to prisons, moving prisoners around, and hospital orders and so on. It's quite common.

CHAIRMAN: You knew nothing of the background, in any event, to this matter?

A. No.

CHAIRMAN: Thank you for your attendance.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Ms. Paula Connolly, please.

I think she is here, actually, sir. She may have just left the room momentarily.

CHAIRMAN: There is no rush.

PAULA CONNOLLY, HAVING BEEN SWORN, WAS EXAMINED BY MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Thank you very much for attending, Ms. Connolly.

Please sit down.

Q. MS. O'BRIEN: Thank you, Ms. Connolly. I wonder, do you have a copy of your intended evidence?

A. I'd appreciate a copy.

Q. That's just a copy of the documents. Just to let you know, what I propose doing is reading out your memorandum and just asking you to confirm that its contents are correct, and then what we'll do is we'll just actually look at the records relating to contacts that you had with the Department of the Taoiseach, if that's all right.

Now, you have informed the Tribunal that you were an Executive Officer in the Department of Justice during the years 1988 to 1990. You were attached to the Minister's Office and worked with the Minister's Private Secretary and two other officials. You have informed the Tribunal that you have no recollection of the Faten Moubarak naturalisation case. You have noted from the Department of the Taoiseach's records that you dealt with telephone inquiries directed by the Taoiseach's Office to the Minister's Office regarding the Faten Moubarak naturalisation. At this remove, you have no recollection

of such contacts, and you are also at a disadvantage as your own records dating from that time are not available to you.

You have informed the Tribunal that it appears from the Department of the Taoiseach records that you had the following dealings with the Taoiseach's Office by telephone in connection with the Faten Moubarak application:

You say, following written representations from the Taoiseach to the Minister for Justice by letter dated 8th September 1988, which was officially acknowledged by letter dated 9th September 1988, it appears that an official from the Taoiseach's Office contacted you by telephone on the 30th November 1988, and that you indicated that you would check the position. You state that on the 14th December, 1988, it appears that a letter was sent from the Taoiseach's Private Secretary addressed to the Minister's Private Secretary attaching a list of cases which had been sent to the Minister's Office over the previous months and to which no reply had been received. This list included the Faten Moubarak correspondence, and it recorded that the initial date on which the case had been raised by the Taoiseach's Office was on 8th September, 1988, and that there had been reminders on the 14th October 1988 and the 30th November 1988.

You state that on the 16th January, 1989, it appears that you received a further telephone contact from the Taoiseach's Office regarding the matter, and you indicated

that you would check the position. You state that on the 30th January 1989, it appears that you were contacted again by telephone by the Taoiseach's Office, when you indicated that you would telephone on the following day.

On the 1st February, 1989, you have informed the Tribunal that it appears that you contacted the Taoiseach's Office by telephone and indicated that the matter was with the Minister. On the 15th February, 1989, you have informed the Tribunal that it appears that there was a further telephone contact between you and the Taoiseach's Office regarding the matter, and that you indicated there had been no developments in the case and the matter was still with the Minister.

On the 3rd March, 1989, you have informed the Tribunal that it appears that you informed the Taoiseach's Office by telephone that the matter was still with the Minister; that the matter was very sensitive because Faten Moubarak was Libyan, and that you felt the Taoiseach was aware of the situation, but could not be certain.

Then you have informed the Tribunal that on the 24th April, 1989, it appears that you informed the Taoiseach's Office by telephone that you thought an official from your Department had spoken to the Taoiseach about three weeks earlier, and that you would check the position again.

Then you have informed the Tribunal that on the 8th September, 1989, following further telephone contact by the Taoiseach's Office, it appears that you indicated that

you would contact the relevant section to ascertain the present position.

On the 12th October, 1989, you have informed the Tribunal that it appears that there was further telephone contact by the Taoiseach's Office with you.

Then on the 20th November, 1989, it appears that there was further telephone contact by the Taoiseach's Office and that you undertook to check the position.

You have informed the Tribunal that on the 5th April, 1990, it appears that the Taoiseach's Office raised the matter with you again, and that you informed the Taoiseach's Office that the Taoiseach was aware of what was happening on the case and that no correspondence was to issue.

