

THE HEARING RESUMED ON THE 9TH OF FEBRUARY, 1999, AS

FOLLOWS:

CHAIRMAN: Morning. Mr. Coughlan?

MR. COUGHLAN: May it please you sir. Mr. Dunne please.

HAVING BEEN ALREADY SWORN MR. BERNARD DUNNE RETURNS TO THE WITNESS-BOX AND CONTINUES TO BE EXAMINED BY MR. COUGHLAN AS

FOLLOWS:

CHAIRMAN: Good morning Mr. Dunne, thank you very much, you are already sworn.

Q. MR. COUGHLAN: Now Mr. Dunne, I now want to take you through that portion of your statement which deals with the Dunnes Stores Grocery No. 6 Account; and I want to ask you some questions about it. Is that okay?

A. Yes.

Q. Do you have a copy of the statement in front of you or I will get you one now? I think it is page 8 of your statement. I think in your statement, Mr. Dunne, you have informed the Tribunal at paragraph 10 - you see that?

A. Yes, sir.

Q. "That at the time of the McCracken investigation I considered and reviewed all of the information which I had within my possession, power or procurement. These cheques were in fact mentioned that is the No. 6 Grocery Account cheques were mentioned in the Price Waterhouse Report, but neither I nor any person reviewing the information on

my behalf made any connection between those payments and Mr. Haughey or Celtic Helicopters".

A. That's correct.

Q. "The only recollection that I have and it is a very vague one, is that Mr. John Barnacle approached me for financial assistance and I think I gave him three cheques". Is that what you informed the Tribunal?

A. That's correct.

Q. "I listed, as is contained in my statement at Appendix 1 and Appendix 2 herein", those are the statements which you furnished to the McCracken tribunal and furnished them for assistance to this Tribunal; isn't that correct?

A. That's correct.

Q. "All the payments that I considered relevant to the McCracken Tribunal, and therefore in terms of an actual recollection of the cheques I can state the following:

1. I fully accept that I gave instructions for the cheques to be drawn.

2. I confirm that it is my handwriting on the dates on each cheque, but the handwriting on the cheque details both in writing and in figures, is that of Michael Irwin.

3. I confirm that the signature on the cheques is my signature". That is on all three cheques I think?

A. Yes, sir.

Q. I think you have informed the Tribunal that you have spoken

to Mr. Irwin and his recollection of the events is as

follows:

"1. I telephoned Joe Cummings for three cheques".

You telephoned Mr. Cummings for the three cheques?

A. That is what he said, yes.

Q. "2. Sometime later I requested Michael Irwin to fill in the

amounts in the three cheques in question which were to be

left undated and to be given to me.

3. He delivered the said cheques into my possession"?

A. That is right. Yes, sir.

Q. Now, you have informed the Tribunal that "I have absolutely

no recollection of the above events, but accept that they

did occur"?

A. That's correct.

Q. Paragraph 12 of your statement, you inform the Tribunal:

"In the light of the subsequent information contained in

the letter from the Tribunal to Noel Smyth that is your

solicitor on the 9th of November, of 1998, I say that

the three cheques the details of which I specify in the

following paragraph

(A) Cheque dated the 20th of November, 1992. Cheque

number: 29915. Payee: Cash. Amount: €49,620. Date on

bank statement: 25th of November, of 1992. Signature:

Bernard Dunne. Destination of funds: Lodged to Bank of

Ireland, Thomas Street for credit transfer to Bank of

Ireland Rotunda and apparently lodged to account number 14793574"?

A. That's correct.

Q. "B. Cheque dated: 23rd of November, of 1992. Cheque number: 29916. Payee: Cash. Amount: €50,962. Date on bank statement: 25th of November, 1992. Signature: Bernard Dunne. Destination of funds: Lodged to Bank of Ireland Thomas Street for credit transfer to Bank of Ireland Rotunda, apparently lodged to account number 14793574.

C. Cheque dated: 27th of November, of 1992. Cheque number: 29890. Payee: Cash. Amount: €79,418. Date on bank statement: 1st of December, 1992. Signature: Bernard Dunne. Destination of funds: Apparently lodged to account number 14793574, Bank of Ireland Rotunda".

I think those are the three cheques that were drawn to your attention by the Tribunal?

A. Yes, sir.

Q. I think you have informed the Tribunal as follows:

"I say that:

1. I did not hand those cheques nor did I give any instructions to anyone to hand those cheques to the late Mr. J Desmond Traynor"?

A. Correct.

Q. "2. I did not, nor did I give any instructions to any person to lodge those cheques to the account of Carlisle

Trust Limited with the Bank of Ireland Rotunda"?

A. That's correct.

Q. "3. I did not, nor was I empowered to give any instructions for a cheque in the sum of €100,000 to be drawn on the account of Celtic Helicopters Limited"?

A. That's correct.

Q. "4. I did not, nor was I empowered to give any instructions, nor was I aware that the sum of €80,000 payable to cash was being transferred to this account"?

A. Correct.

Q. "5. I did not, nor was I empowered to give any instructions, nor was I aware that the said sum of €80,000 was lodged into an account of Kentford Securities Limited"?

A. That's correct.

Q. "6. As explained already, I have a vague recollection of giving the cheques to Mr. John Barnacle for the benefit of Celtic Helicopters"?

A. That is correct.

Q. Now, I think that is what you informed the Tribunal in your statement; isn't that correct?

A. Yes, sir.

Q. Mr. Dunne, can I ask you when did you have a vague recollection, did that first come to you that you gave these cheques to Mr. John Barnacle on behalf of Celtic Helicopters?

A. As the events unfolded in this Tribunal sir.

Q. So, your vague recollection of recent origin?

A. Definitely.

Q. Well, trying your best now and I appreciate you say the recollection is vague; can you say the circumstances whereby you believe that Mr. Barnacle approached you on behalf of Celtic Helicopters?

A. What I think, if I could

Q. Yes. Please look at anything you want to assist you?

A. No, I just want to explain myself.

Q. Yes?

A. It was as the events unfolded in the Tribunal, and I all the way through this one and the last Tribunal I have endeavored to do my very best to cooperate to bring anything at all that I have even the slightest recollection of before the Tribunal, and it was during it when I saw where the cheques went and where the money, that this money went to Celtic helicopters, that I have a vague recollection; I am going to use the word "recollection" but I mean vague recollection, is that okay sir.

Q. Yes indeed?

A. I have a recollection of remembering that Celtic Helicopters or John Barnacle telling me that Celtic helicopters had some financial difficulties, and that I got these three cheques from, but it is the vaguest of recollections.

Q. Very good. But can you say when that might have been, when you recollect Mr. Barnacle talking to you or approaching you?

A. I couldn't but, I would assume it must have been around, in or around the time that the cheques were written out.

Q. Well, when you say when the cheques were written out, when was that? There was no date on them when the cheques were written out; isn't that correct?

A. I am assuming that it was in or around the time that they were dated.

Q. In or around the time that they were dated. Can you say whether you recollect whether they were dated in or around the time as represented on the cheques as being the date or whether they were postdated?

A. I would have to say that they, again this is something that happened during the Tribunal, I was speaking to Noel Smyth the other on Friday, and he informed me that I was away when the cheques were in fact dated.

Q. Dated?

A. So .

Q. And where were you at that time?

A. In the Far East.

Q. And were you with anybody?

A. I was with Noel Smyth.

Q. And what did that relate to, what did that trip relate to?

A. Well, there was some business and some holiday.

Q. Yes. Well the business, we are not interested in the holiday. What business did it relate to?

A. Dunnes Stores business. A buying trip, there were some buyers as well.

Q. So on the date on the cheques, you or Mr. Smith were not in this country, to your recollection?

A. I think that is a fact now from what he told me.

Q. That is a fact. So can we take it, if that is so, that the cheques must have been written and dated sometime prior to the date that is represented on them?

A. That has to be the case, yes.

Q. And can you say to the best of your recollection when that might have been?

A. I have no recollection on it, but if I could make an assumption I would have said sometime not to knowing me, I wouldn't, if I was post dating a cheque, I wouldn't post date it months in advance, I would have said it must have been, and this is an assumption, I feel it must have been in November.

Q. In November. So can we take it that it may have been in the month of November; is that correct?

A. It is an assumption and I think it is a fair assumption by me, but I have no it is purely an assumption sir.

Q. Now, you say your recollection is a vague recollection of Mr. Barnacle approaching you, could it be that somebody else approached you?

A. I have no recollection of anybody else approaching me.

Q. Well, could Mr. Traynor have approached you?

A. When you say could he, I am sure the answer to that is he could have, but .

Q. Well, I don't mean it in the realms of mere possibility?

A. Yes.

Q. I am asking you could Mr. Traynor have been the one who approached you about this?

A. No. And when I say and why I say that so definitely, I only met Mr. Traynor just once and that was to shake his hand.

Q. Yes. Could Mr. Haughey have spoken to you about this, spoken to you about this?

A. He could have because I would have met Mr. Haughey sorry Mr. Haughey junior or senior?

Q. Mr. Charles Haughey?

A. No, because I I think with my conversation with Mr. Haughey if I brought up about Celtic Helicopters I think I would have remembered, I think I would remember it. So I would say no I don't ever recall ever discussing Celtic Helicopters.

