

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 2ND FEBRUARY,
1999 AT 10:30AM:

MR. COUGHLAN: May it please you, Sir. Last week at the commencement of these public sittings I made an opening statement dealing at length with material and information which had been made available to the Tribunal.

On that occasion, I stated "In each discrete public phase of the Tribunal's work, it may be necessary for Counsel instructed on behalf of the Tribunal to make a further outline statement and where practicable, this will be done. This is because the investigative work of the Tribunal will continue during the course of public hearings and because the Inquiry may take a fresh turn at any moment. In every case, the Tribunal will endeavour to indicate the direction its line of inquiry is taking."

I am now directed by you, Sir, to make a further outline statement at this stage.

In the course of that opening statement, I referred to certain information furnished to the Tribunal by Mr. Bernard Dunne concerning what I described as the Tripleplan payment.

I indicated that Mr. Dunne had informed the Tribunal that he had no recollection of giving any instructions in relation to the payment to Tripleplan. I also indicated

that Mr. Dunne had informed the Tribunal that he did not authorise the giving of any instructions in relation to the payment or the payment itself. I indicated that it was not his intention that any such payment should be made and he never gave any instructions that Mr. Charles Haughey was to receive this amount either by this payment or in any other way.

Mr. Dunne has now informed the Tribunal that while he would have expected to remember giving instructions to Mr. Price or in the alternative to Mr. Fox concerning the cheque, he is astonished that he has no such recollection.

He has informed the Tribunal that it is now apparent that he authorised the payment. He has informed the Tribunal that he had no recollection of a company called Tripleplan, nor any recollection of agreeing, instructing or authorising this company to be given any of the monies in question. He has further informed the Tribunal that the only conclusion he can come to from the information made available by the Tribunal is that he must have authorised the payment to Mr. Haughey and that while he believed that the first payment he had authorised to be made to Mr. Haughey was as set out in the statement to the McCracken Tribunal, he now concludes that he must have authorised the payment to Mr. Haughey earlier than he had previously believed.

The Tribunal has already indicated, though not

exhaustively, the lines of inquiry likely to be pursued on the basis of the information and material made available to it.

From this information made available by Mr. Dunne, it would seem that he authorised the payment in question.

In addition to the lines of inquiry already indicated, the Tribunal will wish to pursue a line of inquiry as to when this was or must have been known to persons centrally involved with this cheque and how such a state of knowledge, if it existed, was subsequently dealt with by them.

In furnishing previous information and in furnishing this information to the Tribunal Mr. Dunne has informed the Tribunal that he intends to further review the documentation available to him so as to ensure that the details which he has furnished are correct.

I would now like to call Mr. Noel Fox as a witness.

MR. NOEL FOX, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. COUGHLAN:

Q. MR. COUGHLAN: Mr. Fox, I think you furnished a statement and some supplemental information to the Tribunal and if you wish to have that statement before you, please feel free to do so. What I propose doing, Mr. Fox, in the first instance is taking you through your own statement.

I then propose asking questions to elicit information to establish the facts material to the Terms of Reference of the Tribunal. Do you understand, Sir?

A. I do indeed, yes.

Q. I think, Mr. Fox, is it correct to say that you are one of the four trustees of the Dunnes Settlement Trust?

A. I am indeed. The other trustees are Mr. Bowen, Mr. Uniacke and Mr. Montgomery.

Q. And I think you are a chartered accountant by profession; is that correct?

A. That is correct.

Q. And you have been, for a long period of time, a member of the firm of Oliver Freaney & Company chartered accountants?

A. I have been a member of Freaneys since the late fifties.

Q. Would you like some water? You have some. And I think apart from being a chartered accountant, you are a man with a reputation in the business world, well I think you have served on the board of many semi-state companies and public companies?

A. I have indeed.

Q. Now, I think Oliver Freaney & Company have acted as auditors to some of the companies within the Dunnes group of companies; is that correct?

A. We audit some of the companies within the Dunnes Stores group. Deloitte & Touche audit the remaining companies. We are not auditors to the holding company.

Q. Now, I think on the 24th March, 1998, you furnished a

statement to the Tribunal; is that correct?

A. I did come down and saw the Tribunal and brought a statement with me.

Q. And I think you learnt something some three weeks or thereabouts prior to furnishing of the statement.

A. I learned that Mr. Furze and Mr. Collins were directors of a company Tripleplan.

Q. Yes.

A. Which triggered the connection in my mind and I came to the Tribunal at that time.

Q. Why was that?

A. Well, the board of Dunnes Stores at that time were anxious that all of their accounts be brought up-to-date and signed off and they instructed both Deloitte & Touche and Freaneys to clarify any outstanding issues and in the course of that, Mr. Wise, who is the audit partner to Dunnes, caused to have searches made on a company, Tripleplan Limited, and as a result of that, Mr. Wise called me one evening and said that he had made a connection in Tripleplan, that the two directors there, Mr. Furze and Mr. Collins and I was quite shocked to hear that and he said that triggered the connection back for me to the Haughey payments. And I went immediately to the board of Dunnes Stores and told them this and I said that I would have to make a statement to provide this information to the Moriarty Tribunal and that's what happened.

Q. Is that because you considered that they may be relevant to

the Terms of Reference of this Tribunal?

A. I felt that initially I thought I should go to the McCracken Tribunal but then I realised that they had ceased their work and that these matters were now relevant to the Moriarty Tribunal.

Q. Now, I think that together with your co-trustees, you were a defendant in certain proceedings commenced by Mr. Bernard Dunne in 1993; is that correct?

A. Mr. Dunne launched very serious proceedings against myself as one of four defendants and the other defendants were my co-trustees and I think from memory, members of the family were also

Q. And I think in those proceedings a claim was made on behalf of Mr. Dunne of certain payments made by him to a politician; is that correct?

A. That claim was made at the very end of the proceedings, I think, in November October or November of 1994, as far as I can recollect.

Q. Yes. And I think you are aware that in response to a request for particulars in the course of those proceedings, he alleged that a payment in the region of sum of €1.1 million had been made to a politician; is that correct?

A. That is what is alleged.

Q. Sorry Mr. Fox, your voice isn't carrying for the stenographer, I wonder could you move closer to the microphone. Thank you.

A. Can you hear me now?

Q. Yes, I can hear you, the stenographer was having difficulty. And I think you have informed the Tribunal that at the end of the proceedings which were settled sorry, in the first instance, I think you had made discovery in the course of the proceedings; is that correct, or the firm of Oliver Freaney & Company?

A. Yes, we had made discovery.

Q. And I think at the end of the proceedings which were settled, and after Mr. Dunne withdrew all of the claims made against the trustees and all the allegations concerning the trust, you closed your files believing the matter to be at an end; is that correct?

A. I did indeed, yes.

Q. Now, I think when the McCracken Tribunal was established, did you and your co-trustees agree to make yourselves available to that Tribunal?

A. We did and did make ourselves available.

Q. Did you agree to give evidence and did, in fact, give evidence before that Tribunal?

A. We agreed to give evidence and gave evidence.

Q. And did you and your co-trustees make discovery to that Tribunal?

A. We made discovery, yes.

Q. And in that regard, did you search your files?

A. Yes, I searched my files at that time, yes.

Q. And how extensive were the searches?

A. They were very extensive. They were a complete trawl

through all dead files that were stowed away by Freaneys at that time.

Q. And is it correct that the payments made to a politician, that's Mr. Charles Haughey, were detailed in the course of McCracken Tribunal?

A. They were detailed and in the course of the McCracken Tribunal and the McCracken Tribunal made the details available to me.

Q. And were they made up of the following, which was €205,000, that was the Irish equivalent of sterling €182,630; is that correct?

A. That is correct, yes.

Q. €471,000 sterling?

A. €471,000 sterling, yes.

Q. €150,000 sterling?

A. Yes.

Q. And €200,000 sterling?

A. Yes, and €200,000 sterling.

Q. And I think you were aware that in the course of the McCracken Tribunal, there was a further sum of €210,000 which related to, made up of separate drafts, each in the sum of €70,000 made out to fictitious names?

A. Yes, I was aware of those during the Tribunal.

Q. Yes.

A. And I knew absolutely nothing about them.

Q. Yes. Is it correct that you have informed this Tribunal that the history of the requests made by Mr. Des Traynor

through you to Mr. Bernard Dunne are well documented in the McCracken Tribunal Report.

A. Yes, that's what I told this Tribunal.

Q. And that you gave evidence about these and your belief that the requests which were made to you by Mr. Traynor all concerned monies for Mr. Haughey?

A. Mr. Traynor left me in no doubt that these monies were for Mr. Haughey and I believed that at all times.

Q. And have you informed this Tribunal that to the best of your that your best recollection was that first you were requested to pass on the request to Mr. Bernard Dunne to become involved with five or six others as a part of consortium which would put together sums of approximately œ150,000 each?

A. Yes.

Q. But that Mr. Bernard Dunne indicated that he would prefer to pay all of the money personally to Mr. Haughey provided he had some time within which to do so?

A. Yes, Mr. Dunne didn't want Mr. Traynor to seek other subscribers to the fund and he said he would do it himself personally and he would keep it confidential.

Q. And have you informed this Tribunal that you could not recall, in the course of the McCracken Tribunal, when precisely you were approached by Mr. Traynor in 1987?

A. I couldn't remember exactly when he approached me in 1987. I kept no contemporaneous notes of my conversations with Mr. Traynor. I kept no notes at all save for the

final payments where he gave me the name of banks and account numbers which I scribbled on a piece of paper and gave to Mr. Dunne but the initial approaches, I had no notes whatsoever and Mr. Traynor had died and Mr. Dunne and I hadn't talked to each other since 1993 really since the litigation I suppose really as a result of the litigation, we haven't been in communication with each other since then.

Q. And have you informed this Tribunal that you were greatly helped by the evidence of others furnished to you by the McCracken Tribunal I presume as you previously had to rely solely on your recollection?

A. That is so, from memory, my memory at the time.

Q. Did you inform this Tribunal that you did however recall that sometime after this first approach, that is the approach by Mr. Traynor, but you cannot remember exactly when, you were requested by Mr. Traynor to ask Mr. Dunne for a payment of €205,000 Irish to be made payable to a Mr. Furze?

A. Yes, the name Furze has always stuck in my mind. It's an unusual name and obviously I must have asked Mr. Traynor about the name and he told me he was the banker handling the transaction.

Q. And have you informed this Tribunal that the cheque drawn on the Bangor account was subsequently sent by you, that's the cheque made payable to Mr. Furze?

A. I beg your pardon?

Q. Have you informed this Tribunal that the cheque drawn on the Bangor account, that is the John Furze or J Furze cheque which was the subject matter of the inquiry in the McCracken Tribunal, was subsequently sent to you?

A. Yes.

Q. And have you informed this Tribunal that your recollection was that you then either sent it to Mr. Traynor by post or he agreed to have it collected from your office?

A. That is correct.

Q. And have you informed this Tribunal in your statement concerning the remaining payments, that is the remaining payments in the McCracken Tribunal, that your only involvement with these was to relate to Mr. Bernard Dunne details which Mr. Traynor gave to you generally but you now know not always included the name of a bank, the payee, sometimes the account number or the sorting code in question and sometimes, but not again always, the amount?

A. That is correct, yes.

Q. And have you informed this Tribunal that you in turn passed on the information to Mr. Bernard Dunne and if you had been given an account number or a sorting code number, since you would not remember this, you would pass it on to Mr. Dunne the piece of paper on which you had written the sorting code or the account number or other details?

A. That is correct, yes.

Q. And have you informed this Tribunal that apart from relaying this information to Mr. Dunne, you had no further

involvement in these subsequent payments?

A. That is correct. My last call, I think, from Mr. Traynor was I think in February, 1990.

Q. And have you informed this Tribunal that no subsequent cheques were sent to you to be passed on to Mr. Traynor?

A. Yes.

Q. And have you informed this Tribunal that the total sum involved, according to the 1993 proceedings, was €1.1 million and the total sum alleged by Mr. Dunne during the course of the McCracken Tribunal has increased to €1.31 million?

A. That is correct, yes.

Q. And have you informed this Tribunal that again, at the end of the McCracken Tribunal, you closed your files on the matter, believing the issues to have been finalised at least insofar as you were concerned?

A. That is correct.

Q. Have you informed this Tribunal that recently in the course of the completion of the audit of one of the Dunnes Stores companies by Oliver Freaney & Company, the Board of Directors of Dunnes Stores requested a report of all outstanding audit issues?

A. Yes.

Q. And have you informed this Tribunal that in this connection, an inquiry arose relating to a cheque drawn on the 20th May, 1987 on Dunnes Stores Bangor Limited in the sum of €282,500 sterling?

A. Yes.

Q. And have you informed this Tribunal that you have not and never have been involved in this or in any other Dunnes Stores audit?

A. That is correct. My role in Freaneys was insolvency, corporate recovery and general consultancy. I am not an audit partner.

Q. And have you informed this Tribunal that the cheque was made out to a company called Tripleplan Limited?

A. Yes, that's correct.

Q. Have you informed this Tribunal, because the cheque was drawn on Dunnes Stores Bangor Limited, you understood inquiries were also made of the financial directors of Dunnes Stores Bangor Limited?

A. Yes.

Q. That would be Mr. Matt Price?

A. Mr. Matthew Price, yes.

Q. And have you informed this Tribunal that you understand that he then carried out a further search and found a copy of a compliment slip which had a note in it that a cheque had been sent to you at Mr. Bernard Dunne's request?

A. That is correct.

Q. And I think you attached to your statement a copy of the cheque and the complement slip; is that correct?

A. That's correct, yes.

Q. Have you informed this Tribunal that it would not be unusual for Mr. Price or indeed any other financial

directors to send cheques to your office?

A. Yes. Cheques, from time to time, have come to my office where I was dealing with various corporate matters on behalf of Dunnes Stores and that would not be unusual.

Q. And for that reason, and indeed the other cheque, that's the €205,000 cheque made payable to Mr. Furze, would not be something which would stand out in your mind?

A. That is correct, yes.

Q. And have you informed this Tribunal that even with the new information which was then available to you, you have no recollection of the cheque?

A. I have absolutely no recollection of the cheque.

Q. Did you inform this Tribunal that Mr. Paul Wise, the audit partner of Oliver Freaney & Company, having charge of the audit in question, advised you that no one in Dunnes Stores was able to throw any light on the company, that's Tripleplan, or how the cheque arose, nor did any searches carried out in Dublin, Belfast and in the UK in 1997 disclose the company's existence?

A. Yes.

Q. Did you inform this Tribunal that before giving up on the possibility of identifying the company, it was decided to carry out one last search of the company's registers in Jersey, Guernsey, Isle of Man and the UK.

A. That is correct, yes.

Q. Did you inform this Tribunal that the results of searches from Jersey, Guernsey and the Isle of Man confirmed that

there was no record of such company extant or dissolved?

A. That is correct.

Q. Have you informed the Tribunal in your statement that on inquiry, Oliver Freaney & Company were then informed by their searching agent in England that searches had only ever been made in respect of extant companies in the UK although not apparent from their report?

A. That is correct, yes.

Q. And that they explained that whilst there was only one register for companies both extant and dissolved in the UK, that that was in Cardiff and they had searched on their own software, they divided into two registers, extant and dissolved?

A. That is correct, yes.

Q. And have you informed this Tribunal that a further search of the UK register in Cardiff was carried out and a company was discovered in the UK having been struck off from the register for failing to make returns carrying the name Tripleplan Limited?

A. That is correct, yes.

Q. That this company was incorporated in 1983 and failed to file returns from 1986 and was struck off in June, 1988?

A. Yes.

Q. And I think you have informed this Tribunal that this position was confirmed by letter dated the 18th February addressed to and received by Oliver Freaney & Company on Monday, 23rd February, 1997.

A. That actually

Q. Would be 1998?

A. 1998.

CHAIRMAN: Excuse me momentarily, Mr. Coughlan. Mr. Fox, as an insolvency specialist, have you come across personally this problem that English registers may be somewhat unforthcoming as regards companies that may have perished?

A. No, Sir, no. No, I found it hard to get my mind around extant and dissolved to be honest.

Q. MR. COUGHLAN: And I think it's correct to say that you informed this Tribunal in your statement that when details of this company were secured, they included the fact that the directors were listed as being John A Furze with an address in the Cayman Islands and Mr. Collins with an address in those islands also?