You have informed the Tribunal that it appears that there was a further reminder by telephone from the Taoiseach's Office on the 7th September, 1990, and you have informed the Tribunal that on that date, it appears that you reverted to the Taoiseach's Office and indicated that you had checked with the Aliens Division and that a certificate of naturalisation had been issued some two months earlier and had been given to Donagh.

You have informed the Tribunal that you cannot recall at this remove what your source of information was in relation to the information which you relayed to the Taoiseach's Office. You have indicated that your duties included, inter alia, dealing with telephone queries from various Government departments, Dail deputies, Senators and members

of the public. You have no recollection of this particular case.

You state, however, that in the normal course of events in relation to telephone queries received, you would have directed the query to the appropriate division; in this particular case, the Aliens Division. You may also have conveyed to and received information from the Minister's Private Secretary in relation to the case, but you have no specific recollection of that matter.

You say that information obtained would have been relayed by you back to the Taoiseach's Office.

And that's correct, I think?

A. Yes.

Q. Now, can I just ask you, I think behind the copy of the memorandum which is in the witness book, you see that there are copies of the logs of those telephone contacts which were produced to the Tribunal by the Department of the Taoiseach. Do you see those?

A. I do indeed, yes.

Q. I'm just going to refer you to those briefly, and we can actually put them up on the overhead monitor. And I think that's the first one, the 30th November, 1988: "Spoke to Paula who will check the position."

Now, I think in your memorandum you pointed out that that originally arose from a letter of the 8th September from the Taoiseach to the Minister, Mr. Collins?

A. That's right, yes.

Q. And then if you just go over to the Divider B, I think that records at the top "Reminder sent 14th December". And again I think you referred to that in your Memorandum of Intended Evidence, and I think that was the matter which Mr. O'Brien indicated this morning gave rise to a memo which he prepared of January of 1989; but that's not a matter that you would have known about?

A. Yes.

Q. Then below that, the 16th January: "I spoke to Paula who will check position."

I think below that again, the entry for the 30th January:

"Spoke to Paula who will phone tomorrow."

And then on the 1st February: "This matter is with Minister per Paula Doyle."

Can I just ask you there, "This matter is with the Minister" this is your response to the query of the 30th, so clearly between the 30th January and the 1st February you did make inquiries. Now, I know you can't recall this, but I think you have stated that you would have made inquiries either of the section or within from within the Minister's Office; is that right?

A. Well, I would have thought that perhaps I would have checked with the section in that case, because I wouldn't have known it was with you know, in the Minister's Office. So in all likelihood as I said, I have no recollection, but especially with the day span, obviously I did make inquiries and I was told that it was

with the Minister.

Q. And by "with the Minister", you would have meant that it's now in the Minister's Office?

A. That's right, yes.

Q. And then below that, the 15th February: "Note: No developments matter still with Minister per Paula Doyle."

A. Yes.

Q. And then if we go over to Divider C, the 3rd March: "Spoke again to Paula matter still with Minister. She said matter very sensitive because Faten Moubarak is Libyan. She feels that Taoiseach is aware of situation but could not be certain." And that's the 3rd March.

A. That's right.

Q. And, again, that wouldn't be information that you would have had yourself?

A. I don't believe so. In the normal course of events you know, in a situation like this, I obviously would have made an inquiry with either the section or perhaps maybe even the Private Secretary. At that stage, the file was still in the Minister's Office, but I note from Folder 70 here that there is a record to say that it was returned to the division on the 3rd March, so but I cannot say where I got the information from, but I wouldn't suppose that I would have got it from the file. I would say I made inquiries.

Q. Well, I suppose to say that you felt that the Taoiseach was

aware of the situation, that's not information you could have got from a file?

A. Not, I suppose, not from up to that date, but I don't know whether like, the note there from Mr. Crowley, obviously that's not dated. But as I said, I'm not even I wouldn't even be aware of whether I saw the file. You know, I couldn't say whether I saw the file at all. I would have thought I'd have been given this information, that I made inquiries, and this is the information I was given in reply.

Q. Right. And then the 24th April, 1989: "Spoke to Paula she thinks an official from other Department spoke to the Taoiseach about 3 weeks ago will check position again." And also, there, that's fairly specific information, isn't it, that you are relaying to the Department of the Taoiseach?

A. Yes. You know, as it states there, that I was obviously informed that an official spoke with the Taoiseach 3 weeks previously.