Q. Do you ever remember discussing money with Mr. Haughey?

A. No.

Q. These cheques are identified in the Price Waterhouse Report; isn't that correct?

A. That is correct.

Q. And were these cheques considered by you in the context of that report and the litigation involving your siblings and the company?

A. I don't understand the question, when you say "considered", I don't understand

Q. Did you know about them at that time?

A. Yes. I saw them in the Price Waterhouse Report, yes that's correct.

Q. And did you think about them at that time?

A. When the Price Waterhouse Report came out?

Q. No, when did you first see the items that were being raised in the Price Waterhouse Report?

A. I would have had to see them when the Price Waterhouse Report, when I saw the Price Waterhouse Report.

Q. Was that at the time of the litigation?

A. That was at the time of the litigation.

Q. Was that sometime in 1994?

A. Yes, it was, yes.

Q. And they were identified, as we now know, in the Price Waterhouse Report; isn't that correct?

A. That's correct.

Q. And I take it the purpose you had in looking at the Price Waterhouse Report, was to identify or have an explanation for the cheques, or payments which were identified referable to you in that report; is that correct?

A. I think the Price Waterhouse Report covered just more than me.

Q. Yes. I am only asking you about you Mr. Dunne. The purpose of you looking at it would be to identify matters which were in the first instance referable to yourself; isn't that correct?

A. That would have been one of the purposes. Yes, sir.

Q. And these three cheques are undoubtedly referable to you;

isn't that correct?

A. Oh yeah. I signed them, yeah, I understand the question, yes they were put down as something that I done.

Q. Yes?

A. Yes, I understand. Yes.

Q. So you had to think about them at that stage obviously?

A. Obviously had to put some thought, yes.

Q. And at that stage you did not have a recollection that they related to Mr. Barnacle or Celtic Helicopters; is that correct?

A. That is definite.

Q. In 1994 was far more approximate to the drawing of these cheques than the events which started to unfold in this Tribunal; isn't that correct?

A. That is correct.

Q. And at that stage you had you say, no recollection that they were referable to Mr. Barnacle or Celtic Helicopters?

A. That is definite.

Q. Or Mr. Haughey?

A. That is definite.

Q. They weren't referred to in the particulars, the reply to particulars which was delivered by you in the litigation as being payments or potential payments to a politician; isn't that correct?

A. That's definite as well, yes.

Q. That was only 18 months after the cheques were drawn; isn't that correct, or thereabouts?

A. Whatever period is a fact.

Q. Well perhaps less. Now, in the Tribunal of which Mr. Justice McCracken was the Sole Member, did you again consider those cheques?

A. I think it would be fair that I considered everything and part of everything would have been those cheques. Yes, sir.

Q. And that at that time did you have any recollection that they may have been referable to Mr. Barnacle, Celtic Helicopters or Mr. Haughey?

A. Absolutely not sir.

Q. So can you assist the Tribunal as to what particular facts or circumstances you become aware of that makes you believe that you have a vague recollection that Mr. Barnacle asked you for assistance?

A. In this Tribunal when I saw these cheques written by me and when they ended up in Celtic Helicopters and a cheque made payable to cash, and just the circumstances that I saw, just brought a vague recollection back to my mind sir, so I can't be sure when. I remember even the first time I met the Tribunal, and I remember my reaction, I think you were at the meeting when these cheques came up I said "they are in the Price Waterhouse Report". I knew they were in the Price Waterhouse Report. I had certainly at that stage, and for a long period afterwards, I had absolutely no idea until I saw the thing unfolding.

Q. Well. That is what I want to try and get at. I want to

ask what particular facts assisted you in coming to a vague recollection, because in the first instance the Tribunal brought to your attention the cheques; isn't that correct?

A. Correct yes.

Q. And I think in the letter which you have referred to, sent to your solicitor Mr. Noel Smyth, it was pointed out to you that these cheques went through the accounts of Carlisle Trust?

A. Correct.

Q. And then that they were drawn out, one in favour of Celtic Helicopters and one to cash; isn't that correct?

A. Say that again?

Q. That they went into Carlisle Trust company's bank account and then two cheques were drawn on the Carlisle Trust account. One for €100,000 to Celtic Helicopters and one payable to cash?

A. That's what happened to them, yes.

Q. But you knew that, that was what was drawn to your attention by the tribunal; isn't that correct?

A. Correct.

Q. Now, it is only in the last short number of days is it, perhaps a week or two, that your recollection has evolved to a vague recollection that Mr. Barnacle may have approached you; is that correct?

A. Certainly in the last number of weeks that's correct sir.

Q. Well, what has happened between the Tribunal drawing the matter to your attention and informing you of where the

cheques went? What has happened between then and the last couple of weeks which has prompted your recollection, even be it a vague recollection. That is what I am trying to establish?

A. What happened me? I saw and I was thinking that I had no recollection of the Tripleplan and I had no recollection of these three cheques, but I knew there was a difference if you hence the reason where the vague recollection comes in, and that happened certainly in the last number of weeks, but where I was saying I had no recollection of either, the more I looked at these three and the more; there was a vague, I mean it is hard to explain, but I could see it, I could just see "hold on, I can't sit into this box, there is a difference", and that's when I got it, the vaguest of recollections but

Q. There undoubtedly is a difference in that the Tripleplan cheque is drawn on the Bangor account; isn't that correct?

A. That is correct, yes.

Q. And one way or another Mr. Noel Fox had some involvement in relation to the Tripleplan cheque; isn't that correct?

A. Yes.

Q. There appears to be no involvement of Mr. Fox in relation to these cheques; isn't that correct?

A. Well, that is the case, I believe, yes.

Q. Was Mr. Fox still a close advisor of yours in December, October, November of 1992 or had the split or tension occurred at that stage, which he has already described?

A. I thought he was still close to me, that's in 1992, yes even at that stage sir, yes.

Q. At the end of 1992?

A. Up to December 1992 and even into early January of 1993 I thought he was still very much a close friend.

Q. Was he still attending the morning meetings at that stage?

A. I believe so.

Q. Did he go with you to the Middle East on a business trip with buyers in November of 1992?

A. He never went on a buying trip sir.

Q. That was the purpose of the trip to the Middle East or to the Far East; is that correct?

A. Yes, sir.

Q. It was a buying trip?

A. Yes, sir.

Q. Was Mr. Smyth your solicitor at that stage?

A. Yes, sir.

Q. So, is it your evidence that what prompted this vague recollection is that there was a difference between the Tripleplan cheque and these three cheques?

A. In my mind, yes, sir.

Q. So let's proceed on the basis of your vague recollection for the moment. You must have physically taken these three cheques from the premises of Dunnes Stores yourself; is that correct?

A. I must have, yes.

Q. And if your recollection is correct, you must have handed

them to Mr. Barnacle or somebody on his behalf; is that

correct?

A. That's my recollection. Yes, sir.

Q. You are saying you definitely never handed them, or had

them sent to Mr. Traynor; is that correct?

A. Definitely.

Q. We know from the evidence of Mr. McCann, that he got two of

the cheques from Mr. Traynor and was informed that the

third one would be coming; isn't that correct?

A. That was his evidence. Yes, sir.

Q. Now, if your recollection is correct was this a loan to

Celtic Helicopters?

A. I can't remember sir.

Q. Was it an investment in Celtic Helicopters?

A. I never invested in Celtic Helicopters sir.

Q. But it had to be for some purpose because this was company

money; isn't that correct?

A. Yes, sir.

Q. And as you have informed us already, you always did

everything on behalf of Dunnes Stores; isn't that correct?

A. With there I always done everything, yes, some things.

Q. That is what you told us; isn't that correct?

A. In business. I always done everything in business, I done

everything on behalf of Dunnes Stores.

Q. Well, this can hardly be anything other than business,

œ180,000 drawn on the Grocery Account?

A. Absolutely not.

Q. And you are giving it to, from your recollection, another company?

A. Absolutely sir, that's correct.

Q. So surely your mind must have been exercised to some extent as to what purpose this was for?

A. Again if I am making assumptions here, it had to be.

Q. It had to be what?

A. Involved in business if I was doing something with the company's money I have to assume that my mind would have been thinking. Yes, sir, that is a fair assumption.

Q. Because otherwise it would just be a crime, it would be stealing wouldn't it, if it wasn't being done for the business; isn't that correct?