A. That is correct, yes.

Q. And that as soon as this information became available and was brought to your attention by the audit team, you had to assume it wasn't likely that the cheque was a payment made at Mr. Bernard Dunne's direction and probably through you sent to Mr. Des Traynor?

A. That is correct, yes.

Q. I think you informed the Tribunal that you have no recollection of either being asked by Mr. Traynor to request Mr. Dunne for this nor do you recall how the cheque

was thereafter transmitted through you to Mr. Traynor?

A. No, I have no recollection of that.

Q. I think you informed the Tribunal that nothing about the cheque itself would trigger the fact that it had any connection whatsoever with Mr. Traynor or any request made by Mr. Traynor on behalf of Mr. Charles J. Haughey?

A. That is correct.

Q. And I think you informed the Tribunal when you attached to your statement a copy of the cheque and a copy of the note which was sent to you and say that the cheque does not contain any stamp of Guinness & Mahon, Mr. Traynor's bank, or indeed any endorsement similar to those on other payments?

A. No, there was no stamp on the cheque Guinness & Mahon. In fact, I think there was no stamp at all on it. There seems to be some reference on the back which was meaningless.

Q. Yes. In fact, the back just contains a series of numbers.

A. Yes.

Q. Generated by a machine.

A. It gives no clue whatsoever to how it was negotiated.

Q. Just the word 'Newry' written on it. There's no endorsement on it. And I think you informed this Tribunal that you believed that a connection might have been made much earlier between it and Mr. Traynor so that it would be furnished to the McCracken Tribunal if it had contained a Guinness & Mahon stamp or something of that nature?

A. I think on the Furze cheque there were Guinness & Mahon Barclay stamps. There was significant stamps on it. On the Tripleplan cheque there was absolutely nothing on it except for some numbers on the back.

Q. That is correct. I think you have informed the Tribunal that you know nothing about the presentation of this cheque and you think it most likely that you would have sent the cheque at Mr. Traynor's request to him?

A. That is so, yes.

Q. I think you informed this Tribunal that obviously the existence of this cheque is a great embarrassment to you?

A. It's a great embarrassment and upsetting to me professionally and personally.

Q. And I think you informed the Tribunal that had you recalled it or had you recalled there might have been another payment you would of course have brought this to the attention of the trustees, legal advisors, the attention of Dunnes Stores and you would also have disclosed the matter fully to the McCracken Tribunal as you did in the case of the other requests made?

A. That is correct. There would be absolutely no reason why I wouldn't have mentioned that to the McCracken Tribunal.

Q. And you have informed this Tribunal that you were drawing it to the attention of this Tribunal?

A. Yes.

Q. And apart from the cheque and the endorsement or the compliments slip, you also furnished to the Tribunal copies

of the results of the searches made in February of 1998?

A. That is so, yes.

Q. Now, I think the Tribunal raised certain queries with you through your legal advisors and I think you informed the Tribunal or your legal advisors that you had no clear recollection of Mr. Drumgoole seeking clarification of the nature of the Tripleplan cheques as opposed to the cheques made payable to Mr. Furze; is that correct?

A. That is correct, yes, my recollection was that Mr. Drumgoole had brought to me and told me about Mr. Furze and said, "look, I will raise the matter with Mr. Dunne" whereas this cheque at the moment, he told me it was in suspense and I said I would speak to Mr. Dunne about it. Since in the last over the last weekend I have seen a memorandum from Mr. Drumgoole to me where he has asked me about both Tripleplan and Mr. Furze and I have no doubt that he obviously asked me in 1989 about both cheques.

Q. Well, I think in fairness to yourself, Mr. Fox, even without seeing that over the weekend, I think you did inform the Tribunal when the queries were raised, that you nonetheless accept absolutely that as Mr. Drumgoole relates, recollects that he did raise the matter with you, that that must be the case?

A. That must be the case, I believe that absolutely.

Q. I think also as a result of queries raised by the Tribunal, you have a recollection of Mr. Drumgoole informing you that a cheque made payable to Mr. Furze was held as a suspense

item in the Dunnes Stores Ireland company and that you informed Mr. Drumgoole that you would speak to Mr. Ben Dunne about the matter?

A. That is correct, yes.

Q. I think you have informed the Tribunal that you cannot remember whether you spoke to Mr. Bernard Dunne?

A. I can't as a matter of course, I think I would have spoken to Mr. Dunne but I really can't remember.

Q. I think again in fairness to yourself, Mr. Fox, you did inform the Tribunal that you cannot remember whether you spoke to Mr. Dunne or not, however you believe you must have done as you said you would but you cannot exactly remember when or where?

A. When or where or if and I certainly I did not go back to Mr. Drumgoole with a resolution of the matter.

Q. I think you have informed the Tribunal in response to queries that you were aware from the time you informed Mr. Dunne of Mr. Traynor's request that Mr. Dunne personally intended to assist Mr. Haughey and you were aware Mr. Dunne was in a position to do so?

A. Yes, and that he wished the matter to be kept absolutely confidential.

Q. And I think you have informed the Tribunal that how Mr. Dunne wished to deal with the payments remained unresolved and therefore you were not in a position to answer Mr. Drumgoole?

A. And for reasons of confidentiality, Mr. Dunne I couldn't

have answered Mr. Drumgoole without Mr. Dunne's express permission.

Q. I think those are the, that is the statement and the clarification on queries you furnished to the Tribunal; is that correct?

A. Yes.

Q. I wish to ask you some questions, Mr. Fox, and as I have said before, that this is the procedure which will be adopted by the Tribunal and I want you to be clear in your mind that the Tribunal is not making any case against anybody nor is it defending any position. The Tribunal is merely asking these questions which may, on occasion, in the course of this inquiry, be searching questions for the purpose of digging deep to establish the facts material to the Terms of Reference of the Tribunal.

A. Yes.

Q. In your last response there, Mr. Fox, you said that you would have been unable to divulge to Mr. Drumgoole the purpose of the payment without Mr. Bernard Dunne's permission because of the confidentiality which would surround the making of payments to Mr. Haughey?

A. That's correct, yes.

Q. There can be little doubt but that in December of 1987, when the cheque was drawn on Dunnes Stores bank or made payable to Mr. J Furze, that you knew that this was being done and you knew the purpose for which it was being done?

A. I accept that absolutely, yes.

Q. And that you always knew that?

A. I would have known that as well in 1989, yes.

Q. And subsequently, it was something that you always knew?

A. Well, I think somewhere between 1990 and the McCracken Tribunal, the connection between Tripleplan and the Haughey payments left my memory. I think in the early nineties in Dunnes Stores, there was a lot of family and company turmoil culminating in Mr. Dunne leaving the company in 1993 and he launched a very serious litigation against myself and my co-trustees and the family.

Q. Yes.

A. And that litigation was very serious, as I said, it was acrimonious and there was, it was a very stressful and worrying time for all concerned and subsequently, it settled in 19 November, 1994 and when I came to the McCracken Tribunal, I was really working from memory and I did not remember the Tripleplan connection to the Haughey payments.

Q. I am dealing at the moment, and I will deal with Tripleplan presently, but I am dealing with the John Furze or J Furze payment, the €205,000 Irish, €182,000 or thereabouts sterling.

A. I never lost the John Furze name.

Q. Yes. Because not only was that first payment in the McCracken Tribunal made payable to John Furze but the second payments for €471,000 sterling, which went through a different route, Equifex in the Isle of Man and through

Switzerland, that was also made payable to John Furze;

isn't that correct?

A. Furze, John Furze was common to all the transactions.

Q. Yes. So it must always have been in your mind.

A. Yes, yes. John Furze was, yes.

Q. And was there a concern in your mind about the payment to John Furze out of Dunnes Stores Bangor account?

A. No, that didn't worry me. I believe Mr. Dunne was taking on these payments personally and he would look after them in due course. That didn't cause me concern.

Q. Yes, because I think that, like the Tripleplan payment, was posted to the accounts of Dunnes Stores Ireland, isn't that correct?

A. That is correct, yes.

Q. So it was a debit in the Dunnes Stores Ireland account; isn't that correct?

A. That's correct, yes.

Q. And there was no corresponding asset; isn't that correct?

A. The corresponding asset would be Mr. Dunne, I think I believe he personally would look after these payments.

Q. So the corresponding asset was that you believed that Mr. Dunne would make this payment to cover that sum of money personally?

A. Yes. In due course, yes.

Q. Because it had a particular significance to you as a trustee, didn't it?

A. Yes, but I always believed Mr. Dunne, I would have every

confidence in him looking after those payments.

Q. Well, really at this stage of the Tribunal's inquiry, I am only asking questions directed to people's state of knowledge at various periods of time so it would have been fixed in your mind as a trustee if Mr. Dunne wasn't going to put that money back in, that there was a debit without corresponding asset which would have been a concern to you, not only as an accountant but as a trustee; isn't that correct?

A. That's correct, yes.

Q. Now, the payment to Tripleplan was made so many months before the first payment which was disclosed to Mr. Justice McCracken?

A. That is correct, yes.

Q. And it's dated the 20th May, 1987.

A. Yes.

Q. And again, it was posted to the accounts of Dunnes Stores Ireland Limited or whatever the previous incarnation of that company was?

A. That is correct, yes.

Q. And it was also a debit without a corresponding asset; isn't that correct?

A. That is correct.

Q. Unless Mr. Dunne was going to put the money in?

A. Yes, that is correct, yes.

Q. And on the basis of the complement slip which was sent by Mr. Matt Price who drew the cheque, it appears that that

cheque was sent to you.

A. It appears so, yes, yes.

Q. Do you accept that?

A. I accept that.

Q. And it was sent to you, according to Mr. Price, at Oliver Freaney & Company?

A. Yes, I accept that.

Q. You accept that. And I think you accept that you sent this cheque to Mr. Traynor, do you?

A. I do indeed, yes.

Q. And that if you sent it to Mr. Traynor, it must be for a payment to Mr. Charles Haughey?

A. I accept that, yes.

Q. And in those circumstances, is it the case that the first time you had communication with Mr. Traynor or somebody on behalf of Mr. Charles Haughey must have been considerably earlier in 1987 than appeared to be the situation as disclosed to Mr. Justice McCracken.

A. In the course of the McCracken Tribunal, I couldn't remember exactly when I was approached but I must draw the inference that it was much earlier from that cheque.

Q. I think before Mr. Justice McCracken and his tribunal, you had to rely, you informed that Tribunal of evidence which had been given by previous witnesses relating to times and dates and amounts?

A. That is correct, yes.

Q. And Mr. Bernard Dunne, of course, had given evidence prior

to you in that Tribunal?

A. That is correct, yes.

Q. And in that context, he recounted how you had first approached him and he recounted how he had informed you that he would undertake the burden himself of the full amount; isn't that correct?

A. That is correct, yes.

Q. And I think he also informed you that it would take sometime, perhaps six months or thereabouts, to put that sort of money together in a confidential way?

A. That is correct, yes.

Q. And is that your recollection of the type of conversation which would have taken place between you and Mr. Dunne?

A. That is my best recollection, yes.

Q. There then, according to Mr. Dunne's evidence and is it your recollection, occurred an event whereby Mr. Traynor approached you once again requiring a payment urgently?

A. Yes.

Q. And according to the evidence before Mr. Justice McCracken, Mr. Dunne places that as being sometime proximate to the drawing of the J Furze cheque in December of 1987?

A. Yes.

Q. Disregarding when this happened, is that the sequence of how matters unfolded before the first payment was made?

A. That's my best recollection, yes.

Q. And on the basis of the information available to you, do you accept that the payment made to Tripleplan was the

payment which was considered to be necessary urgently by

Mr. Traynor?

A. Yes, that must be the case.

Q. That being so, can you be of assistance to the Tribunal as to when you now believe Mr. Traynor first made his approach?

A. I believe now Mr. Traynor must have made his approach prior to May, 1987 and that this, these payments all form part of the money transaction. I really need to move backward in time from November, '87.

Q. Yes. Because on the basis of the evidence given to Mr. Justice McCracken, he seemed to fix the approach as being a month or sometime longer before the first payment was made; would that be correct?

A. Yes, so it would date, the May payment maybe the approach was made in April of 1987.

Q. Could it have been made in March?

A. I really don't remember when it was made but I am just trying to be rational about it.

Q. Yes, and I want you to take your time. We are only asking questions to elicit facts so take your time.

A. It could have been earlier.

Q. It could have been earlier than April?

A. It could have been March.

Q. I think that it was disclosed to Mr. Justice McCracken in the evidence of Mr. Bernard Dunne that he, Mr. Dunne, had first met Mr. Haughey sometime in 1986 or '87 on your introduction; is that correct? First of all, do you

recollection that evidence being given?

A. I don't but that could have happened.

Q. Well, is it correct that Mr. Dunne first met Mr. Haughey on your introduction, to the best of your knowledge?

A. To the best of my knowledge but I would imagine I mean, he would have known Mr. Haughey prior to that but to the best of my knowledge, maybe.

Q. Well, is that of any assistance to you in addressing the question as to when Mr. Traynor may have first approached you?

A. I don't think so, no. I believe that he must have approached me probably shortly before the payment was made if it was urgent.

Q. Yes. Well, if I may go back over that sequence of events as recounted to Mr. Justice McCracken. Again, it would appear that there were two approaches, if we leave the time out of it, the date out of it, that there were two approaches made by Mr. Traynor to you. In the first instance, indicating that he was putting together or hoped to put together a number of people to make up the sum of money required.

A. Yes.

Q. And then that this happened at some stage prior to the approach being made saying something urgent had now happened or that there was an urgent need for funds?

A. Yes.

Q. Is that your recollection, that there were two separate

approaches?

A. I think I would have gone back to him saying that Mr. Dunne was prepared to handle the complete transaction himself and he may have said then there was some urgency about a payment at that stage to me.

Q. Is that now your recollection, Mr. Fox?

A. Well, I mean, I really don't remember. I think that's my recollection.

Q. Well, take your time.

A. I am getting a little confused here, Mr. Coughlan.

Q. All right. Well I don't wish to confuse you because what we are trying to do is clarify things and it would be wrong that you should be confused.

A. I don't remember exactly.

Q. You don't remember. So therefore it could have been April, it could have been March, or as far as you are concerned, it could even have been earlier?

A. It could have been, yes.

Q. Can you tell us, Mr. Fox, in so far as you were concerned, whether the four payments disclosed to Mr. Justice McCracken and this Tripleplan payment were the only payments made?

A. To the best of my knowledge, yes. I am not aware of any other payments made.

Q. Can you be any more positive about that, Mr. Fox?

A. Well, I am positive, as far as I know, there were no other payments.

Q. No other payments

A. No other payments made to me, yes.

Q. Do you need to look at any other documents to confirm that to you at all?

A. I don't think so, Mr. Coughlan.

Q. Now, I think you informed Mr. Justice McCracken's Tribunal that you did not know Mr. Traynor either professionally or personally or socially?

A. Not so

Q. Prior to his approach?

A. Not socially. I certainly knew him professionally, yes.

Q. When and how had you met him?

A. He was originally a partner in Haughey Boland so I am sure... we had offices out that direction as well in those days so I am sure I would have known him back as far as then. I would have had little contact with him.

Q. And is it the case that all communications between you and Mr. Traynor took place over the telephone?

A. I really don't remember that, Mr. Coughlan. Whether I met him once or everything was on the telephone, I just don't remember.

Q. Can you remember when he first spoke to you about these matters?

A. I think that was

Q. How you spoke to him

A. I beg your pardon?

Q. How did you speak to him or how did he communicate with

you?

A. I think he communicated with me by telephone.

Q. You knew who you were talking to?

A. Oh absolutely, yes.

Q. And can you recollect the full extent, as best you can, of the conversation you had on that occasion?

A. I can't recollect the exact form of voice he used but he left me in no doubt that Mr. Haughey had serious difficulties, financial difficulties and business difficulties and that he needed, he was trying to put a consortium of people together and he was looking for contribution of €150,000 and he knew that I was a friend of Ben Dunne's and would I go and speak to Ben about it and would he be prepared to help and make a contribution to the fund he was putting together? And I thought at the time he was talking about half a dozen people or a handful of people and the size of the funds was of the order of maybe 700 to €900,000. That's my best recollection of it.