Q. Then below that, the 8th September: "Paula will contact relevant section and find out present position." That's the 8th September. I suppose that suggests that it was the section that you were contacting in relation to these queries. Would you agree?

A. Well, I would think so, particularly looking at the file, that it had been returned to the section. You know, in saying that, I'm looking at the papers you had supplied to

me, you know, for this for today. But I would say

possibly the division, yes.

Q. And then it just records another telephone contact on the

12th October of 1989. And then if you go over to the next

divider, D, there is the 5th April, 1990.

"I telephoned Paula again she maintains that the

Taoiseach is aware of what's happening on this case no

correspondence to issue."

Again, does that suggest to you that you must have made

some inquiries on the matter?

A. What it suggests to me is that obviously I feel that I must

have been asked, you know, was correspondence, you know, to

issue in this case; because I couldn't imagine that I would

have just, you know, given that statement without the

inquiry being made. But as I would have, you know, got

the information from either, as I said, the division, you

know, Aliens Division, or else another party. I'm not sure

exactly, but I would have obtained the information from

somebody in the Department.

Q. Would that suggest to you that somebody had been asking you

to put something in writing?

A. Well, no. What I feel is perhaps the Taoiseach's Office,

when they rang me, perhaps they asked were they going to

get a reply, and I would have conveyed that query to, you

know, the presumably the relevant division and asked

and that's maybe the reason I gave that response.

Q. That no correspondence was to issue?

A. Well, obviously I was told that, you know, that was the response to give.

Q. In your experience of dealing with queries in the Minister's Office, was it unusual for you to be saying in response to the Taoiseach's Office that no correspondence was to issue?

A. Well, you know, I have no examples to mind, you know, in relation to a similar query. But in my experience of dealing with, you know, correspondence, not just in the Minister's Office, you know, it is unusual to say, you know, "no correspondence to issue", you know, if there is a letter that has been sent to the Department.

Q. Then finally there appears to have been a reminder on the 7th September of 1990 on that page.

And if we just go over it again, there is actually another record here on the 7th September, 1990: "I spoke to Paula in the Minister's Office re above case. Paula checked with Aliens Division, who maintain that a certificate of Irish citizenship in respect of Ms. Moubarak was given to Donagh two months ago. Do you know anything about this? Noreen."

That records the fact of an inquiry made by you and what you had done you had checked the position with the Aliens Division, and you had done reverted to the Department of the Taoiseach about it?

A. That's right.

Q. As you said yourself, you have no actual recollection of any of these matters. And I think, in fairness to you, you

have pointed out and it's perfectly understandable that you wouldn't have; and secondly, that you're at a disadvantage because, as you say yourself, your own records of these dealings aren't available to you?

A. That's right. And as I said, I wouldn't you know, I don't believe I didn't have a file that's in front of me. It was just telephone inquiry.

Q. And you'd have dealt with, presumably, a large number of telephone inquiries in the Minister's Office?

A. Yes, yes. In addition to other work, you know, that I was assigned to as well.

Q. Thank you very much.

A. Okay, thanks.

CHAIRMAN: Did you stay in the public service, Ms. Connolly, after 1990?

A. Yes, I am still in the Department of Justice.

CHAIRMAN: Ah, yes. It's just that it might seem to a casual bystander, you seem to be giving up quite a bit of your professional time to dealing with these queries from the Taoiseach's Office I mean, these weren't matters that weren't going to Cabinet; they were matters that were really for the decision of your Minister and your senior colleagues?

A. Yes. But I think from looking at the correspondence or the records from the Taoiseach's Office, they obviously had a file there, in their constituency office or whatever, whoever had this record, and they had just a BF system, and

they obviously every month or so, the file would come out of BF, and then they'd make contact with obviously, myself, because they have my name on file just to inquire about the status of the case.

CHAIRMAN: Yes, but did the pattern change at all when Mr. Haughey retired, when perhaps Mr. Reynolds or Mr. Bruton became Taoiseach, did you still have these inquiries about matters within your departmental remit?

A. Yeah well, I can't recall a big difference in terms of you know, when there was a different Taoiseach there at all, no. It would be you know, a matter of course, you know, to deal with telephone inquiries. And in this particular case I think it was going over a year and a half, so it mightn't have been, you know well, of course I probably would have remembered at the time, you know, the particular case, but it was just it was over such a long period of time as well.