A. Otherwise.

Q. It would be just stealing the company money, it had to be done for a company purpose; isn't that right?

A. Yes.

Q. So, let's look at what the options, the business options there might be. It might be a loan; isn't that correct?

A. That's an option. Yes, sir.

Q. It might have been an investment, but you discount that out of hand?

A. Definitely sir, yes.

Q. Can you conceive of any other option, other than a loan or an investment which would be an appropriate business transaction?

A. Well, I can think of a situation, of situations in Dunnes

Stores where I gave suppliers money with no strings attached.

Q. In relation to this particular transaction there was no commerciality in terms of a service or goods being supplied by Celtic Helicopters; am I correct?

A. It looks that way. I mean they did provide us with a service which was helicopter service.

Q. That was all related to Mr. Justice McCracken of course wasn't it, that end of things?

A. Yes, sir.

Q. This was not related to Mr. Justice McCracken, so can we take it that there was no commerciality in the sense of providing goods or services to Dunnes Stores?

A. It looks that way. Yes, sir, I can't disagree with you there.

Q. So it can only have been a loan; would that be right?

A. No sir, as I said, I have given people who done business with us, money with no strings attached if they were in financial difficulties.

Q. Well what does that mean, like?

A. I was going to say

Q. I want to just be careful now Mr. Dunne. This is company money?

A. Yes, sir.

Q. If it is not done, if a transaction is not carried out for the benefit or for the purpose of the company, it is stealing; isn't that correct.

MR. MURRAY: That is an assumption which is not necessarily correct at all. I think Mr. Coughlan is now trying to put essentially theories of law to the witness.

CHAIRMAN: Well I think it is perhaps, Mr. Coughlan, without getting into an argument about this, it is perhaps unnecessary to take on board all of the concepts of mens reas, actus reas, sub larceny, and could perhaps be put in a more colloquial context.

MR. COUGHLAN: May it please you.

Q. Are you saying that you would have given money or are you saying that you gave money to Mr. Barnacle on behalf of Celtic Helicopters other than by way of loan; in other words that it wouldn't have to be paid back?

A. What I am saying is that I did do in Dunnes Stores in my time. I kept people, sorry .

Q. I am asking you Mr. Dunne, I am asking you about this action?

A. This transaction.

Q. This transaction?

A. I can't remember the situation, but I am - you are asking me was there, is there another thing that I could have done, you said is it a loan or was it a -.

Q. An investment?

A. An investment. And I said, and you said is there anything else you could have done?

Q. Yes?

A. And what I did do, I am not saying I done it to Mr. Barnacle, but you want me to specifically talk about Mr. Barnacle.

Q. I want you to talk about Mr. Barnacle?

A. Of what could have happened then.

Q. What did happen?

A. I can't remember what happened, I have only the vaguest of recollections. You have asked me sir, can I answer, if it wasn't a loan, if it wasn't an investment, you have asked me what else could it have been; is that what you asked me.

Q. Yes. What else could it been in Mr. Barnacle's case?

A. I could have been keeping the company, if the company had a financial difficulty, and if it was in my opinion in the interests of Dunnes Stores to keep that company in business, I could have put money into the company. So they could continue to provide us the service; I am just saying that is another option sir.

Q. Okay. So it would be perhaps in the twilight area of being between a loan and an investment if we might describe it like that?

A. I wouldn't see that as twilight at all, I would see that as a very clear area of the way I operated. I am not saying I done it to Celtic Helicopters, but it was a very clear area of the way I operated when I was running Dunnes Stores sir.

Q. So you would have, if that happened here, you would have had to made some type of commercial decision that it was

some sort of an interest of Dunnes Stores to keep Celtic Helicopters in business for some reason; is that correct?

A. You are asking me for another option sir and I am giving you another one that comes to my mind.

Q. Well, was it essential for Dunnes Stores sorry, was it a necessary commercial decision to be made for Dunnes Stores that Celtic Helicopters should be kept in business?

A. I hope I have understood. I am not saying I done it, I am saying it would have been a thing that could have happened.

Q. Well then, I want to ask you and explore that. Was it a necessary commercial decision for Dunnes Stores to make that Celtic Helicopters should be kept in business, if that be the case?

A. Whenever I done it, this is the only way I can answer it sir. Whenever I done it and if that was Celtic helicopters as well, if I done it there, and I don't remember, I would have, I would have believed that I was making the right decision sir.

Q. Very good. But if that be so, what was the commercial interest for Dunnes Stores that Celtic Helicopters should be kept in business. Celtic Helicopters specifically?

A. I didn't say I done it, I don't know because I can't remember.

Q. What I am asking, really asking you, forget about whether did you it or didn't do it?

A. Yes.

Q. Can you identify the commercial necessity for Dunnes Stores

to keep Celtic Helicopters in business?

A. I can't sir.

Q. You can't?

A. No sir.

Q. And of course if it were a loan, you would have clearly remembered that when you saw the Price Waterhouse Report in 1994; isn't that correct?

A. I think if there was a loan I think it would have been documented.

Q. Now, I think have you seen the memorandum of the evidence proposed to be given by Mr. Barnacle at this Tribunal?

A. I have sir.

Q. And at paragraph 35 of that memorandum of the proposed evidence I want to put this to you so that you can comment upon it:

"At no time did I ever ask Mr. Ben Dunne to invest in the company or to provide money for the company other than in respect of the flying services which the company provided for Mr. Dunne and the Dunnes Stores Group of companies. I had no discussion with Mr. Dunne regarding the affairs of the company. I did not receive the three cheques for the sum of œ49,620, œ50,162, œ79,418 dated the 20th of November 1992; the 23rd of November 1992 and the 27th of November 1992 respectively from Mr. Dunne or anyone else"?

A. I read that sir, yes.

Q. If that evidence is given by Mr. Barnacle do you wish to comment upon it?

A. No, I can only really comment on my own evidence sir.

Q. If he says, he will say if the memorandum is in accordance with the evidence, he will give, that he never discussed the company's affairs with you, he never got this money from you. Do you have any comment to make on that?

A. Nothing further than my own evidence sir. My recollection is different to what he is saying.

Q. Now, if can he could go back a moment. I think you had, you were involved in giving evidence to the McCracken Tribunal; isn't that correct?

A. Yes, sir.

Q. And can we take it that you followed the events of that Tribunal closely?

A. Yes, sir.

Q. And you have considered the report of that Tribunal?

A. Yes, sir.

Q. And you know that in the course of that Tribunal and it is contained in the report, there are a number of copies of statements made by Mr. Charles J. Haughey to the Tribunal; isn't that correct?

A. Yes, sir.

Q. And I think you gave evidence in that Tribunal of handing Mr. Haughey three drafts totalling €210,000 at his home in Abbeville, Kinsealy in the summer of 1991; is that correct?

A. I did sir.

Q. So, it would be your understanding that there can be little doubt as far as you understand, that Mr. Haughey must have

known that you handed him this money; isn't that correct in your mind?

A. Yes, sir.

Q. I will hand you a copy of the McCracken Tribunal report, if I may. (Handed to witness)

And if you go to page 100 of the report. You will see that there is a copy statement of Mr. Charles Haughey dated the 15th of July of 1997.

A. Yes, sir.

Q. On page 106 is a copy statement of Mr. Charles Haughey dated the 9th of July of 1998, and on page 107 there is a copy statement of Mr. Charles J. Haughey dated the 15th of July of 1997 and that was the third statement?

A. Yes, sir.

Q. You remember all of that, don't you?

A. Yes, I wouldn't Yes, I do. I remember it.

Q. Now, could you go to page 102 and that is in a copy statement of Mr. Haughey's?

A. 102. Yes, sir.

Q. I am unsure, but I think that may well be the second statement, I am unsure, but what I want to refer you to is paragraph 11, number 11, from which there seems to be no resiling from that position in any other statement furnished by Mr. Haughey; and I want to just ask you could you confirm whether or not that that is correct in your recollection. I will read it out?

A. Yes, sir. Okay.

Q. "On Friday the 9th of October of 1992 I had dinner with Mr. and Mrs. Bernard Dunne and Mr. and Mrs. Noel Smyth in Abbeville, Kinsealy. This was my first meeting with Mr. Noel Smyth whom I subsequently met on several occasions over the following years. Can you remember that dinner and did it take place?

A. Yes, I can.

Q. And it was then?

A. Well, if he said it I would say yes, it was.

Q. Can you tell us how that dinner arose?

A. I must have been invited.

Q. Yes, I presume so. To your knowledge did Mr. Smyth know Mr. Haughey before that?

A. I wouldn't think so. I mean I am going on, I wouldn't have known whom Mr. Smyth met. I am going on what Mr. Haughey, I wouldn't know.

Q. What I am trying to get at ?

A. Did he say to me that he hadn't met him; is that it?

Q. No. No he says - I am not asking you that, I am saying the statement in his statement from which you seem to confirm as being correct?

A. Correct.

Q. That there was a dinner?

A. Correct.

Q. At Abbeville on this date?

A. Yes, sir.

Q. That you and your wife were guests and that Mr. Smyth and

his wife were guests; were there any other guests?