Q. And what did you say to him, can you remember?

A. I said, I would have said to him, "I will speak with Mr. Dunne for you" which I did. I did speak to Mr. Dunne and Mr. Dunne said, look, he was prepared to show that the entire transaction himself personally and not have Mr. Traynor going around the city looking for other people, that he would handle it and that it would be kept confidential.

Q. It would be kept confidential?

A. Yes.

Q. You said or you have said today that you would have felt it incumbent upon you to maintain the confidentiality in this transaction?

A. Yes. That is correct.

Q. That you would have needed Mr. Dunne to release you from the confidentiality to tell anyone about it?

A. Yes, I believed I had a duty to Mr. Dunne to keep it confidential.

Q. You said that specifically, of course, about the John Furze cheque.

A. The entire transaction.

Q. The entire transaction. But that when Mr. Drumgoole raised it with you on the audit issues, you would not, you could not tell him because of the confidentiality aspect; is that correct?

A. That is correct, yes.

Q. Now, the Tripleplan payment was made in the same year as the Furze payment; isn't that correct?

A. That is correct.

Q. And you accept that you facilitated the payment to Mr. Haughey from Dunnes Stores bank or on behalf of Mr. Bernard Dunne; isn't that correct?

A. That is correct.

Q. And that must have been known to you?

A. That is correct.

Q. And that that must have been known to you when Mr.

Drumgoole first raised the matter on an audit issue sometime between St. Patrick's Day and I think he says June of 1998, in the following year.

A. '88.

Q. '88.

A. Yes.

Q. So that you must have been aware that the Tripleplan payment was a similar payment to the Furze payment?

A. I accept that absolutely, yes.

Q. And particularly, might I say, that it must have stuck in your mind because you would have been anxious, perhaps anxious is going too far but that you would have expected Mr. Dunne to pay this money to Dunnes Stores Ireland Limited because this was company and trust money; isn't that correct?

A. That is correct, yes.

Q. And is it not the case that if the Furze payment never left your mind, that the Tripleplan payment could never have left your mind either?

A. Tripleplan payment, the connection between Tripleplan and the Haughey certainly left my mind between 1990 and the McCracken Tribunal because if I had known about it at the McCracken Tribunal, I would have said so. There's absolutely no reason for me not to tell the McCracken Tribunal about that payment.

Q. Well, should we go back a little bit in time so and take this slowly? You knew about it in 1987 when it occurred.

A. Yes.

Q. You knew about it when Mr. Drumgoole raised it as an audit issue in 1988.

A. Yes.

Q. Mr. Drumgoole once again raised it as an audit issue in 1989?

A. Yes.

Q. And you must have known about it then also?

A. I must have known about it then also.

Q. And I think Mr. Drumgoole, in his evidence, has said that he would have raised it regularly as an issue to be taken up. Do you have any recollection of that?

A. I have absolutely no recollection of that.

Q. When it was raised as an audit issue by Mr. Drumgoole, I think you informed him that you would raise the matter with Mr. Bernard Dunne?

A. Yes.

Q. Did you?

A. I believe I did but I have absolutely no memory of a resolution or what was said between us, I have no recollection of that at all.

Q. Well, let's try and dwell on it for a moment if we can.

A. Yes.

Q. What would you have said to him?

A. Well, I am sure I would have said, "Look, these payments have been brought to my attention in the course of the audit and we better do something about them" but I cannot

remember ever a resolution coming and obviously a resolution didn't come because I never went back to Mr. Drumgoole with a solution.

Q. And the solution would the solution, how could the solution have been achieved?

A. The solution could have been achieved by putting the payments through his current account.

Q. Would you repeat that please?

A. By putting the payments through his current account, that would be a solution.

Q. In other words, that Mr. Dunne personally took over this indebtedness?

A. Which I always believed he would do, I had every faith in his doing so.

Q. Because whatever about its materiality from an accounting point of view, there was a half a million pounds, in effect, outstanding in respect of the trust; isn't that correct?

A. There was a half a million pounds outstanding and

Q. In respect of the trust?

A. Well, outstanding to Dunnes Stores Ireland.

Q. Yes, of which the trust was the shareholder; isn't that correct?

A. The trust would have been the shareholder from the holding company down, yes.

Q. So this was trust money as well, wasn't it, Mr. Fox, that you had particular duties in relation to?

A. Well, I never had any worries about it.

Q. Mr. Fox, I accept it's to do with your state of knowledge I am concerned about.

A. Yes.

Q. The reason I am asking these questions is it would have been particularly in your mind because this affected trust money?

A. Not particularly

MR. COLLINS: Mr. Chairman, I think the witness should be allowed to answer questions he sees fit. There's a certain tenure in the question and I think the witness should be allowed answer

CHAIRMAN: I hadn't understood, Mr. Collins, Mr. Coughlan to be hectoring him unfairly.

MR. COLLINS: I wasn't suggesting that at all, Mr. Chairman, but it's being put to the witness that he had certain duties as a trustee and he should have had certain concerns as a trustee. The witness is seeking to explain why it was that he didn't have concerns and the basis for not having

CHAIRMAN: Well, let's assure it's taken appropriately, of course

Q. MR. COUGHLAN: I am sorry, Mr. Fox, if I created that impression with you.

A. You haven't, I am quite comfortable.

Q. Yes. I am only concerned with why it would be fixed in your mind. I am not questioning you as a trustee or your acts or how you performed your duties as a trustee. What I am saying, it would be fixed in your mind especially because this was trust money as well.

A. Well, it wouldn't be especially fixed in my mind because from time to time all of the directors in Dunnes Stores would have withdrawn monies and in due course they settled them up with the company so I had never any doubts about it.

Q. That's perhaps understandable but how long would those type of drawings or events be kept alive in the accounts?

A. Well, they have been kept alive for a number of years because the accounts have not been completed except recently, they have been completed between 1990 and 1996 or 1997, recently. So Dunnes are a huge company and there are movements from year to year in Dunnes Stores.

Q. But in any event, you have no doubt that you knew about this at least as late at 1990 or it was in your mind as late at 1990?

A. 1990.

Q. The Furze payment, which I might call the December payment, from Dunnes Stores Bangor, that arose in the course of the litigation; isn't that correct?

A. It did, yes.

Q. And were you conscious of it at that time?

A. Yes, I was, yes.

Q. And you knew in your mind that it was one of the payments made to Mr. Haughey; isn't that correct?

A. I knew that Mr. Furze was the banker involved in the transaction. He was the one named, that did stick in my mind.

Q. Always stuck in your mind?

A. I think I related it to Furze bush to be honest.

Q. And why is it that if the Furze payment which was identified in the litigation stuck in your mind and you didn't remember a payment which took the same route, sorry, first of all derived from the same source and took the same route as the Furze payment, why did that not stick in your mind when it had occurred in the same year?

A. I really don't know but it left my memory, Mr. Coughlan, and I can only put it down to the fact that there was considerable turmoil in the group, there was an awful lot of things going on, there was litigation and I forgot completely about Tripleplan.

Q. If it were to be suggested by the public that that seems incredible, what would your response to that be?

A. As I have said, I am deeply embarrassed about it and there was absolutely no reason for me not, if I thought about it, reporting it to my legal advisors and McCracken but really you have got to come and sit in my shoes during those years. I forgot about it.

Q. When you spoke to Mr. Dunne at the time that it was raised

as an audit issue or on the occasions when it was raised as an audit issue with you, was there any doubt in your mind but that Mr. Dunne was aware of the payment?

A. I am sure Mr. Dunne would have been aware in '89 just as I was. The memorandum...

Q. I should, I suppose, in fairness, tell you that Mr. Drumgoole has given evidence that the matter would have been raised by him as an audit issue, first of all, in '88, in '89 and he says in '90, '91, '92 he was asked that question and his reply was, "I don't know exactly when I stopped asking for it but I know I must have asked for identification, for any identification received for this matter since" indicating that he continued to ask about it.

A. I have absolutely no memory of him continuing to ask me about that. There was so much going on in Dunnes Stores, I am amazed.

Q. Very good. I was going to ask you whether you had ever considered that a search might have been done in the early years but, of course, there was no need for that, you knew

A. I knew what, Mr. Coughlan?

Q. You knew that the Tripleplan cheque had been sent to Mr. Traynor.

A. Oh I accept that, I think... balanced the books on the other side, I accepted it absolutely.

Q. At the time of Mr. Justice McCracken's Tribunal, had you

looked at the documents which have been furnished to this Tribunal by Messrs. Oliver Freaney & Company, namely the agenda which deals with a certain number of items? We will put one up on the screen, we have taken out the other items as not being appropriate to be divulged in public. Would you have been present at a meeting, that meeting with Mr. Drumgoole?

A. No. The first time I saw those documents was last weekend.

Q. And you know the other document which I will put up as well which was the memorandum from Mr. Drumgoole to you.

A. I accept Mr. Drumgoole sent me a memorandum in 1989 but

Q. Perhaps we will put it up.

A. But I didn't I saw that for the first time last weekend.

Q. Yes. You didn't see those before the McCracken Tribunal?

A. No, no, no.

Q. Is it correct that you and your company had carried out an extensive search for the purpose of making discovery to the McCracken Tribunal?

A. Yes.

Q. These documents come from your company; isn't that correct?

A. I don't know whether my company made an extensive search for McCracken, I can't remember that, but I made a search looking for any notes or memorandum that I might have had in connection with my conversations with Mr. Traynor but I didn't have any.

Q. Is that the extent of the discovery that you made?

A. I would think so, yes.

Q. So you carried out no search within Oliver Freaney & Company in Dunnes Stores files to see if there was anything which might have been of assistance?

A. No. What I was searching for were memoranda, if I had any, and I didn't have any and I think the scribbled notes I had given Mr. Dunne, one of them came up in the course of the Tribunal, the Tribunal furnished it to me.

Q. Did you make discovery in the proceedings? Did Oliver Freaney & Company make discovery in the proceedings?

A. Yes.

Q. Can I take it that in relation to that, that you would have, to a considerable extent, familiarized yourself with the documentation?

A. There were some 44,000 pieces of documentation in the Dunnes Stores discovery and I certainly didn't familiarize myself with all those documents.

Q. But the proceedings was concerned, to some extent, with what might be described as unusual payments; isn't that correct?

A. I beg your pardon?

Q. The proceedings were concerned with what in some respects, with what might be described as unusual payments; isn't that correct?

A. Yes.

Q. Would you take the view that these two documents or at

least the memorandum sent to you would have some relevance in that respect?

A. Sorry, could you repeat that, Mr. Coughlan?

Q. Would you believe that these two documents, but more particularly perhaps the memorandum sent to you by Mr. Drumgoole, would have some relevance in that respect?

A. In the

Q. In the context

A. Of the proceedings?

Q. In the context of unusual payments.

A. In the proceedings?

Q. Yes.

A. I have never seen that document. I obviously saw it in 1989 but the first time I saw it since then was last weekend.

Q. How can that be?

A. Well, why couldn't that be?

Q. Extensive searches, you have informed us, were carried out in respect of the proceedings; isn't that correct?

A. Yes.

Q. You have informed this Tribunal in your statement

A. What paragraph is that please?

Q. Paragraph 6.

A. That was looking anything to do with Mr. Traynor.

Q. And that was in the context of the McCracken Tribunal?

A. Yes. And I searched my files and made discovery.

Q. Your searches were extensive and included searches among

all archived or dead files which were stored by Oliver

Freaney & Company in storage facilities.

A. Yes, relating to myself.

Q. But this related to Mr. Traynor.

A. The memorandum?

Q. Yes.

A. I didn't have that memorandum. That memorandum

Q. That's what I am trying to inquire, Mr. Fox. It mentions
Furze.

A. Yes.

Q. A trigger, as far as you were concerned.

A. Yes.

Q. To everything relating to these matters?

A. Yes.

Q. How did you not see that?

A. I saw that memorandum obviously in 1989 and I saw it last
weekend. I didn't see it in the course of the McCracken
Tribunal.

Q. Do you know whether that came from a live or a dead file?

A. I have no idea where it came from. It was discovered last
weekend. I believe all our partners are bringing back the
correspondence file and brought them to the attention of
the

Q. That is correct, that was brought to the attention of the
Tribunal last weekend.

A. Yes.

Q. Do you think you might need sometime to see what file this

came out of and where it was in Oliver Freaney & Company?

A. I don't think so because I didn't, that document I only saw for the first time last weekend.

Q. It's a memorandum from Mr. Drumgoole to you; isn't that correct?

A. That is in 1989.

Q. Yes. The date is there. The 3rd October, 1989.

A. I accept I would have got that in 1989 but what I am trying to say to you is that the next time I saw that document was last weekend.

Q. Well, what I was going to ask you was this; within Oliver Freaneys in 1989, when a memorandum was sent, was there an original sent to the person to whom it was addressed and was there a copy kept?

A. I would think that is the copy or a copy.

Q. And what would happen with the

A. The original would have come to me.

Q. And would that be filed?

A. I would think that it may have been or I may have just shredded it or binned it, you know. I have absolutely no recollection, I would have found it in 1989.

Q. Well, would you keep personal files as opposed to Oliver Freaney & Company files or did you in 1989?

A. No, but I wouldn't have a file of memoranda. I would normally deal, if a memo came up to me and I try and deal with it and that's it, gone.

Q. And what would you do with it then, dispose of it by way of

shredding?

A. Dispose of it.

Q. Yes. And as far as you can recollect, this memorandum never raised its head in the course of the proceedings or prior to the McCracken Tribunal?

A. That is correct.

Q. If you forgot about Tripleplan and if Mr. Bernard Dunne forgot about Tripleplan, would the effect of that not be that the trustees would have lost the value of that sum forever?

A. I would have to accept that, yes.

Q. And isn't that the public might believe, be a reason why a trustee wouldn't forget?

A. I did forget, Mr. Coughlan, and I am deeply embarrassed about forgetting but I did forget.

Q. Now, you have informed this Tribunal in your statement that if the cheque had contained a Guinness & Mahon stamp or something of that nature, that you would have had something to aid your recollection; isn't that correct?

A. I think what I mean there is that someone's recollection might have twigged it.

Q. Well, could I take it that if you had seen a cheque which somebody was making inquiries about what's this about, and it had a Guinness & Mahon stamp on the back of it, it would occur to you to at least ask yourself the question whether this was one of the payments that was made to Mr. Traynor at least?

A. That is correct, yes.

Q. And I think the John Furze cheque did have a stamp on the back of it. Am I correct about that?

A. It did, yes. I think it may have had a number of stamps, I can't remember exactly.

Q. Yes. When did you recollect that you saw this cheque?

A. I saw this cheque when it was sent down to me by Mr. Price in 1998.

Q. That's the original returned cheque or a copy?

A. I can't

Q. Perhaps if you just don't answer that, I think I think it may just have been a copy. I don't want to

A. Well whatever, it wouldn't trigger anything in my mind because there was no stamp on it.

Q. Well, wouldn't somebody have wanted to do a search beforehand, in relation to the cheque now I am talking about, not a search on the company, but just the cheque?

A. The company may have done a search on the cheque but I certainly didn't.

Q. Well, when it was brought to your attention in 1988, was it you said

A. 1998.

Q. I beg your pardon, sorry, absolutely correct, 1998, did you know anything about this payment or do you recollect, sorry, I beg your pardon, do you recollect anything about this payment prior to Judge Buchanon's inquiries?

A. No. As I said to you, the name Tripleplan had left my mind

and it was only when the directors of Tripleplan were found that it triggered back, which is 1998. You could have been asking me about Tripleplan in 1996 and 1997 and it was meaningless to me.

Q. Did it not trigger your mind to the extent that it was one of the two, I have used the term loosely, unresolved issues, being carried, J Furze and Tripleplan?

A. No, it had left my mind.

Q. Even when it was still an unresolved issue, these were unresolved issues?

A. Yes, there were many, many unresolved issues.

Q. But these two together.

A. Yes.

Q. They came out of Dunnes Stores Bangor account; isn't that correct?

A. Yes.

Q. In the same year?

A. Yes.

Q. And that didn't trigger your memory?

A. No, it did not.

Q. Now, from the time you say that it had left your mind sometime in 1990 or thereabouts or the commencement of unhappy differences within the company, did it ever occur to you that you might have suggested that a search would be conducted against the company Tripleplan Limited?