CHAIRMAN: Yes. Thank you very much for your assistance.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mr. David McAuliffe, please.

DAVID MCAULIFFE, HAVING BEEN SWORN, WAS EXAMINED BY

MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Thanks, Mr. McAuliffe. Please sit down.

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

I see you have a copy of your Memorandum of Intended Evidence with you in the witness box. I think there is a set of documents beside you if we need to refer to any of

them.

A. Thank you.

Q. What I propose doing with you also is taking you through your Memorandum of Intended Evidence and just asking you to confirm its contents, and there is just a small number of matters that we might come back and discuss a little more.

A. Thank you.

Q. You have informed the Tribunal that you joined the Department of Justice in November 1986 as a Higher Executive Officer. You were initially assigned to the Aliens Section, where Mr. Camillis Hogan was the Assistant Principal Officer, Mr. Brian O'Brien was the Principal Officer, and Mr. Cathal Crowley was the Assistant Secretary?

A. That's correct.

Q. You informed the Tribunal that as far as you can recall, there was a change of personnel in the Aliens Section in the period 1989 to '90. Mr. O'Brien was replaced by Mr. Diarmuid Cole as Principal Officer, and Mr. Hogan by Ms. Mary O'Reilly as Assistant Principal Officer.

Mr. Hogan remained on in the section dealing mainly with EU work, as Ireland hosted the EU Presidency in the first half of 1990. You do not have the exact date of these assignments, and you have informed the Tribunal that Mr. Crowley remained the Assistant Secretary?

A. That is my belief.

Q. You have informed the Tribunal that you note from the

exhibits shown to you by the Tribunal in relation to the issuing of a certificate of naturalisation to Ms. Faten Moubarak that Mr. O'Brien submitted a memo on this matter on the 6th January, 1989, through Mr. Crowley to the Runai Aire. Mr. Crowley also added his views in handwriting to Mr. O'Brien's memo.

You have informed the Tribunal that you can recall that Mr. Crowley was subsequently required to meet with the Taoiseach in relation to the case. You have observed that there was a shorthand written note by Mr. Crowley on the file, that is on the same page as Mr. O'Brien's memo of the 6th January, 1989, of a meeting with the Taoiseach, but that you have noted that the handwritten note is undated.

You have informed the Tribunal that while you have written the date "1 May 1990" on the side of the handwritten note, you cannot recall why you did so.

You have informed the Tribunal that you note from the exhibits that you prepared the certificate of naturalisation for Ms. Faten Moubarak. You state that it is most unusual that you would have done this without an accompanying submission. Hence, you are inclined towards the belief that you were asked to prepare a draft certificate only. You state that you cannot recall by whom and can only suggest that such a request would probably have come to you from one of your line managers.

You have informed the Tribunal that you have noted that the certificate was signed by Mr. Michael Mellett, Assistant

Secretary, on the 4th May 1990. You do not recall to whom you passed the draft certificate. It would not have been a practice for a Higher Executive Officer to pass a certificate directly to an Assistant Secretary for signature. Mr. Mellett was not the Assistant Secretary in the Aliens Section at the time, but may well have been standing in for Mr. Crowley if the latter was not available.

And finally you have informed the Tribunal that you note that you made an annotation on the bottom left-hand corner of the certificate of naturalisation that was issued to Ms. Moubarak. You believe that you did this to show that the certificate had been delivered by hand to Oifig an Taoiseach and not sent to the address shown on the naturalisation application form. In this regard you cannot recall if you delivered the certificate by hand to Oifig an Taoiseach or arranged for it to be delivered, or if arrangements were made by another person and you simply recorded the means of delivery. You are sure, however, that you would not have known where to send the certificate to or known where it had been sent unless you were so advised, either beforehand or afterwards; is that correct?

A. That's correct.

Q. Now, in your Memorandum, Mr. McAuliffe, you have referred to the submission of Mr. O'Brien to Mr. Crowley, and you have stated that you can recall that was the one of the 6th January, 1989 and you have stated that you recall

Mr. Crowley was subsequently required to meet with the Taoiseach in relation to the Faten Moubarak application.

Now, can you tell me what you recall about that?