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

Q. Mr. Haughey says in this statement this was his first time meeting Mr. Smyth?

A. Yes, sir.

Q. What I am trying to ascertain from you is how did the invitation come about?

A. I must have got a phone call. I mean I want you at dinner, to take both your wife and yourself to dinner.

Q. Yes?

A. I am not sure whether he rang Noel Smyth or whether he would have said "would Noel Smyth like to come to dinner"?
I don't know.

Q. Yes. This was the first time you met him was at this dinner in his house, according to himself?

A. That is what he says, yes.

Q. Do you have any recollection how the invitation would have been issued to you and your solicitor?

A. I don't think that I asked Noel Smyth to come to the dinner, that

Q. Well obviously you couldn't invite anyone along to Mr. Haughey's house for dinner?

A. I don't think Mr. Haughey said "and by the way would you ring Mr. Smyth and invite him along as well". I don't think so.

Q. And according to you, you had handed - according to you you had handed Mr. Haughey, would we agree, a substantial sum

of money in bank drafts the previous year?

A. That's a fact, yes, in my mind.

Q. So in your mind there could be little doubt but that Mr.

Haughey knew at that time, in your mind, that you were the source of at least some money to him; is that correct?

A. Yes, sir.

Q. Had you been at dinner in Mr. Haughey's house or with Mr.

Haughey prior to this?

A. I certainly recall, I am not sure whether it was prior or before or after it, but I certainly recall having dinner one other time in his house, yes.

Q. And who was present on that occasion?

A. I can't be sure, I have to really

Q. Well try?

A. I think a fellow by the name of Declan O'Callaghan and his wife. I can't be sure, I mean.

Q. Is there a garda box posted at the entrance to Kinsealy?

A. Yes, sir.

Q. And can you tell us when you arrive there what is the procedure?

A. Well, any time I arrived "I am going up to see Mr. Haughey", "have you an appointment?". "Yes". You are kept waiting there, you know, for a short period of time and then

Q. You are let in?

A. You are let in.

Q. So?

A. And they would ask you your name I think.

Q. And there is a guard in that box, is there?

A. Either in the box or on the road.

Q. Yes. Well, who asks you, I just want to you drive up?

A. Yes, sir.

Q. You are asked who you are and what your business is I presume; is that correct or do you have an appointment?

A. Just have you an appointment.

Q. And then does the person on duty telephone or radio the house?

A. I don't know. I assume radio or maybe telephone, I don't know.

Q. And you are kept waiting there until permission or authorisation is granted; is that correct?

A. It is a security check.

Q. Does anybody write anything down?

A. I don't know sir.

Q. Did you ever see anybody with a list?

A. Never, I don't know.

Q. You don't know?

A. I don't know.

Q. This dinner on the 9th of October 1982, occurred in the month before these cheques were written according to your recollection of when they were written; isn't that correct?

A. That's the way it is sir. Yes, sir.

Q. Very close in time; isn't that correct?

A. Yes.

Q. And according to you Mr. Haughey would have been aware that you were the source of money to him from the previous year; isn't that correct?

A. That's correct sir.

Q. Did anyone have any discussion with you at that dinner about finances?

A. Definitely not.

Q. Did anyone say to you: "The lad's business might be in a bit of trouble" or anything like that?

A. No sir.

Q. It is awfully close in time, isn't it, to the drawing of the cheques?

A. Yes, sir.

Q. And you have Mr. Barnacle, and if Mr. Barnacle is correct, and he didn't speak to you, who could have spoken to you?

A. On Celtic Helicopters, there was only two people I would have spoke to outside of booking a flight. A telephone girl, but the only two people I would have spoken to in Celtic Helicopters would have been John Barnacle and Ciaran Haughey. In my, and my clear recollection was anything to do with the business times, rate per hour, flights, I always dealt with John Barnacle so I would have said only two, which was John Barnacle because they were the two people outside of speaking to a telephone operator, but the only person I believe that I would have spoken to on business about Celtic Helicopters would have been John Barnacle.

Q. We will come back, in due course, to inquire into the question of why in this Tribunal. But just for the moment in leaving Dunnes Stores and the business of Dunnes Stores, or you personally after this; are you aware if anybody else whom you know ever discussed business matters with Mr. Charles Haughey?

A. Could you repeat the question sir?

Q. Yes. In connection with all of this money we have been talking about in this phase of the Tribunal, leaving Dunnes Stores and yourself out of this, are you aware of anybody else in your entourage or close to you, who ever spoke to Mr. Haughey?

A. No, I am not.

Q. You are not aware?

A. No.

Q. Now, could it be that you gave cheques to Mr. Barnacle on another occasion, and not these three cheques?

A. No. Sorry, are you talking? I mean could I have given Mr. Barnacle a cheque for a thousand pounds? Are you talking about large sums.

Q. Yes?

A. No sir.

Q. Leaving aside using the helicopter and

A. No sir.

Q. And you had on another occasion, I think, facilitated a loan to Celtic Helicopters; is that right?

A. Yes, sir.

Q. And that was dealt with in a completely different way; isn't that correct?

A. Yes, sir.

Q. And that involved some litigation involving Dunnes Stores and Celtic Helicopters; is that correct, which was resolved?

A. I think so, yes.

Q. Sorry; and this is just for the record there. I referred to the statement which I asked you to read paragraph 11 of, as being a copy statement of Mr. Haughey's statement dated the 15th of July, of 1997. There is an ad ratum, in fact it was a copy statement of Mr. Haughey's dated the 7th of July, of 1997.

CHAIRMAN: Well, that seems to make sense given the time sequence that you have indicated Mr. Coughlan.

MR. COUGHLAN: Yes.

Q. Thanks Mr. Dunne.

CHAIRMAN: Mr. Connolly?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. CONNOLLY:

Q. MR. CONNOLLY: I want to ask you some questions, Mr. Dunne, on behalf of the Revenue Commissioners in relation to these payments. First of all whether or not, whether these payments were a loan or a handout. It would appear to be the case that they were not, the requests were not in

writing in anyway?

A. That's

Q. The requests for the payment?

A. Yes, I think.

Q. Nothing in writing on that?

A. Yes.

Q. Likewise there was nothing in the way of an acknowledgment of receipt of these monies by Mr. Barnacle or Celtic helicopters; is that right?

A. I don't think so.

Q. What was the reason for putting the three cheques into cash rather than making the cheques out to Celtic Helicopters?

A. I have only a vague recollection. I can't I mean I can't answer the question because I can't, I don't - I can't recall it to be able to answer the question. What I would say, if I put something into cash if, if I done it which I it would be for cash.

Q. I don't follow that?

A. A cash cheque would be to cash.

Q. Yes; but this was either a loan or a well intended handout to Celtic Helicopters. What was preventing you as putting them as the payee on the cheque?

A. I don't even know. I can't - I have such a vague recollection that I don't even know if I done it for Celtic Helicopters sir. I am giving you the slightest recollection, but I can't be, I can't be sure.

Q. Well, a Mr. Cummings gave evidence last week to the effect

that you apparently told him that these cheques were not to be found; is that right or is that wrong?

A. I would accept Mr. Cummings word definitely sir.

Q. Well, if that is the position then clearly your intention was to treat these payments in a very private way; is that correct?

A. That must have been, yes.

Q. Well, who was it that you didn't want to know about these payments by making them out to cash rather to Celtic?

A. I would have said my family, but I would have to say if, knowing me it would have also included, maybe the Revenue. I am answering the question very honestly.

Q. Yes?

A. I would have to, I couldn't exclude you from the answer I have given.

Q. Thanks Mr. Dunne.

MR. HARDIMAN: No questions.

CHAIRMAN: Miss Costello.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MS. COSTELLO:

Q. MS. COSTELLO: May it please you, Chairman. Mr. Dunne, I appear on behalf of Mr. Barnacle and on behalf of Celtic Helicopters and I have a few questions I wish to put to you.

You said you had a vague recollection that Mr. Barnacle may have discussed the affairs of Celtic Helicopters with you

and may have said that the company was in some financial difficulty. You said this recollection only came to you recently; is that correct?

A. That is correct.

Q. And I think you said in answer to questions by Mr.

Coughlan, you said that it was triggered by events unfolding in this Tribunal; is that correct?

A. That's correct.

Q. Would it be fair to say that it was as you heard the story about these cheques unfolding that that was what you were referring to?

A. That would have been one of the factors, yes.

Q. And?

A. It would have been my own thinking as well. I just kept the whole, I just didn't, I just kept thinking, yes it would have been one of the factors.

Q. And I think, to be fair to you, you have said to Mr.

Connolly that you are, you don't even know if you did it for Celtic Helicopters. By "did it" I take you mean drawing out these three cheques?

A. I don't, I have a vague recollection.

Q. I think you also said that if you were dealing with the business end of matters involving Celtic Helicopters, you dealt solely either with Mr. Barnacle or Mr. Ciaran Haughey; is that correct?