A. No, it did not.

Q. Do I take it that it's fairly routine that auditors or

accountants have to institute searches for the purpose of their inquiries on occasion?

A. Well, I wouldn't think it was routine but I know that our people did institute searches against it.

Q. But between '90 and '94, there were no searches made against the company?

A. I am not aware of any.

Q. At this stage of the Tribunal's work, Mr. Fox, what we are concerned with is who and when payments were made for the moment.

A. Yes.

Q. We will, in due course, be considering the question of why. But as you have said the first approach by Mr. Traynor must have been prior to May of 1987; isn't that correct?

A. That is correct, yes.

Q. And you can't fix it definitely. It could have been April, it could have been March or as far as you remember, it might even have been earlier but you are not sure?

A. I am not sure.

Q. I am going to ask you a question and you may not be in a position to answer it and you may need time because it may be more properly directed to the why stage but do you wish to say at this stage if anything significant occurred relating to Dunnes Stores, and I use the term generically, in early or mid 1987? Now, you may wish to look at the situation and you can come back to the Tribunal.

A. No, nothing occurs to me, Mr. Coughlan.

Q. Thank you. Mr. Fox.

MR. CONNOLLY: Chairman

CHAIRMAN: Mr. Connolly I had indicated at the outset of last week's sittings, certain arrangements curtailing the scope, in general terms, of what is somewhat loosely and inaccurately described as cross-examination, but in the context of the significance of the present evidence in the course of the Tribunal generally, and having regard to the potential interests of certain parties who are represented, I would accept that this is one of the situations in which some reasonable latitude by way of questioning has to be afforded to a limited number of persons and it seems to me, subject to any observations, if parties do propose to exercise their entitlement to question the sequence that seems most proper to me is firstly Mr. Connolly if he wishes to raise any limited matters, then Mr. Hardiman, then Mr. Gallagher, Mr. Murray, then Mr. McGonigal and lastly, Mr. Collins. Does that proposed course of things commend itself to parties? Very good.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. CONNOLLY:

Q. MR. CONNOLLY: Thank you, Chairman, Mr. Fox, I want to ask you some questions on behalf of the Revenue Commissioners. I want to ask you in relation to documents which were available in relation to how these various money transactions were treated but just before that, perhaps I

will just establish the extent of your familiarity with any of these relevant documents. In your position as partner of Oliver Freaney and in your position as trustee, do I take it that you had a general familiarity with the records of the Dunnes Stores Group?

A. Yes.

Q. And if I can just, to deal with the transactions briefly that were identified by Mr. Coughlan and which were dealt with by the McCracken Tribunal, I just want to identify a number of common features in relation to these transactions as far as available documents are concerned. Firstly, this is just a formal matter arising; I take it then that you are confirming that you are aware of these payments at the time they were made or around the time they were made?

A. Yes.

Q. So that the sum of €182,630 sterling, the €471,000 sterling, the €150,000 sterling and the €200,000 sterling which you referred to in your statement and which were identified as having been paid to Mr. Haughey according to the McCracken Tribunal, you were familiar with those amounts having been made as payments around the time they were paid; is that correct?

A. Well, obviously I was aware of the Furze payment coming from Bangor and now as we have established today, the other payment from Bangor, the Tripleplan payment, and all subsequent payments were made by Mr. Dunne himself.

Q. Yes. But were you aware of the request being made that

precipitated those payments being made?

A. Yes, I was.

Q. Well, in that sense, you were familiar with them?

A. In the sense of passing on the request to Mr. Dunne, I was, yes.

Q. Well, in passing on not just the request for payment but presumably the amount of the payment and the manner in which it was to be put into effect; is that correct?

A. That's certainly as regards the amounts, I am not certain whether they were discretionary or whether or not he gave Mr. Dunne amounts, I am not certain.

Q. Well, going back to the first approach which you have identified was made in 1987 by Mr. Traynor, you followed that up with the direct contact with Mr. Ben Dunne and rather than choose to participate in the consortium of persons, I think your evidence is that Mr. Dunne decided to make these payments himself personally in entirety?

A. That is correct, yes.

Q. Now, if I can just exclude certain matters. None of the payments identified in the McCracken Tribunal were ever made in a way that was identifiable, identifiable as a direct payment to Mr. Haughey; isn't that correct?

A. No, but I always believed they were for Mr. Haughey.

Q. But the recipient of any of these payments being in a bank account or on a cheque or a bank draft was never Mr. Charles J. Haughey; isn't that correct?

A. That is correct, yes.

Q. It was put into a bank account or into the name of a payee or on a cheque or bank draft which was ultimately to be passed on to Mr. Haughey; is that correct?

A. That is correct, yes.

Q. And is it correct that no receipt was ever made available for Mr. Haughey to you or to Mr. Dunne for any of these payments?

A. I have no connection at all with Mr. Haughey as to these payments.

Q. Were you aware a written receipt was ever given for any of these monies?

A. By Mr. Traynor? No, there are no written receipts.

Q. There are no receipts?

A. No receipts.

Q. Is there any written acknowledgment from Mr. Haughey or anyone on his behalf to the Dunnes Stores Group in relation to any of these payments?

A. Not that I am aware of.

Q. Well, for all of these payments, the four payments identified in the McCracken Tribunal, sorry, the five payments identified in the McCracken Tribunal, were any of those dealt with in any of the Dunnes Stores Group accounts as directors' loans?

A. The first two payments are in the company's books of account and that was the Tripleplan and Furze. The remaining payments were made by Mr. Dunne personally.

Q. Well, the first two, I think we heard on the last day were

dealt with through the banks as a suspense account, meaning that although the monies were sourced, if you like, from Ulster Bank in Newry through the account of Dunnes Stores Bangor Limited, they were ultimately reconciled in a way with the Group accounts in Dublin so that it became part of the monies in the Dublin account to be set off against debts they would otherwise have to pay to the Bangor company?

A. That is correct.

Q. So in that sense, both of these payments, although they were treated as suspense account items, they went through the books of the Dunnes Stores Group here in Dublin; is that correct?

A. That is correct, yes.

Q. And before or any time after the settlement of the litigation which you described in November of 1994, was there ever a reconciliation of the Furze money or the Tripleplan money in the books of Dunnes Stores Group or the trust in a way that would allow for the matter being treated as having been repaid into the company in some way?

A. I am really not sure about that. I wasn't party to the settlement at the end of the litigation so I really, the settlement may have covered extraneous items, it may not.

I am not sure.

Q. Well, looking at the books of account from the point of view of any person who might be looking at the books of account, I take it there's nothing there that tends to

indicate some reconciliation between the company and Mr.

Dunne for those, the Tripleplan and the Furze payments?

A. I beg your pardon?

Q. There is nothing in the books of account of Dunnes Stores

Group that tends to indicate some reconciliation as far as

the Furze and Tripleplan payments are concerned, as far as

Mr. Dunne is concerned.

A. I really don't know. I don't think so.

Q. Well, do you know if Mr. Dunne has ever been asked to repay

the Tripleplan money or Furze monies to either trust or

Dunnes Stores Group?

A. I think Mr. Dunne reached a settlement with the Group in

1994 and all of the matters covered in that, I am not

certain what was covered.

Q. But anyway, my question is do you know of you don't

know, I take it?

A. I don't really know the matters that were covered.

Q. Well, the other items I think you said to me a moment ago,

as far as you were concerned, they were all paid by Mr.

Dunne personally?

A. Yes.

Q. At the time of these payments or at any time subsequently,

did you become aware of the source of the funds by which he

made these personal payments to Mr. Haughey?

A. I became aware during the litigation.

Q. Well, if we just take the sources of the monies. We know

from the McCracken Tribunal that the source of the €471,000

sterling and the €150,000 sterling was from an overseas company called Equifex, was that at any time a company of which you had any control or which you had any knowledge of its workings?

A. I had no knowledge of it whatsoever.

Q. And am I right then in those two items the monies from Equifex, you first became aware of those during the course of litigation against the trust?

A. That's correct, yes.

Q. And beyond what you know from your involvement with the litigation, have no other knowledge of those items?

A. No.

Q. Well, can I ask you this in relation to them; those two items, the €471,000 and the €150,000 sterling, are they dealt with in any way in any of the Dunnes Stores Group's accounts, do they appear anywhere in the accounts?

A. No, no.

Q. Of the Dunnes Stores Group or the trust accounts?

A. Nowhere.

Q. Nowhere?

A. Nowhere.

Q. Well then, turning to the €200,000 sterling, that appears to have come from Isle of Man company called Tutbury. Have you had any involvement in Tutbury?

A. Absolutely none. Nothing with Tutbury.

Q. Is the same the situation in relation to Tutbury, you first became aware of involvement of Tutbury in the making of

this fourth payment? You first became aware of that during the course of the litigation again?

A. Yes, yes.

Q. In the course of the litigation against the trust, that was the first you became aware of that?

A. Yes, yes.

Q. Well then, again is it the situation that there's nothing in the books of account in any of the companies of Dunnes Stores Group that tends to reflect that €200,000 sterling?

A. That is correct, yes.

Q. Now when these payments, these four payments were made, sorry the €182,630 sterling, after it was made, was there any sort of contact by Mr. Traynor to you to acknowledge that?

A. No.

Q. I take it that you didn't keep any records of these communications between yourself and Mr. Traynor, there was nothing in writing relating to these requests?

A. No, I had nothing at all.

Q. Well now, we will take the other items then, the €471,000 sterling, the €150,000 sterling and the €200,000 sterling; is it your understanding that those three payments were provided personally by Mr. Ben Dunne?

A. That is correct, yes.

Q. And I think you said to Mr. Coughlan from time to time directors took money which would obviously be trust money and then settled up at a later stage?

A. Yes.

Q. That was a regular practice of various

A. Well, it's quite a normal practice in most companies, people... especially family companies.

Q. Yes, but in order to put that into effect, would that mean they would make contact with you as one of the trustees to authorise release of the money so the matter could be documented for later reconciliation?

A. My role as trustee, I had no managerial role in Dunnes Stores as trustee. My role was passive custodian.

Q. From the point of view of keeping books of accounts which reflect the state of the trust at any time available for perusal by anyone, how was this to be kept in check? There wasn't, if you like, a free for all to the directors sorting themselves out and perhaps not reconciling the matter.

A. There are no books of account of the trust as such. The trust, the four trustees held a block of non voting ordinary shares in Dunnes Stores.

Q. Yes.

A. I mean the day-to-day running of the company is a matter for the board.

Q. Yes. So then we will just take the Dunnes Group of which the trust was a shareholder. Any of the directors from time to time, as far as you understood the position, could direct payment out to themselves with a view to reconciling at a later time?

A. They could, yes.

Q. And proper bookkeeping of all that kind of transaction would involve some sort of recording of that amount; isn't that correct?

A. Yes.

Q. When the payments were requested by Mr. Traynor, you discussed the matter with Mr. Ben Dunne, this is back in 1987, the first approach

CHAIRMAN: We will go on a little bit.

MR. CONNOLLY: Very well. When the first payment was made in 1987, there was a request, as you have said, from Mr. Traynor; is that correct?

A. Yes.

Q. And at that stage, who suggested that the matter was to be dealt with in a confidential manner?

A. Mr. Dunne wanted to keep it confidential and I think it was only proper it be kept confidential.

Q. Why do you say that?

A. It was it was help for the Taoiseach of the country at the time.

Q. In 1987?

A. Yes was he Taoiseach?

Q. I think Mr. Haughey became Taoiseach in 1989. '87, Mr. Coughlan is correcting me. And that was the reason?

A. Absolutely, yes.

Q. Some of the later payments which were identified in the

McCracken Report such as the payments, say, to Mr. Ruairi Quinn for the presidential campaign of Mary Robinson or the payments made to Fine Gael or the payments made to Mr. Dick Spring for Waterworld, these items were all made in a non confidential way, if I can put it that way; isn't that correct. They were made by Mr. Dunne personally but in a non confidential way; isn't that correct?

A. I have no idea what he said to these people.

Q. Have you any knowledge of how those transactions were effected?

A. No.

Q. And when you say that this was to be dealt with in a confidential way because Mr. Haughey was the Taoiseach at the time, did it surprise you then that the monies were being paid in, what I will describe as, a roundabout way rather than to Mr. Haughey or any members of his family?

A. The intricacies thereafter.

Q. That's putting it mildly, yes.

A. Did indeed, yes.

Q. When you describe the intricacies thereafter, looking at it as an experienced accountant, there was complex and elaborate paper trail which led to the original payment and finding its way to Mr. Haughey; isn't that correct?

A. Yes.

Q. Now after the payment made, that didn't involve you but when the payment was to be made by Mr. Dunne in a confidential way, at any time did Mr. Traynor give you

directions as to who was the recipient of the monies as in terms of identifying a bank account or whose name was to be on a cheque or anything like that?

A. Yes, he did, I scribbled those down and gave them to Mr. Dunne.

Q. I think you said that you always believed that Mr. Ben Dunne would make good the payments of the trustees, the Furze and Tripleplan items; is that correct?

A. Yes.

Q. The other items, as far as you were concerned, were always understood to be monies being provided by Mr. Ben Dunne whether directly or indirectly but you believe they were being provided by him?

A. That is correct, yes.

Q. And when you say that the Furze and the Tripleplan items were to be made good by Mr. Ben Dunne in time, how was that to be effected, did you understand?

A. Well, he would either deal with them through his current account or some other way of repaying them, perhaps I think the whole thing was overtaken by events really when I look back.

Q. Yes. When you say dealing with by his current account, to be more precise, the intention would be out of one of his own personal current accounts he would make a payment back into the company that would reconcile with those amounts for which there was no identified transaction?

A. That was one way or through his current account within the

company.

Q. Yes. Did he have an account Ben Dunne trading as Dunnes Stores, is that what you mean?

A. No, no, his drawings were put through an account with the company.

Q. I see. And again, it would have been easy for, it would have been easy for drawings of Mr. Ben Dunne through that current account, it would have been easy for him to make drawings on that current account within the company and make payments directly to Mr. Haughey if he so chose?

A. If he so chose, yes.

Q. Even in amounts of this size?

A. Yes.

Q. Just a general point. I take it that from your familiarity with the trust document and your familiarity with the memoranda and Articles of Association of the Dunnes Stores Group, the principal holding company, that there would be no authority for the trust itself or for the company in terms of their constitution, so to speak, to make gratuitous payments such as these. There would have to be some valid transaction reason behind the making of these payments?

A. Well, I don't believe a company can make gifts, that's just a general observation, yes.

Q. That's as far as the company is concerned.

A. I think the old phrase 'keep the cake and ale' for themselves.

Q. As far as the company is concerned, payments would have to have some identifiable transaction purpose; is that right?

A. Yes.

Q. That would be the general view to be taken by anybody looking at the Memo and Articles of the Dunnes Stores Group and likewise the trust, I think the trust was a passive operation, you now told us, there was nothing coming out of the trust. Your concern would have been qua shareholders of the Dunnes Stores company, is that the position?

A. That is the position.

Q. Well then there's just one matter I would like to check, I won't be very long if you care to rise at this stage. One matter I want to check.

CHAIRMAN: You are not anticipating you won't be much longer. We will take up the balance of Mr. Fox's evidence at five to two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:55PM:

CHAIRMAN: Mr. Fox, would you please be kind enough could come back to the box.

MR. CONNOLLY: Sir, I have actually finished my line of questioning. Thank you.

CHAIRMAN: Very good. Yes, you have concluded your examination, Mr. Connolly. I think Mr. Hardiman?

MR. HARDIMAN: No, no questions.

CHAIRMAN: Mr. Gallagher?

MR. GALLAGHER: With your permission, Mr. Murray has a few questions.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. MURRAY:

Q. MR. MURRAY: Mr. Fox, I just have a number of questions on behalf of Mr. Dunne. In relation to the Tripleplan payment, would you accept that the likely sequence of events was that Mr. Traynor approached you with a request and with information and that you then passed that request and information on to Mr. Dunne?