A. Well at this juncture in time it's over, what, 15 years ago I was aware, or I can recall that Mr. Crowley was required to meet with the Taoiseach in relation to this application. I have a vague recollection of Mr. Crowley either attending in the section beforehand or afterwards, and that's it. I mean, Mr. Crowley wouldn't have briefed me on the outcome of his meeting, etc. He would have been speaking to other people, like, within the division. But so you want to see the layout of the room, etc., like, but I certainly recall Mr. Crowley being in the room in and around the time that he would have met with the Taoiseach. There is just like, it's funny, really, how something can stick in your mind. I can remember the conversation. I wasn't party to all it was, but I can remember the phrase "The sins of the father should not be visited on the son", or in this case the daughter. And I do see that something similar appears in Mr. Crowley's memorandum of evidence himself.

But apart from that, I wouldn't have been party to what went on or who was there or what was said or the circumstances, etc. That's the total sum knowledge, my knowledge of whatever meeting occurred.

Q. But you do say you remember those words, and

A. That's right.

Q. And you see them there written on the page. So do I take it from that that you remember hearing a conversation between Mr. Crowley and somebody else within the section about

A. Not really. I can't recall at this stage. It's just a particular phrase, when you read through books, something sticks in your mind, and you read back through books and you say "Sounds familiar", yeah. But it's just something that stuck in my mind, but I mean I mean, I really know no more than that. Mr. Crowley was required to meet with the Taoiseach. He met with him. He was in the section either beforehand or afterwards or on both occasions, he must have been afterwards, if he said that, and that's the sum of my knowledge.

Q. Do you remember whether you had any understanding of what the outcome of Mr. Crowley's meeting with the Taoiseach was?

A. No. No. The only thing that I can see is you can see whatever is written on the handwritten note. That would be my only knowledge of what the outcome of the meeting was.

Q. Would you have known about that at the time?

A. I can't recall now, at this stage.

Q. Do you recall at all whether there was any other occasion that you can remember Mr. Crowley meeting or being required to have a meeting with the Taoiseach in relation to a naturalisation matter?

A. Not in my experience.

Q. Now, if we just look at the certificate itself, it's I think at Divider 54 in that book, and we'll arrange to have one put on the monitor, and there is one just there beside you; you can either look at the hard copy or you can look at it on the screen, Mr. McAuliffe, whichever suits you better.

A. Thank you.

Q. Now, you have confirmed that you, if you like, completed this certificate?

A. That's correct.

Q. You filled in the spaces that are blank?

A. I prepared the draft certificate.

Q. Now, you say that you prepared a draft certificate only.

Can you tell me, what's a draft certificate in comparison with the copy certificate that's on the file?

A. Well, again, my understanding would be a draft certificate is something that's prepared for signature. When it's signed, it becomes an actual certificate. And if you scroll down slightly, you'll see the letters "LS" on the bottom left-hand corner; locum sigilli, that's what makes it official, it becomes a certificate at that point when it's signed and sealed, not when I draft it or when any other official drafts it.

Q. So it remains a draft document until it's signed, obviously, by the Assistant Secretary; and is there a stamp impressed on it?

A. Yes, there is a stamp in the Secretary General's Office.

That's my understanding. If I'm wrong, I accept it, but that's my understanding.

Q. What would the usual practice have been, can you tell me, in relation to preparing a draft certificate? How would it normally arise, and how would it normally be done?

A. In the case of a minor?

Q. No, in the case of any certificate that you were preparing.

A. Okay. Well, I'll explain to you firstly, like, this case here is about an application by a naturalised Irish citizen on behalf of their child. So what would happen there is an application would be received. Now, it could be received by post, it could be left in at reception, or it could be left in at the public office. What would happen then is that the form would be taken in, whatever the appropriate fee was would be lodged, acknowledged, and the form would be assigned to whatever officer was responsible for looking after naturalisations, or dealing with naturalisations.

And that officer would prepare a short submission, and that submission would be submitted through me to the Principal Officer. Now, I would have a look at it, and if I was satisfied that everything was in order, etc., I in turn would submit it up to the Principal Officer and to the Assistant Secretary with a recommendation, and that would be processed.