A. That's correct.

Q. And may I put it to you Mr. Dunne, that you might be

inferring from a knowledge, as to the path these cheques travelled and the proceeds of these cheques, combined with your knowledge that when you discussed matters of business in relation to Celtic Helicopters that you therefore through this assumption that you must have discussed the matter with Mr. Barnacle because you can't recollect having discussed it with anybody else?

A. I don't understand the question.

Q. What I am suggesting to you Mr. Dunne, is that you were putting various facts together and coming up with an assumption. I am suggesting that you, that the facts you were putting together were firstly you were aware that if you dealt with Celtic Helicopters in relation to matters of business, that you dealt with either Mr. Barnacle or Mr. Ciaran Haughey, or more probably Mr. Barnacle because he dealt more with the finances end of the business, financial end of the business, that is the first point.

The second point of, as events unfolded in this Tribunal, you became aware of the fact that the three cheques drawn on the Dunnes Stores Grocery Account appear to have been lodged to the account of the Carlisle Trust and then there were two cheques drawn on the account of Carlisle Trust, one of which was drawn in favour of Celtic Helicopters and which was lodged to the account of Celtic Helicopters. I am suggesting to you Mr. Dunne, that in the light of these facts, both as they emerge and as you knew them, that you

reached an assumption that you must have discussed the matter with Mr. Dunne and that it was an assumption rather than a recollection?

CHAIRMAN: Mr. Barnacle?

MS. COSTELLO: Mr. Barnacle, I beg your pardon. Thank you Chairman?

A. I don't, in fact I didn't assume anything. I got a vague recollection as regards assuming anything, I have got no further than vague recollection.

Q. You see ?

A. I don't assume anything, I believe.

Q. You see even if we take your vague recollection as being correct, and as has been stated Mr. Barnacle will be giving evidence to the contrary, the cheques drawn up were three in number; isn't that correct?

A. That is correct.

Q. And I think they totalled œ180,000?

A. That is correct.

Q. Now, Celtic Helicopters received a cheque drawn on the account of Carlisle Trust in the sum of œ100,000?

A. That's what I saw here, yes.

Q. So Celtic Helicopters didn't get the benefit of œ180,000?

A. What I gave sir, was my vague recollection of giving the cheques, I wasn't talking about anything else, so I would assume nothing, I am talking about my recollection, vague as it may be, is that I got, that I gave these three

cheques to Celtic helicopters. That is the only thing that I have said.

Q. And I think ?

A. And nothing else.

Q. I think in fairness to you Mr. Dunne, I think you said that you did so in response to a request from Mr. Barnacle, a suggestion that the Celtic Helicopters was in financial straits at the time?

A. That is my recollection, correct.

Q. Well, would it strike you as strange if that is the case Mr. Dunne, that Celtic Helicopters appears to have received only €100,000 rather than €180,000 of the money which you apparently gave to Mr. Barnacle on behalf of Celtic Helicopters?

A. I didn't even think about the rest, I was only thinking about my own evidence.

Q. Well now, would you think it strange if a company was in difficulty and you assisted it to the tune of €180,000, if it only kept €100,000 which went to itself?

A. Yeah. You could say it is strange. If you put to me well is it strange if that is the case, I have to say yes.

Q. And as I say Mr. Barnacle's evidence will be to the effect that he never discussed financial matters with you and that he didn't receive these cheques, but you say to the contrary?

A. That's .

Q. That is your evidence?

A. That is the case, yes.

Q. I think Mr. Coughlan pointed out that on a previous occasion when Dunnes Stores lent money to Celtic Helicopters, it did so in an entirely different fashion, loan documentation drawn up and you contacted your solicitor; is that correct?

A. That is what I done, yes.

Q. And that didn't occur in this case?

A. No it didn't occur, no.

Q. And then one final point Mr. Dunne, just to clarify from your statement, at paragraph 12.3 of your statement you said:

"I did not nor was I empowered to give any instructions for a cheque in the sum of €100,000 to be drawn on the account of Celtic Helicopters limited".

I think to be fair, I think there may well have been a typographical error there. I think the suggestion, but stop me if I make it wrong, is that the cheque for €100,000 was drawn on the account of Carlisle Trust Limited made out to Celtic Helicopters Limited.

A. That's correct.

Q. You are not in anyway suggesting there was a cheque drawn on the account of Celtic Helicopters Limited?

A. My understanding is that I didn't give - can I read it.

Q. Yes certainly. It is paragraph 12.3.

A. Page?

Q. 11.

A. Yes. What is the question please?

Q. I was just concerned that the statement there concerned there, that the statement there might have been a typographical error and that that was intended, that you did not or were empowered to give a cheque that was drawn on the account of Carlisle Trust Limited made payable to Celtic Helicopters Limited?

A. Yes.

Q. I don't think there is any suggestion that there was any cheque drawn on the account of Celtic Helicopters Limited for the sum of €100,000?

A. Well, I couldn't give that instruction either.

Q. I obviously accept that. But just in case there was, there was some suggestion being made on your part that there was a cheque drawn by Celtic Helicopters in the sum of €100,000 that is not what you are intending to say there?

A. The answer to either question is no.

MS. COSTELLO: Thank you Mr. Dunne.

CHAIRMAN: Anything Mr. Shipsey?

MR. SHIPSEY: No.

CHAIRMAN: Mr. McGonigal?

MR. MCGONIGAL: Thank you Mr. Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. MCGONIGAL:

Q. Mr. Dunne, in your statement to the Tribunal you said in relation to this transaction that you had, that you have absolutely no recollection of the above events, except that they did occur. Is it correct to say that that is in fact the reality of your memory?

A. I don't understand.

Q. That you have actually no recollection of the events surrounding those three cheques?

A. I have a vague recollection.

Q. But the vague recollection which you have is one that has come to you very recently?

A. That is correct.

Q. And prior to that recent recollection you had no recollection of the events surrounding those cheques?

A. Yes.

Q. We can glean from the facts that the three cheques were drawn on a Dunnes Stores account?

A. Sorry. I want to, I want to change, not change when I say I had no recollection of those cheques; when I saw the Price Waterhouse Report when I looked at them I came to a conclusion about those cheques, that's the and I thought in fact that they were mine, that I had put them down to myself, that's and that's, that was my recollection.

Q. So just to get it in context, Mr. Dunne. When you saw those cheques which had been drafted, which had been drawn up on your instructions?

A. Yes.

Q. For the amounts for which they were written, when you saw them in the Price Waterhouse, you believed at that time that they were cheques, that they were cheques which you had sought for your own personal use?

A. That is the conclusion I came to when I saw the Price Waterhouse Report, that is correct sir.

Q. And at the time when those cheques came to your, were brought to your attention, that was your best recollection?

A. Definitely.

Q. And you genuinely believed as of that time that those cheques had been used by you for some personal purpose?

A. That's what I thought sir.

Q. And you continued in that belief until this Tribunal was set up and you became involved in it?

A. That's correct sir.

Q. At the time of the McCracken Tribunal, despite seeing those cheques again, your recollection of having used them for your own benefit, was not shaken or changed?

A. No sir.

Q. And you continued on with that view until very recent times?

A. Correct sir.

Q. Just looking at the cheques in toto Mr. Dunne, for a moment, there are the two cheques and the two payments; November 91 and this payment 92, the Carlisle Trust payment. Those are payments made which did not involve Mr. Fox at all in the transaction?

A. This payment and which other payment?

Q. The November 91. The €210,000?

A. Correct.

Q. Before that you had four payments: The €182,500, the €471,000, the €200,000 and €150,000. Those four payments were dealt with in the replies to particulars in the proceedings which involved yourself and the company and the trustees?

A. I am not sure it is a fact what was dealt with in that dispute.

Q. And prior to those payments, there were two further sets of cheques. One the three bearer drafts as they have been referred to and the second the Tripleplan. Now both of those payments involved Mr. Fox but you have no recollection of being involved in those?

A. I have no recollection whatsoever on Tripleplan.

Q. And you equally have no recollection of being involved in the bearer cheques so far as there may or may not have been payments to Mr. Haughey?

A. That's correct.

Q. You are in fact clear, have a fact clear recollection is that the first involvement so far as Mr. Haughey was concerned was a conversation which you had with Mr. Fox, which you dated to around November, December of 1987?

A. That was my clear recollection up to this Tribunal, that's correct.

Q. Yes; and so far as that conversation is concerned, am I

right in understanding that really until this Tribunal it has always been your belief that your first involvement, or payments to Mr. Haughey was some time post November, December of 1987?

A. That's correct.

Q. And even though you have seen the Tripleplan cheque and the bearer cheques, your best recollection is that the conversation which you had with Mr. Fox, you would still place in November, December of 1987?

A. No I didn't say that, I said that I must have been wrong in putting it down. I think I said in evidence here that I had to be wrong, it had to be a lot further back.