A. I would accept that, yes.

Q. And therefore it's the case that you would have provided Mr. Dunne with the name Tripleplan?

A. I accept that, yes.

Q. I think it's the case, Mr. Fox, that since 1993, relations between yourself and Mr. Dunne have been strained?

A. Well I haven't spoken to Mr. Dunne since 1993. I met him once I think at a funeral and that's about all the contact I had.

Q. And you have had no other social contact with him apart from that?

A. No, no other contact.

Q. I have no further questions.

CHAIRMAN: Thank you, Mr. Murray. Mr. McGonigal?

MR. MCGONIGAL: I have no questions.

CHAIRMAN: Mr. Collins?

MR. COLLINS: May it please you Mr. Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. COLLINS:

Q. Mr. Fox, can I bring you back to some matters you discussed earlier on this morning. You are one of four trustees of the Dunnes Investment trust, is that correct?

A. That is correct, yes.

Q. Now, you referred in your evidence earlier on to the fact that this was a passive trust. Would you perhaps just explain that a little bit further?

A. Well the trust the trustees own, sorry, hold a block of non-voting ordinary shares in Dunnes Stores and their role is purely custodial. The only powers that they would have would be to make appointments I think.

Q. I see. So there is no question of the trustees, as such, having any management role in any of the Dunnes Stores companies?

A. Oh absolutely not, no. That's the privilege of the board of directors.

Q. And there was a reference in the course of this morning's hearing to trust accounts. Now, Mr. Fox, can you tell us whether the trust operated bank accounts or engaged in trade or any such thing?

A. Oh no, no, no. There are no trust accounts, no trust bank accounts. The trustees, as I say, have a block of shares which they hold on behalf of beneficiaries.

Q. And were payments made to the trust on a yearly or regular basis by Dunnes Stores companies?

A. Only for the purposes of paying taxes.

Q. Paying taxes. Now, can I just bring you then, Mr. Fox, to the involvement of Oliver Freaney & Company with the Dunnes Stores companies. I think that Oliver Freaney & Company was and is the statutory auditor of some of the Dunnes Stores companies, is that correct?

A. That is correct, yes.

Q. And I think that some of the companies, including the holding company, are audited by another firm of accountants, Deloitte & Touche?

A. That is correct.

Q. And I think the structure, we won't go into it in details, but I think the structure of the Dunnes Stores Group is such that the shares in all of the trading companies are held by the holding company?

A. Yes, they are held downwards, yes.

Q. Now, reference was made in the course of the morning to the accounts of a Dunnes Stores company not having been completed and left open for a number of years, can you just clarify what company or companies was that a reference to?

A. It was one company, Dunnes Stores Ireland company.

Q. And just so that the record is clear, as far as you are

aware, is it the case that the other Dunnes Stores companies and the trading companies in particular completed and filed their accounts in the ordinary way?

A. They were all completed and filed in the ordinary way.

Q. Now can I ask you, Mr. Fox, in relation to your involvement or lack of involvement in the audit of those Dunnes Stores companies for which Oliver Freaney & Company were responsible, did you firstly, I think you said in the course of evidence this morning that you are not an audit partner in Oliver Freaney & Company?

A. That is correct, yes.

Q. Were you part of the audit team that, in the course of any of the years with which the Tribunal is concerned, audited any of the Dunnes Stores company's accounts?

A. No.

Q. And I think that on Friday last, the Tribunal had an opportunity of hearing the evidence of the then audit manager, Mr. Drumgoole, and Mr. Wise, who was the audit partner with responsibility from 1994 onwards and they gave certain evidence about the treatment of payments with which the Tribunal is concerned in the accounts of, in relevant Dunnes Stores company. Were you involved in that treatment?

A. No, no.

Q. Do you have any reason to doubt that the treatment described in the evidence of Mr. Drumgoole and the evidence of Mr. Wise was a correct description?

A. I have no reason to doubt that evidence. I think it's correct.

Q. Now, can I move on then to the proceedings which you referred to in your evidence, Mr. Fox. I think they were formally instituted in 1993 and came to a conclusion in 1994, towards the end of that year?

A. Yes.

Q. But I think it's fair to say that the difficulties that gave rise to the proceedings perhaps predated 1993?

A. They did indeed, yes.

Q. And I think you were a defendant in part of those proceedings, in your capacity as trustee?

A. I was indeed, yes.

Q. And did you have a substantial involvement in the proceedings?

A. Yes, I did, yes.

Q. And did they occupy a considerable portion of your time and did you devote a considerable portion of your attention to them?

A. During those two years, they were virtually full-time.

Q. Now in the course of these proceedings, as we have heard, disclosure was made of a number of payments which ultimately were investigated by the McCracken Tribunal.

And just for confirmation, just to make it clear, was the Tripleplan payment as it's been referred to, was that a payment that was referred to at any stage in the Dunnes Stores proceedings?

A. No.

Q. Now, I think you gave furnished information to and then gave evidence to the McCracken Tribunal?

A. Yes, I did, yes.

Q. And did you tell the McCracken Tribunal of all of the Haughey payments, if I may use a shorthand term, all of Haughey payments of which you were then aware?

A. I did.

Q. Now leaving aside for a moment the question of when the first payment was made, Mr. Fox, I think you described in your evidence at the McCracken Tribunal the circumstances in which Mr. Dunne was requested to make a payment or payments to Mr. Haughey, is that correct?

A. Yes.

Q. And I think you described being approached by Mr. Traynor and the terms of the conversation, they were terms you recall when you gave an account of that to the McCracken Tribunal?

A. I gave an account, yes, to the McCracken Tribunal.

Q. Was that and is that an accurate statement of the events as you recollect them?

A. Yes, it was.

Q. Now in relation to the payment which has been described as the Tripleplan payment, you didn't refer to that in the course of the McCracken Tribunal?

A. No, I did not.

Q. Why was that?

A. Because it had completely left my memory and if I had thought of it, of course I would have reported it to the McCracken Tribunal.

Q. Was there any reason from your personal point of view or from the point of view of Oliver Freaney & Company why you would not have told the McCracken Tribunal about that payment if you were aware of its relevance to its inquiries?

A. There was no reason whatsoever.

Q. Now in preparing yourself for your evidence to the McCracken Tribunal, I think you said in the course of your evidence this morning that you didn't have any file of notes or memoranda to assist your recollection, is that correct?

A. No, I had no notes of my conversations or dates of conversations with Mr. Traynor.

Q. And I think you didn't have the opportunity to refresh your memory by discussing matters with Mr. Dunne, Mr. Bernard Dunne?

A. No, I had had no contact with Mr. Bernard Dunne since before the litigation, which was '93.

Q. And I think Mr. Traynor, by the time the McCracken Tribunal came to hear evidence, Mr. Traynor had been deceased for a number of years and obviously had no opportunity to discuss your evidence with him?

A. No.

Q. Now can I ask you to move back in time slightly, Mr. Fox.

I think reference was made in the course of your evidence this morning to a memorandum dated October, 1989 prepared by Mr. Drumgoole and apparently sent to you in that month. Do you recollect that memorandum, Mr. Fox?

A. I don't recollect it.

Q. Sorry, do you recollect discussing it this morning in your evidence?

A. Oh I do, yes, yes.

Q. Now, do you have any recollection now of having seen that in 1989?

A. No, no.

Q. But you accept that the that you did see it, it would have been sent to you?

A. Oh I accept that absolutely, yes.

Q. Now, when was that when was that brought to your attention?

A. That was brought to my attention I think last weekend.

Q. And I think it was immediately furnished to the Tribunal; is that correct?

A. It was sent to the Tribunal with some other pieces of paper I think that were attached to it or...

Q. Now, you didn't discover that document in any files yourself, is that correct?

A. No.

Q. It was brought to your attention by a partner in the firm who discovered it

A. It was brought to my attention last weekend.

Q. Now, if that memorandum was available to you and if you were aware of its existence at the time that you furnished information to the McCracken Tribunal and then subsequently gave your evidence, would you have furnished that document to the McCracken Tribunal?

A. I would indeed, yes.

Q. Was there any reason why you wouldn't have furnished it if you were aware it have at the time?

A. No, there was no reason, none.

Q. When did you first, as far as you can recollect, become aware of the link that has been established between the Tripleplan payment and Mr. Furze and Mr. Haughey?

A. Well, Paul Wise's searches on the company in early '98 discovered that Mr. Furze and Mr. Collins were directors of Tripleplan.

Q. And was it then and only then when that information was brought to your attention?

A. Yes.

Q. That you were able to realise the relevance of the payment?

A. That's when I realised the relevance of it and then I went to the company and this Tribunal with the information.

Q. I think you brought that information to the Tribunal, at least Oliver Freaney & Company and its advisors brought that information to the attention of the Tribunal immediately and voluntarily?

A. Well I brought it myself to the Tribunal, with the Freaney searches.

Q. And again was there any reason why, if you were aware of it earlier, you wouldn't have brought it to the attention either of this Tribunal or the McCracken Tribunal?

A. No, there is absolutely no reason why I wouldn't have done that.

Q. You accept I think now, having regard to the information that you were aware of and, in particular, the directors of the company Tripleplan, that this payment was a payment for the benefit of Charles Haughey?

A. I accept that now.

Q. And do you accept that it was one and apparently the first of a series of payments made as a result of the approach of Mr. Traynor to you?

A. I accept that, yes.

Q. Are you aware of anything about this particular payment that makes it different to any of the other payments?

A. No, other than the cheque itself wasn't stamped the same as the other Furze cheque, but other than that...

Q. Well in terms of the purpose of the payment or such matters, is there anything that you are aware of that makes it different to the Furze payment, for example?

A. No, I believed all these payments were for the benefit of Mr. Haughey.

Q. Now, when you were asked by firstly, do you recollect being asked by Mr. Drumgoole in 1988 or 1989 about the Tripleplan payment?

A. No, no.

Q. Do you recollect being asked by Mr. Drumgoole in and around the same period about the payment, which I will refer to as the Furze payment, the first payment dealt with by the McCracken Tribunal?

A. That was my recollection, but I accept now that he asked me about both.

Q. Yes. Now just dealing with the Furze payment and not the Tripleplan payment for a moment, you recollect being approached by Mr. Drumgoole about that?

A. Yes.

Q. Now, why didn't you inform him of what you knew about the genesis of that payment and its objective?

A. I believe that they were confidential to Mr. Dunne and I was going to keep them that way so I wasn't going to tell him what they were.

Q. And in what circumstances could you or would you have been able to tell Mr. Drumgoole of the nature of the payment or payments?

A. The only circumstances would be if I had been given permission by Mr. Dunne to do so.

Q. And it appears to be the case that you never were given that clearance or okay, is that the position?

A. Really, I have no memory of what my conversations with Mr. Dunne matured into really.

Q. Now can I ask you about the concerns, if any, that you had in relation to those payments? You said I think in your evidence this morning that you believed that Mr. Dunne

would deal with those payments, is that correct?

A. Yes.

Q. And I think that you said in your evidence that there were a number of ways in which it might be dealt with, one was that the payment would be posted to Mr. Dunne's personal account and I think you also said that another way was that Mr. Dunne could simply repay the sum of money concerned?

A. Yes.

Q. Now just in relation to the question of personal accounts, can I just ask you to clarify when you refer to the directors' personal accounts, are you referring to bank accounts or are you referring to some accounting concept of accounts?

A. I am referring to internal current accounts, not bank accounts. Internal current accounts within the company.

Q. Which would show, for example, a particular payment as a drawing by a director?

A. Yes.

Q. A specific director?

A. Yes.

Q. And that's what you were referring to in relation to the question of personal accounts this morning?

A. Yes.

Q. Did you at the time, as far as you can recollect, did you have any concern or would you have any concern that Mr. Dunne would not make the payment as far as you were concerned?

A. No. I believe Mr. Dunne would put his arms around it and that was it.

Q. And in those circumstances, did you have a concern or would you have had a concern about the possibility of ultimate loss to the Dunnes Stores companies if I can use that term collectively or to the trust?

A. No.

Q. Thanks very much.

MR. COUGHLAN: Yes, sir.

THE WITNESS WAS EXAMINED FURTHER BY MR. COUGHLAN AS FOLLOWS:

Q. You will appreciate, Mr. Fox, that this is an inquiry which is being conducted and that I may on occasion ask witnesses some further questions for the purpose of assisting the Sole Member on establishing the facts material to the Terms of Reference.

I would first of all, however, like to correct something that I may have inadvertently put to you or asked you about this morning, I think and has been drawn to my attention by your counsel quite correctly and I think that I had asked you that, about giving evidence to the McCracken Tribunal and I had suggested that you may have told the McCracken Tribunal that you had no professional or social contact or knowledge of Mr. Traynor prior to this. I think the correct position is that you knew Mr. Traynor in a

professional capacity although you did not have

professional dealings with him?

A. That's correct.

Q. And you had no social contact with him?

A. No, I had no social contact.

Q. There is a matter which I would like to ask you about and

again it goes to recollection. In the statement you

furnished to the Tribunal, that's paragraph 18 of that

statement, you said that "When details of this company were

secured, they included the fact that the directors were

listed as being a John A. Furze with an address in the

Cayman Islands and B, a Mr. Collins with an address in

those islands also. As soon as this information became

available and was brought to my attention by the audit

team, I had to assume it was likely the cheque is a payment

made as Mr. Bernard Dunne's direction and probably through

me sent to Des Traynor. I have no recollection of either

being asked by Mr. Traynor to request Mr. Dunne for this

nor do I recall how the cheque was thereafter transmitted

through me to Mr. Traynor."

What I want to ask you about is, when do you say that you

were able to fix a knowledge as to the query raised by

Mr. Drumgoole on the audit issue? When did that come back

into your memory?

A. Well, when on the Tripleplan cheque?

Q. Yes.

A. When I saw the memorandum last weekend.

Q. That is the first time

A. Yes.

Q. And is it last weekend the first time you say that you it came back to your memory that this was a payment made through you to Mr. Traynor?

A. No, it came back to my memory when Furze and Collins when they became directors sorry, when they when the information came that they were directors of Tripleplan. Then I connected it back.

Q. Yes, but you informed the Tribunal at that stage that you had no recollection but that it was probable that you had sent this to Mr. Traynor at Mr. Bernard Dunne's direction?

A. Yes.

Q. What I am concerned to establish here is when you say your state of knowledge relating to the audit queries and the fact that you knew about it at the time of the audit queries but you considered yourself bound by confidentiality, when do you say that that came back into your mind?

A. I don't follow that, Mr. Coughlan.

Q. You have given evidence here

A. Yes.

Q. of the query being raised by Mr. Drumgoole.

A. Yes.

Q. And that you felt bound by confidentiality?

A. Yes.

Q. And that you knew all of this back when the queries were being raised by Mr. Drumgoole when he was conducting the audits at that time?

A. Yes.

Q. When did that ever leave your mind or when did it come back into your mind is what I am trying to establish,

Mr. Fox.

A. Well, what triggered the situation for me, Mr. Coughlan, was that Furze and Collins were directors of Tripleplan.

Q. Yes.

A. And the cheque Tripleplan was in existence and I said, they have to be related.

Q. Yes. But when

A. That was in 1998.

Q. But before this morning, you had not informed the Tribunal that you now recollected a whole series of events in relation to audit issues, isn't that correct?

MR. COLLINS: Sir, I hesitate to interrupt, Mr. Chairman, I am sorry to do so but I don't believe that the evidence of Mr. Fox was that to the effect that he now recollected audit issues in relation to the Tripleplan cheque. His evidence was that he recollected audit issues in relation to the Furze cheque. And if the question is being put to him on the basis that he now has said that he recollects these audit issues. Mr. Fox said in his evidence I think quite clearly that he doesn't recollect but, having regard to the memorandum of which he became aware last week, he

accepts that not alone was he asked about the Furze cheque by Mr. Drumgoole, but he was asked about the Tripleplan cheque, but he did not say in his evidence that he now recalls that. He said quite the contrary in fact.

CHAIRMAN: He was also, as I understand his evidence, Mr. Collins, referred to an earlier stage when he realised he may have had some confidential information that may have been of assistance to his colleague, Mr. Drumgoole, but he had the dilemma that was posed by the confidentiality owed to Mr. Dunne.

MR. COLLINS: My recollection of the evidence was that that was specifically in relation to the Furze cheque and he was effectively saying to the Tribunal that the position would have been the same in relation to the Tripleplan cheque.