Now, if you thought that the application was likely to be approved now, most applications on behalf of minors by naturalised citizens were approved, in my experience you

would prepare what's called a draft certificate, and it would be similar to what appears on the screen there, except the detail would be different. Now, that's in the case of a minor, okay?

Now, there was also applications by adults. Now, if an adult applied for naturalisation, again there was a different procedure to go through. They would be subject to a Garda check, etc. The file would come back in. There would be a short submission prepared, and that would be submitted through Principal Officer up to the Minister.

And if that were approved, the applicant would be notified of the outcome. They would be required to go to court to swear an oath of allegiance to the State. Once they had done that and that form came back in, the certificate would be prepared on behalf of the adult and would be submitted then for signature.

But there would be a prior approval in the case of an adult. In the case of a child, it would be slightly different. There would be a short submission and a recommendation made.

Q. Now, here, as you said yourself, there was no submission.

You certainly prepared no submission; you have seen that from the file?

A. That's correct, yes.

Q. And we know in fact that the formal application form I think is dated the 1st May of 1990. So it only came in four days prior to the actual certificate of

naturalisation. And I think the application is on the previous divider of that book, and it's at Divider 53.

You see there "I, Slieman Youssef Moubarak, 42 Willbrook House, Northbrook Avenue. Certificate of Naturalisation dated 3rd June 1981. "I hereby apply to the Minister for Justice for a Certificate of Naturalisation for my child", and signed B. Moubarak, and it's dated the 1st May 1990.

Then there is the particulars of the minor given below that. That's the application form?

A. That's right.

Q. Now, as you said, you can't recall by whom you were told to prepare the draft certificate, but you believe that it would have been one of your, as you term it, line managers who'd have asked you to do it. Is that right?

A. What I'm saying is that it's most unusual that I would have prepared a draft certificate without an accompanying submission, that's what I'm saying. Because in my experience, most applications of this nature, i.e. on behalf of a minor, would be accompanied by a submission, and for that reason, I'm saying I'm inclined towards the belief that I was asked to prepare a draft certificate only. And if I was so asked, such an instruction would probably have come to me from my line managers.

Q. And that would have been Mr. Crowley, Mr. Cole or Ms. O'Reilly?

A. At that particular time, they were my line managers.

Q. Now, you have noted in your memorandum that you appear to

have placed a date on a on the memorandum of the 6th January of 1989. That's Mr. O'Brien's memorandum, to which Mr. Crowley added his comments, and on which Mr. Crowley recorded a note regarding his meeting with the Taoiseach.

And we just can see it's very faint, but you can see it's just below, I think, Mr. Crowley's signature, and it's the 1st May 1990, which in fact was the date on which the application form or it's the date of the application form; isn't that right?

A. Yeah, it's the date whoever filled out the form dated it the 1st May.

Q. Yes, and that's the same date that you have put here, just below what appears to be Mr. Crowley's initial?

A. That's my handwriting, yes.

Q. I think you have indicated that you have no idea why you put that date on that document?

A. I am sorry, at this stage, I can't recall why I did so. At the time it was obviously to jog my memory for some reason, but now, I just can't recall why I put that there.

Q. Can we just look at Mr. Crowley's note for a moment. It records we have looked at this before discussed with Taoiseach at Minister's request. The girl (14) has been here for the required period. There are humanitarian reasons she can't travel. Send form to T and on completion to me for decision (positive). Even if father's case is in doubt, that is not strictly relevant."

Now, is it possible that you might have put the date of the

1st May 1990 beside that simply to indicate that the application was received on that date, in that Mr. Crowley's note refers to an application form to be received?

A. I am sorry, I just cannot recall. I'd only be speculating, and I just cannot recall.

Q. Even if you were speculating, can you think of any other reason that you might have put the date on it?

A. I just can't recall, I am sorry.

Q. Now, the you have noted as well in your memorandum that you placed a handwritten annotation on the left-hand corner of the certificate of the 4th May, delivered by hand to Oifig an Taoiseach, and you have signed that, and you have put the date, the 4th May, 1990. And you say that you can't recall if you delivered the certificate to the Office of the Taoiseach or arranged for it to be delivered. You are sure, however, that you would not have known where to send the certificate to or known where it had been sent unless you were so advised either beforehand or afterwards.

Can you tell me, in the ordinary course, how would certificates of naturalisation be transmitted to the recipient?