Q. Yes, but you are saying that, Mr. Dunne, because of the existence of the Tripleplan cheque?

A. Because of the facts.

Q. Because of the existence of the Tripleplan cheque. You are not saying it because you actually recollect a conversation taking place prior to the payment of the Tripleplan cheque?

A. No, I am not saying it because I recollect a conversation before the Tripleplan. I don't recollect the Tripleplan or a conversation before it, that's correct.

Q. The reason why you are placing it before the Tripleplan is because you are trying to get the facts to fit so that they may try and make some kind of sense?

A. I would say I am saying it because it makes sense, but that is my I don't assume, but I am assuming there. Yes, sir.

Q. But the reality is that so far as your best recollection goes, the conversation which you had with Mr. Fox concerning Mr. Haughey's finances, your best recollection, leaving aside Tripleplan, is that that took place in November, December of 1987?

A. That is my recollection, yes.

Q. And part of the reason for thinking that is because you realise in that time, the length of time it would take to put the Equifex payments in place?

A. Could you repeat that?

Q. Part of the reason for placing it around that time is because you told us, I think, that it was going to take you sometime to get the Equifex payments in place?

A. That's correct. The six or seven months, that's right.

Q. And doing the best you can, that is why you placed the conversation around about November, December?

A. That is correct.

Q. Now, coming to November 91, in relation to the three bank drafts?

A. Yes, sir.

Q. Those three bank drafts were initially sought by you from Mr. Smyth for a personal purpose?

A. That's correct.

Q. And something totally unrelated to Mr. Haughey?

A. That's correct.

Q. And at the time that you got those three drafts and for some time subsequent to that, you believed that you had

used those drafts for that personal purpose?

A. That is correct.

Q. And that would that view would have continued right up virtually to the McCracken Tribunal?

A. I wouldn't have thought about it again until the McCracken Tribunal, so I would have had no reason to even think about it.

Q. There was a stage, and I thought in the McCracken Tribunal you indicated that you had a view that you may have given them to your siblings?

A. That is correct.

Q. So initially you thought that the cheques, initially you sought the cheques for a personal purpose and you believe that you had given them to the people that you had sought them for?

A. Correct.

Q. You subsequently, at some stage, thought that they had gone to your siblings?

A. Correct.

Q. Had that something to do with the proceedings and the, and in particular the Trust proceedings?

A. Had what? I don't understand.

Q. Your recollection or belief that they may have gone to your siblings?

A. Well, it had nothing to do with anything except my memory sir, whether it was litigation or whether it is in the Tribunal here, my memory is my memory and I had to state,

and for what reason, whatever, whether within the litigation, but that was my memory.

Q. Am I right in understanding that at the time of that litigation that your memory then was that they had been given to your siblings?

A. Correct.

Q. So at some stage between November 91 and those proceedings your memory as to what happened to those three drafts changed?

A. That is a fact, it had to, yes.

Q. But you are unable to help us as to when that happened. You are unable to help us as to when your change in memory took place?

A. When the McCracken Tribunal sat or when it was appointed and Payments to Politicians, it was during that period.

Q. And just coming up to that, coming up to the McCracken Tribunal, if anyone had asked you about those three bank drafts you would have told them that they had gone to your siblings?

A. It is hypothetical, but the answer is "yes."

Q. Well, you would have told them one of two things Mr. Dunne probably. You would have told them that either they had gone to your siblings or alternatively they had gone to the people for whom you had requested the bank drafts?

A. I would have said "mind your own business".

Q. Thank you Mr. Dunne. One of those three?

A. In a serious situation like a Tribunal it would, my brain

would have immediately or my memory would have immediately focused on to one of two things or one of two things, yes.

Q. Now, when the McCracken Tribunal was set up in relation to the matters with which it was concerned and during the course of the review of the Tutbury cheques, there was a change in memory again?

A. There was a re-examination which produced a change of memory. That is correct.

Q. The recollection which you now have is that, simply a recollection of something that may have happened?

A. It is a recollection of something that happened.

Q. Can I take it that so far as you are concerned, you still have a recollection of playing a game of golf?

A. Yes.

Q. And that the game of golf preceded your visit to that house, to Abbeville?

A. That is my recollection, yes.

Q. You appreciate that Mr. Haughey still has no recollection of that event taking place?

A. I know that.

Q. Do you see your recollection as being one of a number of possibilities, or the only possibility?

A. I see it as being the only one having thought and thought and thought. That is my clear recollection of it sir.

Q. In relation to the particular day, can I ask you just one or two questions? Do you recollect who it was that you were playing golf with?

A. It could have been one of ten people I don't know. I mean I couldn't be sure, that's the answer.

Q. Do you recollect what kind of a day it was?

A. No I can't, no. Good enough to play golf. It was good enough to play golf.

Q. When you say it was good enough to play golf do you mean it was dry not wet?

A. It definitely wasn't wet and I would say definitely wasn't very windy, but that's just putting the, that's an assumption; which I don't like making.

Q. Considering it was both wet and windy, what then would be your recollection Mr. Dunne?

A. Well, my understanding would be that it was wet and windy that I wouldn't play golf.

Q. So that if it was, if it was established that it was wet and windy round the time that you say that you were playing golf, would you; does that mean that you probably weren't playing golf?

A. Yeah, I mean I don't know.

Q. I am just curious?

A. The chances - I don't have my only day of golf wasn't just Saturday, so if I wanted a game of golf I could play it during the week.

Q. I am just trying to tease your memory out Mr. Dunne?

A. I find it nearly impossible to sorry, I will continue.

Sorry.

Q. But the reality is that if it was established that it was

wet and windy round this time, then the probability is that you were not playing golf?

A. That is my understanding but I have to say that I could; people - you could meet people that would tell me that I would go out and play in all sorts of weather.

Q. Do you recollect who won?

A. No, I have won and lost so many times I couldn't say which.

Q. I understand Mr. Dunne, and I say this in a friendly way, that you are and are known to have a bet at times when you are playing golf?

A. People assume that, right enough.

Q. Do you recollect whether you won or lost on that occasion?

A. I don't.

Q. In relation to the three drafts that the three people for whom you sought the drafts, can you tell us who they were?

A. I believe they were two of my sisters.

Q. Sorry?

A. Two of my sisters and myself.

Q. I see. So they were three drafts for your own personal use?

A. That's correct sir.

Q. Not three persons, not three other individuals?

A. That is my memory.

Q. I see. So they were actually for your siblings?

A. That is my clear recollection.

Q. Would they have been in fictitious names?

A. That is, that is the way it happened.

Q. I know that is the way it happened Mr. Dunne, but why is it?

A. Why? I don't know. I mean they just were.

Q. One would have thought that you might have put them in bearer or cash cheques?

A. Because they were drafts, I would be afraid to have a draft in cash, I am telling you the way I think. Bearer was a name I never used, but I certainly, at least if they fell out of my pocket with the name, with somebody's name on them, and this is again I am assuming; I don't like assuming but it would have made sense to me, if I had a bank draft made out in cash that if that fell out of my pocket that anybody could cash it.

Q. I understand that answer Mr. Dunne, but I am concerned about it because I understood you to say when you were giving evidence in relation to the bearer cheque?

A. Yes.

Q. That when the bearer cheques were given to you that you had a habit of sticking them in your back pocket to take around to the various people that would get them?

A. Correct.

Q. And that you sometimes had them on you for a week a month, maybe six months, eight months. So if you had these loose cheques in your back pocket it doesn't necessarily support the idea that you would put the three cheques in November 91 in fictitious names?

A. I don't understand the question. It happened and I did do

it.

Q. Yes. You see wouldn't the same principle, wouldn't the same problem have arisen with the three Carlisle Trust cheques which were in cash?

A. I never said they were going around in my pocket.

Q. You never really said anything about them Mr. Dunne?

A. That is correct.

Q. Now that I think about it, were they in your pocket?

A. I have a vague recollection, I think if they were in my pocket I would have a better recollection.

Q. Just something I want to get clear Mr. Dunne. You have agreed that, or at least you have indicated that if it was wet and windy at the time that you thought you were playing golf and that you weren't playing golf; does that mean that there is a possibility that you didn't go to Abbeville at the time that you thought that you went to Abbeville?

A. It - yes. Yes, I mean there is a lot of, there is a there is - the answer, the way you put it to me, there is only one answer, yes.

Q. There is a lot hanging on the weather Mr. Dunne?

A. If you put it the way you are putting it the answer is yes again. I am not saying that, but I can only give yes or no to that and the way the conversation or the questions have been asked I would say yes.

MR. MCGONIGAL: Thank you Mr. Dunne.

CHAIRMAN: Mr. Murray?

MR. MURRAY: I have no questions.

CHAIRMAN: Anybody else?

THE WITNESS WAS THEN FURTHER EXAMINED AS FOLLOWS BY MR.