CHAIRMAN: I don't recall it to that effect and I think it's well Mr. Coughlan explores it a little further, Mr. Collins.

MR. COLLINS: Well, with respect Mr. Chairman, I would ask Mr. Coughlan then to ask the witness clearly whether he now recalls and what he recalls before he starts asking very convoluted questions about it, when did he now realise that he recalls it.

MR. COUGHLAN: Of course I will do everything to be of

assistance and I don't wish to be convoluted.

Q. I think, Mr. Fox, you have informed us of issues being raised by Mr. Drumgoole on the audit in 1988, '89 or '90 or in those years, isn't that correct?

A. That is correct.

Q. And I think you have given evidence that in those years you knew about the Tripleplan payment?

A. That is correct.

Q. And I think that you also told us that in relation to the Tripleplan payment, as well as the Furze payment, that you felt yourself bound by confidentiality in relation to it at that time?

A. That is correct.

Q. What I am trying to establish is when did that go out of your mind as well as the Tripleplan cheque during the period you say in the nineties?

A. Did what go out of my mind?

Q. That the issues were raised as audit issues and that you felt obliged in respect of confidentiality not to disclose them.

A. It did go out of my mind, yes.

Q. What I am trying to establish is when did that come back into your mind and what triggered it?

A. And was it?

Q. What triggered it to bring it back into your mind?

A. The memorandum last weekend made it clear to me that Tripleplan and Furze were raised with me in 1989. Now, my

statement about when Furze and Collins were discovered as directors of Tripleplan related me back to the cheque.

Q. Yes. That is correct. All I am trying to do is establish when your recollection came good again on this question. Are you saying that it was only last weekend?

A. Yes.

Q. When you were shown the memorandum?

A. The memorandum.

Q. So as a professional accountant, significant audit issues had been raised with you of which you knew about at the time and they went out of your mind for the period of the nineties until last weekend when you saw the memorandum; is that your evidence?

A. That is my evidence, that when I saw the memorandum from Kevin Drumgoole, I accept he raised Tripleplan with me in 1989 and Furze.

Q. If it were to be suggested to you that that seems wholly incredible, what would your response to that be Mr. Fox?

A. I think that would be very unfair. I totally forgot the name Tripleplan and the connection to the Haughey monies.

It was when Furze and Collins came out as directors that I connected it back and when I saw Mr. Drumgoole's memorandum last weekend, I accept he raised it with me in 1989 and that is my evidence.

Q. Thank you very much, Mr. Fox.

CHAIRMAN: Very last couple of points, Mr. Fox, as I

realise you have been over two and a half hours in the witness box. You referred, I think, to the High Court proceedings involving the Dunnes personnel in the larger sense having been instituted in 1993 and settled the following year?

A. Yes.

CHAIRMAN: But you referred to turmoil raised by the issues that were not destined to be litigated having predated that. How far back from 1993 was it apparent they were huge problems to which you would have to devote much attention?

A. Well I think the tensions were developing back in 1991, I would think.

CHAIRMAN: Lastly, Mr. Fox, you referred to having a distant and strictly professional relationship with the late Mr. Desmond Traynor.

A. Yes.

CHAIRMAN: Would it have been at least on the extent you would have been on christian name terms of Noel and Des rather than Mr. Fox and Mr. Traynor?

A. Yes, Noel and Des.

CHAIRMAN: Bearing in mind that that relationship was a very limited one, that accountants and, in particular, very senior ones, are by nature inclined to be somewhat cautious and discreet and bearing in mind that the tenure of your

conversation with Mr. Traynor was potentially explosive,
may I suggest to you that it may seem somewhat improbable
that these issues were discussed openly over the telephone?

A. I may have met Mr. Traynor once, Chairman, but I really
don't recollect it.

CHAIRMAN: I am merely putting what's in my own mind,
Mr. Fox, and I have no wish to be unfair

A. It's a fair question. It's one I have struggled with, but
I really don't remember. It is, like, twelve years ago.

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

A. Thank you.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: The next witness, Sir, is Mr. Bernard
Dunne.

BERNARD DUNNE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY Mr. COUGHLAN:

Q. MR. COUGHLAN: Mr. Dunne, I intend leading you through the
statement you have furnished to the Tribunal and then I
would intend asking you some questions.

A. Thank you.

Q. And if you would like to have a copy of the statement in
front of you, it may be of assistance to you.

A. I think so, yes. (Document handed to witness.)

Q. I should also indicate to you, all we are concerned with today is the Tripleplan, what has been described as the Tripleplan payment in your statement.

A. Thank you.

Q. I think, Mr. Dunne, you have furnished a signed statement to the Tribunal and I think you have stated at the end of that statement that you "intend, prior to the Tribunal, to further review the documentation available to you so as to ensure that the details which you have furnished are correct", isn't that right?

A. That's correct.

Q. And I think in your statement, headed "Background" you have informed the Tribunal, "The background to this statement lies in the Tribunal of Inquiry (Dunnes Payments) under the chairmanship of the honourable Mr. Justice Brian McCracken appointed by the instrument of an Taoiseach dated 7th February, 1997 the McCracken Tribunal." Is that correct?

A. That's correct.

Q. And I think you have informed this Tribunal that "in the course of that inquiry, four statements were prepared by you and delivered to the inquiry."

A. That is correct.

Q. And you have informed this Tribunal that for ease of reference and for clarity of purpose, you were incorporating all of those statements as part of this statement as if they were contained within this statement

seriatim you can take it that's correct?

A. That's correct, yes.

Q. You appended the four statements, dated respectively 24th March 1997; 18th April 1997; and two dated 27th June, 1997 in Appendix 1, 2 and 3 to this document.

A. That is correct.

Q. I think you have informed this Tribunal that following a request from the counsel for the Tribunal of Inquiry, you instructed your solicitor, Noel Smyth, to attend at a meeting with the solicitors and counsel for the Tribunal, Mr. John Davis, solicitor, Mr. John Coughlan, SC, on the 16th December, 1997?

A. That is correct.

Q. Mr. Smyth, at your request, relayed your intention to cooperate fully with the Tribunal and you have caused various inquiries to be made to respond to the various questions and investigations made by the Tribunal with a view to assisting them in their inquiry?

A. Correct.

Q. You then refer to matters raised in a meeting on the 29th May, 1998 and in a letter to Noel Smyth dated 7th July, 1998. You have informed the Tribunal of that, you can take it

A. Yes, that's correct.

Q. And the first issue that you deal with in your statement is payment on the 20th May, 1987 entity: Tripleplan Limited sterling œ282,500.

A. Correct.

Q. I think in connection with this, you have informed the Tribunal in your statement, that "I have no recollection of giving any instructions in relation to the payment of this money. I have, as previously confirmed to the McCracken Tribunal, both in the statements which I have included in Appendix 1 and Appendix 2 to this statement and in all evidence to that Tribunal, stated that I believed that I had made full and detailed information available to the McCracken Tribunal in order to assist them in tracing the various payments in question."

A. That is correct.

Q. I think you have informed this Tribunal in your statement, "It is, I submit, logical, if an earlier payment had been made by me or if I had any recollection of such payment, I would of course have included that payment in the submission that was made to the McCracken Tribunal."

A. That is correct.

Q. You stated in your statement; "My evidence to the Tribunal and the evidence of my solicitor, Mr. Smyth, describes the extensive work carried out by me and my accountants on my behalf investigating the payments which I made to Mr. Haughey."

A. That is correct.

Q. Your statement continues; "The purpose of this investigation was to try and ensure that the details included in relation to the payments to Mr. Haughey were

accurate and to ensure that I had not overlooked any such payments."

A. That is correct.

Q. "These investigations disclosed that I had in fact paid more money to Mr. Haughey than I had previously believed at the time of the litigation with my family."

A. That is correct.

Q. Your statement continues; "I should point out that neither I nor my accountants or solicitors had any documentation in relation to the payment to Tripleplan and I did not remember the cheque or the payment."

A. That is correct.

Q. "If I had remembered it, I would have included it in the replies to particulars in the litigation with my family."

You have informed this Tribunal in your statement, isn't that correct?

A. If I had have known that it was, yes, I would have, yes.

Q. Your statement continues; "In the alternative and/or at the very least, I would have alerted the Moriarty Tribunal that the payment had been made and/or authorised by me."

A. That is correct, yes.

Q. You state "That the legal team for the Moriarty Tribunal were very forthcoming with information to help me recollection such payments." You then continue; "I am satisfied however that I have no recollection of giving any instruction in relation to this payment and certainly have no recollection of authorising the payment to be made for

the benefit of Charles Haughey or otherwise." That's what your statement

A. Correct.

Q. to the Tribunal states, is that correct? Have you informed the Tribunal in your statement, that "On receipt of the recent information, I telephoned Mr. Matt Price of Dunnes Stores (Bangor) Limited. Mr. Price was for many years the signatory of the Dunnes Stores (Bangor) account and regularly accepted verbal instructions from me when payments had to be made from this account."

A. From

Q. From the Bangor account?

A. From the Bangor account. Not from any particular account. Just from the Bangor account.

Q. All Bangor accounts.

A. All the

Q. All the Bangor accounts. I think your statement says "That on the 25th November last, I telephoned Mr. Price and asked him if he had any knowledge about the Tripleplan payment."

A. Yes, I telephoned him after I found out from the Tribunal about Tripleplan so if that was the date, I did telephone him when I found out.

Q. And your statement continues; "He told me that in December of 1996 before the Judge Buchanan inquiry was initiated, that Mr. Pat O'Donoghue, financial director of Dunnes Stores, was in contact with him about intercompany

payments, that is payments between Dunnes Stores (Bangor) and Dunnes Stores."

A. That is correct, that's what he told me.

Q. Your statement then continues; "He confirmed to me that after some discussion, it was agreed that he, Mr. Price, would send a list of 'not normal intercompany trading account payments' to Mr. O' Donoghue."

A. That's correct.

Q. "I asked Mr. Price to identify what were classified as 'not normal intercompany trading account payments' and he indicated that he meant payments which did not cover goods without being sanctioned by either Mr. Frank Dunne, my brother, also a director of Dunnes Stores or myself."

A. That is correct.

Q. Your statement to the Tribunal continues; "Mr. Price confirmed that on the 13th December, 1996 before the Judge Buchanan Inquiry, he sent this list of not normal payments to Mr. O' Donoghue in Dunnes Stores in Dublin."

A. That is correct.

Q. "He told me that within the list of not normal payments which he had sent to Dunnes Stores and which he said were sanctioned by me, was the Tripleplan payment of sterling œ282,500."

A. Correct.

Q. "You informed the Tribunal that Mr. Price told you that he was satisfied that it was you who gave the instruction for the payment to be made."

A. That is correct.

Q. And that he also confirmed that the following were the list of not normal payments which he submitted on the day in question. I think we are only concerned with the Tripleplan payment for the moment, Mr. Dunne. I don't think we need to go into these other payments at the moment.

A. Okay.

Q. I think your statement continues; "Mr. Price told you that these were the only ones he could recall to you on the telephone as he had now retired from Dunnes Stores (Bangor) and he did not have a copy of the list he had sent."

A. That is correct.

Q. I think you have informed the Tribunal in the following terms in your statement: "Whereas I had believed that the first payments that were made by me as per my statement to the McCracken Tribunal on the 24th March, 1997 were made by me through Noel Fox in the latter part of 1987, the documentation that I have now seen proves that payments were made earlier in 1987." Is that what your statement says?

A. That is correct.

Q. "I reiterate and believe that having authorised such a payment of this size for the benefit of" sorry, I will reread that, "I reiterate and believe that having authorised such a payment of this size for the benefit of Mr. Haughey, I would have expected to remember giving such

instructions to Mr. Price and/or in the alternative to

Mr. Fox."

A. That is correct.

Q. You state that "I am astonished that I have no such recollection."

A. That is correct.

Q. And you state "I summarise my position therefore as follows: I cannot remember giving any instruction to Mr. Noel Fox, to Oliver Freaney & Company or to any person to transmit the cheque in question to Mr. Desmond Traynor or otherwise."

A. Correct.

Q. "I did not give the cheque to Mr. Traynor or to Mr. Charles Haughey but it is now apparent that I authorised this payment."

A. Correct.

Q. "Up to the time that the matter was drawn to my attention during the course of Moriarty Tribunal, I had no recollection of a company called Tripleplan Limited and/or a company called Management Services Limited."

A. That is correct.

Q. "I have no recollection of agreeing, instructing or authorising either of these companies to be given these monies or any part thereof."

A. That is correct.

Q. "I have no recollection of authorising the giving, either directly or indirectly, of any of these funds to Mr. John

Furze referred to as being a director and/or officer of these companies."

A. That is correct.

Q. Your statement continues; "Mr. Price confirmed that he had no idea whatsoever that the Tripleplan payment had anything to do with Mr. John Furze or that he, Mr. Furze, was in any way remotely connected with this account."

A. That is correct.

Q. You state "In June, 1998, Mr. Price was summoned to the offices of Messrs William Fry in Dublin and met with one of their partners, Mr. Boyce Shubotham."

A. That's what he told me, correct.

Q. I am just taking you through your statement at the moment, Mr. Dunne.

A. Yes.

Q. During the course of the meeting, Mr. Price mentioned to Mr. Shubotham that he had previously prepared a list of not normal payments and had submitted it some two years previously to Mr. Pat O'Donoghue in Dunnes Stores."

A. Correct.

Q. "Mr. Shubotham indicated that he did not see this list of payments."

A. Correct, that's my statement.

Q. That's what you were told. That's in your statement.

"It was at this stage Mr. Shubotham produced documents which indicate Mr. John Furze was a director of Tripleplan."

A. Correct.

Q. "Mr. Price confirmed that this was the first time that he was aware that any there was any connection between Tripleplan and Mr. Furze."

A. Correct.

Q. "Subsequently Mr. Price was informed by somebody in Dunnes Stores, whom he believes may have been Pat O'Donoghue, that Oliver Freaney & Company, auditors to Dunnes Stores, had been carrying out a search when they discovered Tripleplan had something to do with Mr. John Furze."

A. Correct.

Q. Your statement continues "In a subsequent conversation with the one of the audit partners of Oliver Freaney & Company, Mr. Ken Drumgoole, Mr. Drumgoole informed Mr. Price that they did not know what the Tripleplan cheque was for and it was left there."

A. Correct.

Q. "Mr. Drumgoole said that they only discovered what it related to after they had done a company search."

A. That's correct.

Q. "Mr. Price also found it surprising that the company auditors had not dealt with the Tripleplan payment in the company accounts years earlier."

A. That's correct.

Q. "Mr. Price also confirmed that the back-up documentation for these not normal intercompany trading payments were only sent to Dublin when he was requested to send them."

A. That's correct.

Q. "The request for this back-up documentation was made earlier this year."

A. Last year, yes, correct.

Q. You state "In summary, I still have no recollection of giving Matt Price instructions to make the transfer in the sum of €282,500."

A. Correct.

Q. "I readily accept the veracity of Mr. Price's statement to me that he believed he had those instructions from me."

A. Correct.

Q. Your statement continues; "In my first statement to the McCracken Tribunal, Appendix 1, page 16, I stated as follows: "Accordingly, I agreed with Mr. Fox that I would make the payment myself. Mr. Fox apparently contacted Mr. Price, the director in charge of our financial dealings with the company in Northern Ireland. He apparently asked Mr. Price to provide the sum of sterling, €182,600, equivalent to €205,000 IR and to forward the cheque to Mr. Fox. He requested the cheque be made payable to Mr. John Furze. Prior to sending the cheque to Mr. Fox, Mr. Price telephoned me for clearance which I gave him."

A. That's correct.

Q. And you continue also, quoting from that "I am in a position to correct this now because it has been possible for me to speak with Mr. Price which was not possible to do at the time the Replies were drafted because of the ongoing

litigation."

A. That is correct.

Q. Your statement continues; "When I spoke to Mr. Price in early 1997 about the John Furze cheque, he did not mention the Tripleplan cheque to me because he was unaware that there was any connection between Tripleplan and John Furze."

A. That's correct.

Q. "He had however furnished a list of not normal payments to Mr. Pat O'Donoghue on December 13th, 1996."

A. That is correct.

Q. "Had he brought the not normal payments list to my attention at the time, I would have brought it to the attention of the McCracken Tribunal, had I known it to be a payment to Charles Haughey."