A. Certainly, yeah. Certificates of naturalisation were very important documents, because they were used by the recipient as proof of their Irish citizenship, and that was required in order to apply for a passport in order to travel abroad. Now, in my experience what happened was

when a person was naturalised and the certificate was to issue, they were either collected by hand, perhaps now in some cases, or alternatively and this, in my experience, would have been the majority the cases they would be sent by registered post in a sort of a round tube letter, I don't know, what posters come in, to keep them safe by registered post to the recipient at their home address, i.e. the address that they would record on the application form. Now, at this stage, my belief as to why I put that note on the bottom of the certificate on the left-hand corner was to record on this particular occasion the certificate of naturalisation had not been forwarded to the address listed on the application form. And I just put that down there just as a reminder that this is what happened with this particular certificate. But, again, I would make the point, I mean, I wouldn't have known where to send that or what had happened.

Q. I can understand that.

A. But for the fact that I must have been told by somebody either where to send it to or where it had been sent to, and I recorded the mode of delivery subsequently.

Q. Can I ask you this: When certificates were transmitted in the usual way that is, by registered post to the address shown on the application would you also record on it how it was transmitted?

A. Ah, no, no.

Q. On a copy of the certificate, would you record, you know,

"Sent by registered post to applicant's home address"?

A. Well, I am only going from experience 15 years ago.

Q. Yeah, from your own experience?

A. As far as I recall, we would issue a short letter. The wording would be "directed by the Minister for Justice to enclose herewith certificate number" whatever it was, and that would be it.

Q. And that would record how you would send

A. And that would record. So, you know, I am only sort of assuming now that the approach taken would be that if it was sent by registered post, it's fairly okay; and if a person doesn't get it, well, they'll come back to us and say, "Well, where is my cert?" And we can take it from there.

Q. You'd have the record, of course, from the copy letter; you'd have retained a copy of the letter, and that would be on the file, so you'd have a record of how it was transmitted from that letter?

A. The letter, if there were a copy letter, and there should be, it would be on file, together with a copy of the certificate.

Q. And as Mr. Coughlan points out, you'd have the registered post form as well?

A. I imagine so, yes, in the registry. That's a good point, yes.

Q. Can I just ask you, do you recall any other occasion when, to your knowledge, a certificate was delivered by hand or

otherwise sent to the Taoiseach's Office, a certificate of naturalisation?

A. I can recall on one occasion now, and it's you know, it's many, many years ago, someone was to be granted honorary Irish citizenship, which is a sort of a distinct honour, and it may have been and I would have to check this, or the Tribunal would have to check this themselves with the Department I think there was a certificate prepared, and I think the Taoiseach presented it at a function in America. And I don't know whether that was delivered by hand or whether it was sent by post, but you asked me the question. I have given you the answer. That's the only other occasion, in my experience.

Q. That you can recall?

A. That I know of, correct.

Q. Thank you very much, Mr. McAuliffe.

CHAIRMAN: We now know, Mr. McAuliffe, there had been a reasonable amount of discussion and debate about this case within the Department, but your recollection of the procedure was that the normal thing was that minors' cases were less elaborate and involved less formalities than an adult application?

A. They would, Chairman, yes. And there would be a very, very short submission done with an application, very short, no more than maybe 8 or 9 lines, but in my experience, that submission would be done, and it would be done through me first of all; I'd be the first port of call, so to speak.

And if I was otherwise happy with it, I would then let it go up through my Principal Officer to the Assistant Secretary for approval and signature. The Minister would have approved adults, the Assistant Secretary would have approved minors. They usually went through I am loath to use the word "routinely", but they were normally standard in straightforward minor cases, but they would be, usually, in my experience, accompanied by a short submission. That's what leads me to the belief here that in this case, I was asked or instructed to prepare a draft certificate only, and that's what was done.

CHAIRMAN: By one of your three seniors in the division?

A. That would be my belief, Chairman, yes.

CHAIRMAN: Thank you very much for your assistance.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: I think that's the entire of the witnesses for today, sir, and we have further witnesses on Tuesday.

CHAIRMAN: At 11 o'clock?

MS. O'BRIEN: At 11 o'clock.

THE TRIBUNAL ADJOURNED UNTIL THE 19TH DECEMBER, 2005.