COUGHLAN:

Q. MR. COUGHLAN: Could I just clarify Mr. Dunne? First of all in relation to the €210,000 which were in bank drafts?

A. Yes, sir.

Q. Is it your evidence that you did hand these to Mr. Haughey at Abbeville or that you have no recollection?

A. It is my evidence that I handed them to them, handed the cheques or the drafts to him in Abbeville.

Q. You definitely handed them, that is your clear recollection or do you want to, in anyway, modify that?

A. No, that is my clear recollection.

Q. These draft, these drafts and the three cheques we are talking about, which were described as the No. 6 Grocery Account cheques or the Carlisle cheques are not referred to in the Pleadings or the proceedings which involved you and your siblings or the Company or the Trust; isn't that correct?

A. Those three cheques.

Q. Those three cheques?

A. Plus the

Q. Plus the €210,000 drafts?

A. In the Pleadings with my the litigation with my family?

Q. Yes?

A. At the time my understanding was that I gave those drafts to members of my family.

Q. Yes?

A. So I think, I think the drafts were referred to, I am not sure. I would have to check it out.

Q. Yes okay. These cheques weren't referred to in the Pleadings?

A. Definitely not.

Q. And particularly in relation to the Pleadings or the proceedings involving the trustees, of course Mr. Fox had no involvement with these cheques; isn't that correct?

A. Definitely not.

Q. And they would have played no part in the proceedings involving the trustees so; isn't that correct?

A. That's correct.

Q. So they wouldn't have formed part of any allegation in the proceedings that Mr. Fox had in anyway acquiesced or facilitated the dissipation of trust funds; isn't that correct?

A. As regards these?

Q. These.

A. That would be correct.

Q. And this consideration must have taken place when you saw the Price Waterhouse Report at least?

A. I don't understand the question.

Q. It didn't involve the trustees. Your recollection as you

have said, was that in the first instance you believed that they were for your own personal use; isn't that so?

A. That is definite sir.

Q. Yes, they certainly didn't involve the trustees on the basis of the case that was being made against the trustees?

A. That's correct.

Q. So you wouldn't have any interest in promoting them in the proceedings; isn't that correct, for that reason?

A. I would have had no interest in promoting them? There was a lot of things in the Price Waterhouse Report that, yeah, I mean that was a big report. That is a fair, that is a fair assumption sir, yes.

Q. And taking all of that into account it didn't do anything to jog your memory as to what might have actually happened to them?

A. Absolutely not sir.

Q. They were in fact the closest in time to the proceedings; isn't that correct? November, they were dated November.

We don't know when they were written, but they were dated the end of November, 1992?

A. That is correct.

Q. When did the proceedings start; do you know?

A. I don't know. Not until, I was still in the company at that stage I believe.

Q. Well you were, I think there was a resolution passed in the company; is that correct in February of 1993 removing you as a, from your position as Chairman of the company; is

that correct?

A. Yes. I think there was, yes. I think it went back to the previous July, or something before.

Q. In your previous statement furnished in the Appendix you say that, just; "For many years there were disagreements between myself and my family from time to time. These disagreements became increasingly frequent and acrimonious following my return to business in July of 1992. In February 1993 a resolution was passed by the Directors of Dunnes Stores Holding Company removing me from the position of Chairman of the Company and related companies. And a further resolution in July of that year, by which the Directors purported to suspend me from all executive duties within the company and its subsidiaries". So it was right in the middle of the

A. Of the row, yes.

Q. of the row. And that didn't assist you in recollecting?

A. Absolutely no sir.

MR. COUGHLAN: Thank you.

CHAIRMAN: Thank you Mr. Dunne.

A. Thank you.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Mr. Healy?

MR. HEALY: Mr. Barnacle.

MR. O'DONNELL: I wonder, sir, just if I could

CHAIRMAN: Mr. O'Donnell?

MR. O'DONNELL: If I could make a formal application, sir? As you are aware I appear with Mr. Gerard Charlton, instructed by Reddy Charlton and McKnight for Conor, Ciaran and Sean Haughey and Mrs. Eimear Mulhearn. I wonder if I could make an application now for representation on behalf of Larchfield Securities and the Director of that company, again with Mr. Charlton, and I am instructed by the same solicitors, sir?

CHAIRMAN: Very good, Mr. O'Donnell. Limited representation on that basis and subject to the caveats that I have already, on numerous occasions, alluded to.

MS. COSTELLO: Briefly Mr. Chairman, before Mr. Healy takes up this witness, I have indicated to the Tribunal team in private session there would be a submission that my client would like to make to the Tribunal and at whatever point in the proceedings are convenient, I bearing in mind your ruling sir, in relation to legal submissions being made at the beginning or at the end rather than interrupting the flow of witnesses. So perhaps after lunch you might indicate whether it would be an appropriate time to make the submission?

CHAIRMAN: It would be my preference, Miss Costello, unless you strenuously oppose it, that we would hear the

evidence of Mr. Barnacle first and I would perhaps hear, towards the conclusion of the day, after dealing with such witnesses as we may, any such application that if it transpires that a portion of evidence may fall not to be taken into account in the eventual factual report, of course I will entirely have regard to that, but you don't feel you are prejudiced if we proceed with Mr. Barnacle's evidence?

MS. COSTELLO: No, I have no objection to that.

CHAIRMAN: Very good.

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

CHAIRMAN: Thank you Mr. Barnacle.

Q. MR. HEALY: Mr. Barnacle, before I ask you any questions I think your solicitors have informed the Tribunal that they would like some adjustment, or at least a qualifications to be included as part of the opening statement that was made by my colleague Mr. Coughlan, and this is in encapsulated, I think, in a letter from your solicitors to the Tribunal dated the 2nd of February. So with your permission, Mr. Chairman, I might read out the relevant part of the letter for the sake of the stenographer's record.

What your solicitors say is this: "In relation to a cheque of €100,000 paid to the account of Celtic Helicopters

Limited, counsel to the Tribunal stated that the Directors of Celtic Helicopters Limited indicated that they knew nothing of this payment and that they were informed by Mr. Traynor that this was in the nature of some form of loan or investment, the precise nature of which is not clear. In fact if you would refer to our letter of the 14th of October of 1998 you will note that our clients informed you that Mr. Traynor advised our clients that this was an investment by Mr. Michael Murphy in the company in exchange for shares".

The letter went on to state that: "The company understood that the €100,000 was invested by Mr. Michael Murphy in Celtic Helicopters limited in exchange for shares". And that "initially the sum of €100,000 was treated as loan capital and then converted into preference share capital".

At paragraph 8 (1) of the letter the writer stated:

"The name of the investing shareholder was disclosed by Mr. Traynor to the company and its auditors and a share certificate issued to Larchfield Securities in trust for Mr. Michael Murphy. In these circumstances where, for counsel to the Tribunal to state to the Tribunal that the payment was "in the nature of some form of loan or investment the precise nature of which was not clear" does not represent the information furnished by the Directors of Celtic Helicopters to the Tribunal".

Now, I think your letter went on to say that Mr. Michael Murphy is and has been for some considerable time the insurance broker of the company and his address is 17 Trinity Street, Dublin 2. That's correct; isn't it?

A. Mr. Michael Murphy's address, yes.

Q. Now I think you have made available to the Tribunal a memorandum of the evidence that you can give in relation to certain aspects of your company; is that right?

A. That's correct.

Q. And do you have a copy of that memorandum with you at the moment Mr. Barnacle?

A. I do not.

Q. We will try and get a copy to you. (Document handed to witness). Mr. Barnacle, I think you are a company Director but by profession and by training you are a helicopter pilot; is that right?

A. Correct.

Q. And I think that in 1985 or perhaps even earlier, I am not sure of the correct date, you set up a helicopter company in Ireland operating from Dublin Airport, known as Celtic Helicopters; is that right?

A. Correct.

Q. Am I right on the date, that it was 1985?

A. March 85.

Q. March 85?

A. Yes.

Q. And in setting up the company I think your main associate

was Mr. Ciaran Haughey; is that right?

A. Correct.

Q. Mr. Ciaran Haughey is the son of Mr. Charles Haughey?

A. Correct.

Q. And your statement, in your statement I think you say that you and Mr. Ciaran Haughey are in fact the two principle pilots of the company?

A. That's correct.

Q. While you do, while you perform flying duties you also are mainly responsible for what I think you call the financial side of the company's affairs?

A. That's correct.

Q. I want to pass over something that you have mentioned in your statement and which has already been mentioned by Mr. Coughlan in his opening statement concerning Dr. O'Connell, and I want for a moment to go onto the second item you deal with in your statement, concerning what we have been calling the "Dunnes Carlisle cheques". And you say that the company received the cheque dated the 24th of November of 1992, drawn on the account of Carlisle Trust Limited in the sum of €100,000 in certain circumstances which you set out in your statement. That's correct isn't it?

A. That's correct.

Q. You then go on to say that in 1992 the company required an injection of capital?

A. That's correct.

Q. And you and Mr. Ciaran Haughey requested the late Mr. Des

Traynor to help you with accumulating or getting that capital?