A. That is correct.

Q. And then your statement continues "In respect of the Tripleplan cheque, I make the following observations:

1: The cheque again followed the route of the later cheque payable to Mr. John Furze in that it was sent to Mr. Noel Fox with a complimentary slip which states as agreed with Bernard Dunne."

A. That is correct.

Q. "2: The cheque was dated 20th May, 1987, which is some seven months before I believed that the first cheque was paid."

A. That's correct.

Q. "3: Prior to making the statement to the McCracken Tribunal, 24th March, 1997, I spoke to Mr. Price about the John Furze payment."

A. Correct.

Q. "Mr. Price confirmed to me that the sequence of events in relation to the John Furze payment did not, at that time, relate that he did not at that time relay to me the list of not normal payments that he had sent the previous December to Mr. O' Donoghue which included the Tripleplan cheque."

A. That's correct.

Q. "4: I remained unaware, as previously stated, of the Tripleplan cheque until such time as it was brought to my attention by the Moriarty Tribunal on the 29th May, 1998 and reiterate that it falls outside the sequence of events as I recall them."

A. That is correct.

Q. "5: I certainly remember, as I have previously said in my statement to the McCracken Tribunal, that I have a clear recollection of Mr. Kevin Drumgoole of Oliver Freaney & Company asking me to account for a cheque made payable to a Mr. John Furze as referred to above. My recollection is that I asked Mr. Drumgoole to take the matter up directly with Mr. Fox. I have no such recollection of ever being queried in relation to a cheque for Tripleplan."

A. That's correct.

Q. "6: The only conclusion I can come to is that I must have

authorised a payment to Mr. Haughey earlier than I had previously believed."

A. That's correct.

Q. And I think that is the portion of your statement dealing with the Tripleplan payments.

A. That is correct.

Q. Is that still your position?

A. Yes.

Q. Very good. Were you present this morning when Mr. Noel Fox gave evidence to this Tribunal?

A. Yes.

Q. Did you hear his evidence?

A. Yes.

Q. Does anything in his evidence cause you to alter your recollection of events now?

A. About Tripleplan? No.

Q. Mr. Fox has given evidence that in 1989 1988 or 1989 or 1990, he would have raised this issue with you.

A. Yes, I heard him give that evidence.

Q. Did he?

A. I certainly recall Furze the J. Furze cheque being raised but I have no recollection whatsoever of the Tripleplan cheque being raised.

Q. Did he raise it with you, Mr. Dunne?

A. No, I can't recall it.

Q. Are you saying that he probably did raise it with me and that I can't recall or he didn't raise it with me? Which?

A. I can't recall it.

Q. Do you accept that he must have raised it with you?

A. If he said he raised it with me, I would have to accept it,
Sir, yes.

Q. Would you have any explanation as to why the Furze cheque
would be raised with you and not the Tripleplan one?

A. Can you repeat the question please?

Q. Yes. Do you have any explanation as to why just the Furze
cheque would be raised with you and not the Tripleplan one?

A. What I am saying is I can't recall that he raised the
Tripleplan cheque with me. But I accept I accept that
he did raise it with me, but I certainly can't recall it.

I have absolutely no recollection of it.

Q. Do you have any recollection of any events surrounding that
period of time?

A. In I don't understand the question.

Q. Very well. You were asked at some stage in 1987 to make a
payment to Mr. Haughey.

A. Correct.

Q. Do you remember that?

A. Yes, I do.

Q. Do you remember who asked you to make the payment?

A. Mr. Fox.

Q. Do you remember how he asked you to make the payment?

A. In the board room of Dunnes Stores, after we had regular
morning meetings so I remember that's when it came up for
discussion.

Q. And can you remember what he said to you... or what he said to you?

A. That Mr. Haughey had financial difficulties and that he had been approached by Mr. Traynor and that there was going to be a consortium or a number of people put together some, sum of money, put together a financial package or words to that effect.

Q. This was fairly important and sensitive information, isn't that correct?

A. Yes.

Q. It's something that you would expect to stick in somebody's mind?

A. Yes.

Q. What then transpired? This information was given to you and you were informed that a number of people were going to club together or get together through Mr. Traynor to make a payment to Mr. Haughey.

A. Some days later and there may have been some discussion in relation, I can't recall exactly, but I made a decision to or I suggested, I then made a decision and I don't mean at the one time, there could have been a suggestion and then a couple of days later, I can't recall exactly, but I certainly can recall the final decision which was to say to Noel, that I thought it was more appropriate if Mr. Haughey had one person or less people, I think I would have said one, sorting his financial difficulties out.

Q. This again is a very major decision involving the Taoiseach

and you deciding that you were going to pay a large sum of money to him, isn't that correct?

A. It's certainly a major decision, that's correct.

Q. Something that would undoubtedly stick in your mind?

A. Correct.

Q. When did you convey your decision to Mr. Fox?

A. From the time we had the first conversation, I believe, and I am really guessing here, but I would say within a two-week period, would be knowing the way I operate, I would have said within a two- or three-week period, I would have conveyed the final decision. It could have been shorter but I would say no longer, maximum four weeks, knowing the type of person I was.

Q. And what did you say to him?

A. Basically what I have said earlier, that

Q. Well just tell us what you said to him.

A. I can't remember the exact detail but

Q. To the best of your ability.

A. To the best of my ability, that I felt that it was, I am not sure if I used the word 'appropriate'. What I basically said was look, I think it was better that less people were involved and that I would do it.

Q. Okay. So you would have, and it's your recollection that this would have had happened within a time span of, say, a month, it could be less?

A. I am going on the looking at my own character, I would believe that's the way I would have operated.

Q. Did you say anything to him, anything else to him other than that you were undertaking the whole burden?

A. No, that's all I said.

Q. Well, did you have any discussion about how payment would be made? Where it might come from?

A. Yes.

Q. Well tell us about that.

A. When I agreed and the sequence of events mightn't be exactly we are going back a good many years ago but

Q. This was a very major decision you were taking, Mr. Dunne, which would stick in your mind you have said.

A. I know. The facts I give are as they are. What I am not sure of whether they came in the sequence of events as I am giving them.

Q. Very good.

A. But I certainly said that it would take a period of time, I think I said six or seven months, before I could arrange the funds to, and I can't be sure of this, to start payment or to give the total payment, I really can't remember, Sir, but I certainly recall clearly saying it was going to take six or seven months is my recollection, before I could make a payment.

Q. And why was that?

A. Because in the discussion, I certainly agreed, I believe that we both agreed that it had to be done delicately, would be the word, privately.

Q. Confidentially, might that be the word?

A. That would be a word I would use.

Q. And was that the extent of the detail you went into on that occasion?

A. That's my recollection of it.

Q. Did you discuss where the money might come from?

A. Yes, I discussed that it would come from overseas.

Q. And you remember that?

A. Definitely.

Q. And did you have it in your mind as to where it would come from overseas?

A. In my mind definitely.

Q. Did you tell Mr. Fox?

A. I believe so.

Q. And you remember that?

A. I believe definitely I knew where the money was going to come from and I believe I told Mr. Fox, but I can't be sure on that particular point.

Q. Would this have been a lengthy conversation or a short conversation?

A. I would say short.

Q. Five or ten minutes, something of that nature?

A. That's what I would think, it would be lengthy by my standards, but it would be short by you know, a long conversation is ten minutes with me when I was in business was a long conversation, so a long conversation by my standards, but five or ten minutes was the length of it.

Q. Did Mr. Fox take any notes or any details of this at the

meeting?

A. I don't think so.

Q. And where did this meeting occur?

A. After the eight o'clock meeting in headquarters in Stephen Street.

Q. Is that the same location as the first meeting when Mr. Fox conveyed the information about Mr. Traynor to you?

A. Definitely, yes.

Q. Did Mr. Fox say to you on that occasion that he would convey this information to Mr. Traynor?

A. I would believe so, yes. I mean, I can't recall it but I would think the natural chain of events is that I would have understood that he was going to convey that decision to Mr. Traynor.

Q. Did the matter go out of your mind then or did it remain in your mind?

A. Oh, it would have remained in my mind.

Q. One would have expected such a significant matter to remain in your mind, you would agree?

A. Yes.

Q. And did you put anything in train at that stage to enable the money to be paid to Mr. Haughey through Mr. Fox and Mr. Traynor?

A. My recollection is that there was already something in train, I can't recall that, where I was going to arrange the funds, whether it was put in train it certainly was in my mind, but I couldn't say here whether it was after

that meeting. In my opinion, I think I had put something in train beforehand.

Q. Not something in train for this matter specifically, because you didn't know?

A. Definitely not.

Q. But that you could identify in your own mind where you might obtain the money?

A. Correct.

Q. And where was that from?

A. The Far East.

Q. And what was that?

A. A trading company in the Far East.

Q. And this always remained in your mind as well, isn't that correct, that you knew the source, where you were going to source this money?

A. I'd have to say, which I remember saying to Mr. Fox, it's going to take a period of time so yes, it was in my mind.

Q. And why would it take you that length of time, can you remember?

A. Yes

Q. To do that?

A. Because I am not sure when I set the thing up, whether it was before or after and I believe it was before, Sir, that I set it up, but I knew that it was going to take time for it to generate funds.

Q. What happened next in relation to this issue of payment to Mr. Haughey?

A. I know now, because of the Tribunal, what happened next, but what my memory tells me happened next, my recollection.

Q. I am asking you what you say happened next.

A. Sometime afterwards, and I can't be sure, not too long a period

Q. Let's forget about the date of the Tripleplan and the John Furze cheque at the moment. What I am trying to get is your recollection of the sequence of events which then transpired.

A. I was approached by Noel Fox to say that Mr. Haughey or Des Traynor, but I knew it was Mr. Haughey, I am not sure which, needed funds quicker than I had set out to have them available.

Q. And fixing that in the context of the meeting where you had informed Mr. Fox that you would undertake the whole burden, what timescale are we talking about there, Mr. Dunne?

A. Well going on memory, if it was going to take let's if I made the decision within a month, and if I said the funds would be available six or seven months later, it was somewhere between that period. Am I answering clearly?

Q. Yes, I understand your answer. So it could have been one month or two months or even three months?

A. I can't be yes, it could have been.

Q. And then is it your recollection that the first payment was made?

A. That is my recollection, yes.

Q. And that payment did you have a discussion with anybody about where that was to come from?

A. I must have had.

Q. Well, who did you have the discussion with?

A. Only with Noel Fox.

Q. And what is your memory of that discussion?

A. I don't recall, but if I could before I am assuming here before the cheque would have been paid from Dunnes Stores (Bangor), I believe I would have because I thought what was going to happen, I must have had a conversation with Noel, but I really can't recall, but I mean the law of averages would say that I had to have a discussion with him.

Q. Yes. And would you have discussed that the money would come from Dunnes Stores (Bangor)? Did you discuss that with him?

A. It must have happened, yes.

Q. Did you?

A. I can't recall, but it must I really can't recall.

Q. And that if it came from Dunnes Stores (Bangor), it would have to be posted to the intercompany account, isn't that right?

A. That's obviously right, yes.

Q. And that this would have to be dealt with at some stage, isn't that correct?

A. That is correct, again, yes.

Q. Because of course, if it remained in that state, it would

be company money that was being used, isn't that correct?

A. Yes, that's correct, yes.

Q. And of course you, as a director of the company, would know that you couldn't use company money for this particular purpose?

A. That's fair comment, yes.

Q. And that you had undertaken the burden yourself and this would have to be in some way repaid to the company or in some way resolved in respect of your drawings, personal drawings, isn't that correct?

A. I never looked on it as a personal I never thought of it as my own money.

Q. Explain that to me, Mr. Dunne.

A. I never thought of it over the years I had other situations, nothing to do with a politician, and I never thought of it as my own personal drawings.

Q. No, no, that's... You had undertaken to Mr. Fox that you would carry, you would carry the burden yourself, is that correct?

A. Me was Dunnes Stores. When I said 'me', I meant that I was going to use I didn't see any difference between Dunnes Stores money and my money. I thought it was all the money.

Q. I know. You might have thought that but you were a director of the company and you knew that the company was a legal entity in itself, isn't that right?

A. I did of course, yes.

Q. And you had obligations in that regard as a director?

A. I had of course.

Q. And you knew that if this money was drawn on Dunnes Stores (Bangor) and posted to the intercompany accounts, that it would have to be dealt with in the audit of the company accounts, isn't that right?

A. Of course, yes.

Q. How did you think it was going to be dealt with at that stage?

A. I didn't think I didn't think of it at that stage but when you put it to me, of course I understand it. I didn't think of that particular point at that stage.

Q. It seems to be the position that it was Mr. Fox's understanding that you were undertaking the personal responsibility for the burden of this amount and that it wasn't Dunnes Stores.

A. That's what he said.

Q. And might some support for that position not be found in the fact that you were going to initially obtain the money from a source other than from the Dunnes Stores sums?

A. No, what I was going to do was it was going to be Dunnes Stores money, what I was talking about doing at least was going to be Dunnes Stores money.

Q. So you do not agree with Mr. Fox

A. On that point, I don't.

Q. And that as far as you were concerned, this was you were spending Dunnes Stores money?

A. That's correct.

Q. Now you say that you have a recollection of the Furze cheque being raised with you as an audit query.

A. Absolutely.

Q. And what was your response to that?

A. To take the matter up with Mr. Fox.

Q. Why?

A. Because I wanted him to deal with it with the auditors.

Q. That seems obvious, Mr. Dunne, but why? Why? This was information, why? It's a simple information being sought from you. Why should you take it up with Mr. Fox?

A. Because I wasn't going to tell Kevin Drumgoole the facts.

Q. What facts?

A. What I knew about that cheque.

Q. The confidentiality was yours, isn't that correct?

A. It was a confidential yes.

Q. It was your confidentiality. You were maintaining the confidentiality about it?

A. That's correct, yes.

Q. A legitimate query was raised with you, do you accept, by the auditors?

A. That's correct.

Q. And you were a director of the company?

A. That's correct.

Q. And because of the confidentiality, you say you were not going to disclose it to Mr. Drumgoole?

A. I was never going to disclose to Mr. Drumgoole. If

anybody this was what I was thinking if anybody was going to disclose anything, I was putting the matter squarely back on Noel Fox.

Q. Well now I want to ask you why that is so, and from the evidence you have given, Mr. Fox had merely played the role of a facilitator or messenger boy in relation to this matter, isn't that correct?

A. Yeah, he was the I won't say messenger boy, but that's all I was the man who made the decision, that's correct.

Q. Well let's take it a little bit slowly so. On your evidence, the only thing Mr. Fox did was to bring a message to you, isn't that right?

A. He asked me to do something.

Q. Yes, he brought a message. You could have said no and I presume that would have been the end of the matter I suppose.

A. I had the option to say no, yes.

Q. Right. So all he did was act as a messenger and a facilitator in respect of the transfer of the Furze cheque to Mr. Traynor, isn't that right?

A. That's correct.

Q. Why should you direct the auditor to Mr. Fox to answer the query?

A. Because I wanted him to make the decision.

Q. What decision was there to make?

A. Well, if I could answer it when you say today, only, it's coming through my mind now, it was never my money. I

never thought of it as a personal situation, my own personal money and I was putting the onus I made a decision to pay the money and I was putting the onus on Mr. Fox to deal with it in the company. I didn't want to make that decision.

Q. How do you mean to deal with it in the company?

A. Well, eventually what happened is he put it in suspense or the auditors put it in suspense.

Q. Yes.

A. So it was dealt with in that way.

Q. That's not dealing with it. Sure this was the very issue that was being raised.

A. Yeah, but I wasn't going to say what I gave the money for.

Q. And this is what was exercising your mind about the Furze cheque which is the one you say you have a recollection of being queried about, is that right?

A. I have a recollection of being queried about it on a number of occasions and I also have a recollection of not making a decision and referring it back to Noel Fox, very clear recollection.

Q. I want to continue to explore that, Mr. Dunne, and the reasons for that. It could have been dealt with very easily by you paying the money to the company out of your own personal bank account, isn't that right?

A. It could have been, that's a fair observation.

Q. And Mr. Fox has said it could also have been dealt with by

way of your own personal drawings within the company account which would be your own current account, isn't that right?

A. That's correct.

Q. And nobody would have to be told what the payment was for, isn't that correct, if that was done?

A. I am not sure of the answer to that. If something was put down to your own personal account, I would have believed you'd have to tell what you were putting down to your own personal account.

Q. If you just said that I had obtained a loan and I was paying this money back, wouldn't that have been a simple explanation?

A. I can't disagree with that.

Q. So why? Why did you refer the auditors to Mr. Fox?

A. That's the way it happened.

Q. Yes, I know that's the way it happened, Mr. Dunne. I want to know why it happened. What was going through your mind about this?

A. Nothing more than to get Mr. Fox to make a decision on it and

Q. What decision was he going to make, do you think?

A. I would have thought it would have gone into suspense account.

Q. Things have to be resolved at some stage, isn't that correct, in the suspense account?

A. That is correct.

Q. Because the auditors would continue to query, we have no documentation behind this payment, please directors, may we have an explanation?

A. That's a fair assumption, yes.

Q. So what decision could Mr. Fox make?

A. Well...

Q. Could he have divulged the purpose, are you saying?

A. I certainly could have divulged, I could have and I certainly could have put it out of my current account but I believe if it went out of my current account, somebody would say what was that? And the easy option, I think, was the suspense account.

Q. Who'd say that to you?

A. Who'd say that to me?

Q. Yes.

A. Myself.

Q. Oh yes, but who would say to you what was that for?

Drawings, your own drawings?

A. I am not really sure who set up or how the we did get directors' current accounts at the year end and who apportioned it, I don't know it was done by the auditors.

Q. Now, this audit issue and I am still only talking about the Furze issue

A. I understand.

Q. was raised on a number of occasions, isn't that correct?

A. Definitely.

Q. And it was always in your mind, isn't that correct?

A. Not always in my mind.

Q. You always knew what it was about when it was raised?

A. Always understood what it was about when it was raised.

Q. Knew what it was about?

A. Absolutely.

Q. And you were concerned because you knew one of the issues which exercised your mind and concerned you was that you knew it was a payment to Mr. Haughey, isn't that correct?

A. That's fair yes, I accept that.

Q. Do you accept that if the Furze payment was raised as an audit issue with you, that the Tripleplan had to have been raised?

A. Had to have been.

Q. Had to have been

A. I accept that.

Q. Is that correct?

A. Yes.

Q. And when it was initially raised, whether it was 19 the 1988 audit of the 1987 accounts or in subsequent years, that you, at that time, must have known what it was about?

A. Must have known

Q. What it was about?

A. I don't understand the question.

Q. That it was well, Mr. Dunne, that it was a payment, it was also a payment to Mr. Haughey?

A. No, I don't.

Q. You don't what?

A. I want to understand the question. What I believe I am being asked is when when the auditors would come to me at the year end and there would be many issues raised on cheques that would be in the suspense account or cheques without documentation, many, I accept that they would have raised Tripleplan to me. I have absolutely no recollection of what Tripleplan was for. I accept that they were doing their job correctly and would have raised it. And if I'd have known that Tripleplan was in any way connected with the Haughey payments, I believe that I would have remembered. That's what I am saying, if that's the answer to the question. I do not remember I mean, the reason I remember Furze, the auditors raised a lot of things at the year end or, the year end was either December or January, so sometime when they would be pulling the accounts together, they would come to me and talk about different cheques. The only reason I can remember Furze quite clearly in my brain here today is because the Furze payment ties in, in my brain, into Charlie Haughey immediately. I have absolutely no recollection of the Tripleplan payment. But I have a recollection of auditors, Kevin Drumgoole, speaking to me at the year end when I say the year end, wrapping up the year end and lots of queries being raised.

Q. Mr. Fox gave evidence this morning that he raised the Tripleplan cheque with you. Do you accept that he must

have?

A. He certainly could have.

Q. Do you accept that he must?

A. Do I accept that?

Q. He must have raised it with you?

A. If he says so, yes.

Q. Now, he was raising the Tripleplan payment and the Furze payment.

A. I can't recall that.

Q. Well, if he raised the Tripleplan payment, what type of conversation might have taken place between the two of you?

A. I can't recall Noel Fox often speaking to me about year end situations. If Mr. Fox said he spoke to me, I accept what he is saying totally and the way those the way they would go is, do what do we do with this or where is that belonged to? Finding homes for situations at the year end.

Q. You see, this isn't just normal year end business, Mr. Dunne, is it? We are talking about something which would be potentially explosive if it became public, isn't that correct?

A. No question or doubt about it.

Q. So we are not talking about normal year end reconciliations. We are talking about two substantial or what appear to be substantial payments being raised with you that are potentially explosive.

A. At the year end, there would be many queries of cheques in

the value of hundreds of thousands of pounds that would be raised. The only reason that I recall clearly the Furze one is I knew what Furze, that Furze was explosive.

Q. Well do you accept now that Tripleplan was also explosive?

A. Absolutely.

Q. And that's precisely the point, if Mr. Fox, and you accept that he must have raised it with you, that he was discussing two potentially explosive things sorry, two payments, the disclosure of which was potentially explosive, isn't that correct?

A. That is correct. As I know it today.

Q. No, at the time he raised them with you, in what context was he raising them with you?

A. I can't recall. What I can recall is Mr. Drumgoole regularly, at the year end, raising situations. I recall clearly that Mr. Furze cheque coming up, I would say two years in a row. Within then there was a whole lot of other queries. Within that, I accept that Tripleplan payment had to be there, if it was in the suspense account. I have absolutely no recollection of it because I didn't realise, using your own word, that it was explosive and that's...

Q. Isn't that all the more reason why you would have a recollection of it, Mr. Dunne?

A. If I'd have known, I would have, no doubt, if I'd have known, I would have.

Q. Do you accept now you must have authorised this payment?

A. Absolutely.

Q. So you authorise the payment, you must have known about it?

A. Absolutely.

Q. You must have known about it at least as early as May of 1987, isn't that correct?

A. The facts are there to prove that, yes.

Q. Isn't that so? You must have known about it then?

A. I did not know that Tripleplan had anything to do with payment to Mr. Haughey. And if I did, I could not forget it, in my opinion.

Q. Well if you didn't think it was for Mr. Haughey, why were you letting 300 and odd thousand pounds just go west in the company accounts?

A. You see, within the group, there was regular transactions when I say regular, where Matt Price would ring me, is that okay, and I just can't recall the detail. And I am surprised, as you said yourself, that I can't recall it but I genuinely cannot recall it.

Q. Do you accept that if it was raised by Mr. Fox as he said he did, and you accept that he must have, if he said he did, that you were discussing out of the Bangor accounts, not just a payment to Mr. Haughey of 182,000-odd sterling, but something much more substantial out of the Bangor accounts?

A. If Mr. Fox had raised the Tripleplan cheque to me in relation to Mr. Haughey, I would not have forgotten about it. I do not recall it ever being raised, because there

would have been a lot I hope I am making myself understood here there would have been a lot of things raised. The reason I remember the Furze one is because of the situation. If I had known that Tripleplan was the same, had the same ingredients as Furze, I would have remembered it. No question or doubt. That's my belief and clear memory.

Q. You have a clear memory?

A. No, that's my clear memory here today.

Q. Do you ever remember a meeting on the 30th December, 1989, with the auditors?

A. No.

Q. Well I am going to put up a document which relates this is the meeting, the 30th December, 1989 we have taken out other matters which are not relevant.

A. Yes.

Q. And this is the agenda of the meeting, the auditor's meeting and there are only two items identified as requiring explanation in the accounts. Do you see that?

A. I am looking at it, yes, I see it.

Q. I think we will put up the next document, which is the memorandum to Mr. Fox from Mr. Drumgoole.

A. Yes, I see it, Sir.

Q. And you can see there that it's addressed to Noel. "I enclose again a list of the various problems which must be sorted out before we finalise the accounts of the Dunnes Stores Group. As mentioned on Friday last, I asked Bernard

Dunne about the payment to Tripleplan and J. Furze and he said he would need to talk to you to jog his memory on these payments."

A. That's what it says, yes.

Q. Would you accept the veracity of that?

A. Of course I have to say that that's a fact, yes.

Q. So that Mr. Drumgoole not only asked you about the J. Furze, but also Tripleplan. Two items only.

A. What I would think is that Mr. Drumgoole asked me about many items.

Q. Two items which required explanation in the suspense account, isn't that right?

A. I am not sure whether it was suspense account or not.

Q. Posted to the intercompany account. Those are the two items required two items requiring explanation. You were asked about them.

A. That's what it says.

Q. Well, do you accept that that is what happened?

A. Of course I accept it.

Q. And according to that memorandum, you told Mr. Drumgoole that you would need to talk to Mr. Fox to jog your memory of these payments.

A. That's what it says, yes.

Q. And do you accept that that is what you informed, or words to that effect, what you informed Mr. Drumgoole?

A. If he says it, yes.

Q. You had no need to talk to Mr. Fox to jog your memory about

the J. Furze, isn't that right?

A. Absolutely not, no, or to anybody.

Q. Mr. Fox said he spoke to you about the Tripleplan and the J. Furze, isn't that correct?

A. That's what he said.

Q. Do you accept that?

A. I would accept what Mr. Fox says.

Q. Two items, J Furze and Tripleplan.

A. Yes, Sir.

Q. Can there be any doubt, Mr. Dunne, but that at that stage you were aware of what the Tripleplan payment was about?

A. Can you repeat the question?

Q. Can there be any doubt but that at the time, that time in or around October of 1989, you were well aware of what the Tripleplan payment was about?

A. I was not aware. Absolutely not aware of Tripleplan. If I may say, even in the litigation, when there was a request for what payments I made to Mr. Haughey

Q. The Particulars, yes?

A. Particulars, and I was fighting my own case at that stage, if I'd have been aware, I have no doubt that I would have put it in. There was no reason that I can think of why I would not put it in. If I'd have known, I would have put it in, absolutely.

Q. I should come to ask you the timing of the payment presently, Mr. Dunne.

A. I don't understand.

Q. The significance of the timing of the payment.

A. Which payment?

Q. The Tripleplan payment. And the period of time which must have depreciated but for the moment we will just proceed on the basis of leaving the dates on which the payments were made out of it. All I want to do is to establish your state of mind as of 1989 at least.

A. Is that a question?

Q. No. So you do not accept that you knew or must have known about the Tripleplan payment or what it represented in October of 1989?

A. In October, 1989 and up to when I found out from the Tribunal here, I did not know what the Tripleplan payment was for.

Q. Would it not seem extraordinary to the public that Mr. Fox who knew all about this, discussed this matter with you, and you did not know what the Tripleplan payment was about?

A. I was astonished when I saw it myself.

Q. Astonished is the word

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

Q. Should be viewed by the public as seemingly incredible, wholly incredible?

A. I was astonished, that's all.

Q. Incredible?

A. Astonished.

Q. Incredible?

A. If you say incredible, yes, Sir.

Q. But having accepted, as you have, that you must have authorised the payment, the payment was made in May of 1987, isn't that correct?

A. They are the facts, yes, Sir.

Q. And if you then take into account the sequence of events as remembered by you and Mr. Fox of Mr. Traynor's approach to him and your, and his approach to you, the approach must have occurred, Mr. Traynor's initial approach must have occurred some months previous to that date, isn't that correct?

A. That's correct. Well, at least a month, you know, if it took a month to make my mind up, I would say at least two months.

Q. Well, why not longer? Because I thought there that you had told us earlier, leaving aside the date on which the payment was made, that it took you a month, say, to make your mind up, that you anticipated it would take six to seven months to get the money?

A. Correct.

Q. And then some emergency arose and Mr. Fox came to you?

A. That's correct.

Q. And this occurred perhaps a month, two or three months?

A. Correct.

Q. So if we now take it that the emergency still arose, I think both you and Mr. Fox do not resile from that position?

A. Well I can only speak for myself. I certainly remember a

situation where I was asked to get a cheque quick, I recall that, yes.

Q. And that must now have been at least Tripleplan payment?

A. From the facts in front of me, it had to be Tripleplan payment, yes, I would say so, yes.

Q. Were there any other payments?

A. There was, but it was later.

Q. I am saying were there any other payments leaving aside the matters which are contained in your statement, were there any other payments made to Mr. Haughey?

A. Sorry, could you repeat that?

Q. Was there any other payments made to Mr. Haughey?

A. Was there any other payments made to Mr. Haughey? On all my exhaustive inquiry, I have no recollection or I have made no other payments to Mr. Haughey. Or the answer is no. But I mean...

Q. That's what I want.

A. I am trying to answer you

Q. I want to you bear in mind the distinction between the two answers you have just given?

A. I am trying to answer honestly. The answer is no, to the best of my knowledge, absolutely no, and I am answering it as honest as I am able to.

Q. So if there were no other payments to Mr. Haughey, the first payment must have been sorry, the first payment resulting from Mr. Fox's approach must have been Tripleplan, is that not correct?

A. That's the way it looks to me.

Q. Well is it correct or is it not?

A. Well it is correct, yes.

Q. And if that be so, the initial approach by Mr. Traynor must be back into March or probably February or sometime around then in 1987, isn't that correct?

A. It has to be earlier, yes.

Q. And it certainly cannot have been at a time when the McCracken Tribunal was informed that the first approach was made?

A. That is correct, yes.

Q. And I say that in fairness to Mr. Fox's evidence, I think it was you who indicated that it must have been sometime prior to the first payment in December, which was December of 1997, and sometime prior to that, isn't that correct?

A. I don't

Q. 1987, I beg your pardon.

A. Ask me the question again please?

Q. I think you informed the McCracken Tribunal that the sequence of events, an emergency arose, you were asked to get a cheque quickly and the evidence you gave that this was the J. Furze cheque which was dated 2nd December, 1987?

A. If that's what I said, yes, that's correct.

Q. I am not trying to catch you out.

A. No, I don't mean that you are trying I just want to be...

Q. And then taking into account the sequence of events,

Mr. Traynor approaching Mr. Fox, Mr. Fox approaching you, the decision being made by you, being conveyed back to Mr. Fox, that on the basis of the information furnished to the McCracken Tribunal, that approach would appear to have occurred sometime in the autumn of 1987.

A. That's fair comment, yes, I would agree with that, Sir.

Q. But of course the first approach didn't take place then, isn't that right?

A. As I see now, yes.

Q. What has prompted your recollection, specifically what has prompted your recollection that you must have authorised the payment of this cheque?

A. Matt Price I would take as a matter of fact if Matt Price said authorised by me, I would accept it absolutely.

Q. And can I say that the only thing which has prompted you to have a recollection that you must have authorised this payment?

A. Absolutely.

Q. And authorised that you made this payment to Mr. Haughey?

A. I have no recollection of that until this Tribunal.

Q. That's what I am asking you. What specifically has prompted your recollection that you authorised the payment to Mr. Haughey?

A. What proved that the money went to Mr. Haughey was what I was shown by the Tribunal. That's what proved it to me.

Q. Yes, well there is a difference between proving something to you and what prompts your what's your recollection? How did your recollection

A. I have no recollection of the Tripleplan cheque. What proves that I authorised it was Mr. Price's slip and even without the slip, I believe that if Mr. Price says I authorised something, I would accept Mr. Price's word absolutely. What so that's the point I am making as regards the Tripleplan cheque. What proves that the Tripleplan cheque arrived to Mr. Haughey is what the Tribunal, or since this Tribunal started, there is no prompting. I have no genuinely no recollection of the Tripleplan cheque itself.

Q. I am moving on to a different subject, different aspect of the subject, Sir, which may take some time.

CHAIRMAN: It's just five to four. It's probably desirable to rise now. As regards any further questioning tomorrow of Mr. Dunne, it occurs to me that the realistic sequence of questioning would be Mr. Connolly, Mr. Hardiman, Mr. Gordon, Mr. McGonigal and finally Mr. Gallagher but if counsel have any preferences with a view to varying that sequence, obviously I am flexible on it and the matter might be taken up with the Tribunal counsel overnight. Very good. Thank you very much.

Mr. Dunne, is it convenient for you to come back at half ten tomorrow?

A. Yes, Sir.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
WEDNESDAY, 3RD FEBRUARY, 1999 AT 10:30AM.