A. That's correct. It might have been more myself than Mr. Haughey, but .

Q. You might have been the main person who went to Mr. Traynor?

A. Yes.

Q. And Mr. Traynor was the person who had assisted you with business matters like this before?

A. That's correct.

Q. Before we pass on to this Carlisle; Dunnes/Carlisle cheque would you just tell me briefly what the company's prior association with Mr. Traynor was?

A. I believe he helped us find our initial investors back in 85.

Q. When you say you believe, do you mean that he is in fact the person who found your initial investors?

A. Yes.

Q. When you were setting up the company did you go to him or did he come to you or what?

A. No, actually I had no involvement with Mr. Traynor. I was just informed that he was responsible for arranging the matters, nominees of the original investors.

Q. When you say you were informed that he was the person responsible for arranging the original investors, who informed you?

A. That probably would have been Haughey Boland & Company.

Q. And who in Haughey Boland & Company would have informed you of that?

A. Mr. Paul Carthy.

Q. Was Mr. Paul Carthy the person you were dealing with in connection with setting up this business?

A. That's correct, yes.

Q. So when you got the idea of setting up this business or when you and Mr. Haughey got the idea, Mr. Ciaran Haughey?

A. That's correct.

Q. Did you go to Mr. Carthy of Haughey Boland?

A. Mainly for the legalities of setting everything up.

Q. Had you any prior associations either Mr. Carthy or the firm of Haughey Boland?

A. No.

Q. Was this your first venture into business as opposed to flying helicopters for other people?

A. In Ireland, yes.

Q. In Ireland. You had been in business elsewhere?

A. Yes.

Q. And Mr. Carthy was the person who assisted you to get investors?

A. Yes.

Q. You didn't know at that time but you believe subsequently from what Mr. Carthy told you, am I right in that, that it was Mr. Traynor who was responsible for getting some of the original initial investors?

A. Yes.

Q. We will come back to those investors later on. In relation to this need that the company had for capital in 1992, it was Mr. Traynor who assisted you in trying to put the capital together?

A. That's correct, yes.

Q. Was it you spoke to him?

A. Yes.

Q. And what did you tell Mr. Traynor?

A. Well, we were looking for people that would invest in our company, make a capital investment in the company.

Q. By making a capital investment you mean becoming shareholders?

A. Yes.

Q. And did you know when you were speaking to Mr. Traynor how much money you wanted?

A. We originally set out to look for about €600,000.

Q. Yes?

A. We came up with €290,000 about.

Q. Where did you get the figure of €600,000?

A. We wanted to inject, well that is what we were going to raise the company's limits to. It was set up by Deloitte Touche that we could look for up to €600,000.

Q. Did you need €600,000?

A. We would like to have it, yes.

Q. Pardon?

A. We didn't actually need €600,000 but we would have liked to have €600,000 to put the company on a sound footing.

Q. What I am trying to get at, I don't want to pry into all of your company affairs, some of which I regret to say may be relevant, but the figure of €600,000 is surely a figure that wasn't plucked out of the sky?

A. I don't know where the figure came from, probably from Deloitte and Touche. That was the extent that we can go with our company in a shareholding situation, whatever.

Q. When you mention Deloitte and Touche do you mean that you were dealing with Mr. Paul Carthy in his new incarnation as Deloitte and Touche?

A. Not as much as him at the time, but previous.

Q. But was that a continuation of your previous dealing with Haughey Boland?

A. Yes, correct.

Q. They came up with the figure for you but that was presumably on the basis of what you told them your requirements were or might be?

A. Correct.

Q. At that time was your company in need of money, some money in order to keep trading, or to keep operating?

A. It needed money to - it needed a capital injection due to our hanger we were building and large overruns.

Q. Sorry?

A. We had large overruns on the hanger we were building at the time.

Q. Are you referring to an investment you made in a hanger that perhaps didn't go as well as you had anticipated?

A. Correct.

Q. When you say a large overrun, you anticipated it might cost so much, in fact it cost much more?

A. It cost quite a bit more, yes.

Q. So you had a lot of debt this you had to deal with?

A. Yes.

Q. And you didn't think of dealing with this debt by borrowing, you were hoping to deal with it by getting investors?

A. Exactly, yes.

Q. So the investors were becoming involved in the company at the time when the company's main requirement was for money to cope with its debt?

A. Correct.

Q. Now, you say that Mr. Traynor raised €290,329 for the company?

A. That's correct.

Q. And he told you and Mr. Haughey that this represented the investment of five individuals in the company?

A. That's correct.

Q. Can you just, can you remember when Mr. Traynor told you that?

A. I think it was around sometime in October.

Q. Of 1992; do you remember?

A. Yes.

Q. He told you he had the money organised at that point?

A. We had €290,000, whatever it was.

Q. Yes. Did he give you the names of all of the investors at that point?

A. Yes.

Q. We will come to them in a moment. One of the investors was Mr. Michael Murphy of 17 Trinity Street, the company's insurance broker?

A. That is correct.

Q. That is what Mr. Traynor told you?

A. That is correct.

Q. And he told you that Mr. Murphy's investment was €100,000?

A. That is correct.

Q. And you understood from Mr. Traynor that this was represented by the cheque drawn on the account of Carlisle Trust in the amount of €100,000?

A. That's correct. Well, I didn't know which €100,000, yes, that's correct, yes sorry, yes.

Q. We can come back over that, at the moment I think I might know what you were driving at. You were aware in any case that €100,000 had been lodged into your company's bank account at the Bank of Ireland branch in Dublin Airport?

A. That's correct.

Q. On the 27th of November of 1992?

A. That's correct. I was not aware at the time that it came from the Carlisle Trust.

Q. That is what I am coming to?

A. Yes.

Q. What you saw was an increase in your balance or a reduction

in your overdraft, you can't remember which?

A. I knew a cheque for €100,000 had come into our account.

Q. Yes. Did you know that that was an investment?

A. I did.

Q. When did you become aware that Carlisle Trust were involved?

A. Actually during, during Mary Harney's investigation.

Q. You were talking to one of the authorised inspectors?

A. Yes, Inspector Ryan.

Q. And up to then you did not know that it was a Carlisle Trust cheque?

A. No. No.

Q. As far as you were concerned it was simply Mr. Murphy's investment?

A. That's correct.

Q. Who actually lodged that cheque to the account?

A. More than likely our operations girl.

Q. When you say more than likely, do you mean somebody must have given it to her? You don't get cheques everyday to your offices for €100,000, I take it?

A. No. I would say they were probably couriered to the office. And then our girl would have lodged them in the bank.

Q. Did she tell you that the cheque had arrived?

A. I would have been well aware of it, yes. I don't know whether she told me. I knew they are coming out. Probably they, I knew they were coming out and they probably came

out by courier.

Q. Did you know that a cheque for €100,000 was coming out by courier?

A. More than likely I would have known, yes.

Q. And who would have told you that?

A. I don't recall, probably either Mr. Traynor or Deloitte Touche.

Q. And if it was Deloitte Touche who would have told you?

A. Probably Brendan Doyle who was looking after us at the time, I couldn't be sure.

Q. Now, you also received a number of other sums from the other investors who went to make up the total of €290,390?

A. Correct.

Q. You received from Mr. Byrne you say, is that Mr. John Byrne that we have heard mention of already here?

A. Yes that's correct, yes.

Q. And he gave evidence that he made an investment?

A. That's correct.

Q. And his investment is €47,532.82?

A. That's correct.

Q. And Mr. McAuliffe who made an investment of €50,000?

A. Correct.

Q. Who is that Mr. McAuliffe, is that Mr. Xavier McAuliffe?

A. That's correct.

Q. Mr. Butler who made an investment of €25,000?

A. That's correct.

Q. What Mr. Butler is that?

A. Butler Engineering, he is deceased.

Q. It is the late Mr. Butler?

A. Yes, from Portarlinton.

Q. Now, the monies that I have just mentioned, the monies you received from Mr. Byrne, from Mr. McAuliffe and Mr. Butler totalled €122,532 odd and that was lodged to the company's bank account on the 5th of November?

A. That's correct.

Q. And at that time your bank account; I don't want to go into all the details of it; but it was in need of that money, that €122,000 pounds?

A. Correct.

Q. Had you met any of those investors prior to their putting up the various sums of monies I have just mentioned?

A. I would have met probably Mr. Byrne socially at race meetings, and I probably would have spoken to Mr. Murphy.

Q. Right. Did you ask Mr. Byrne for an investment in the company?

A. No.

Q. Did you mention to him that other people were investing in the company?

A. No.

Q. Or that you needed money?

A. Whether I mentioned we needed money or not I don't remember, but I would have told him the position of the company. We often talked about it.

Q. What was the position of the company then that you would

have told him?

A. That our hanger was dragging us down.

Q. Now, you say that you mentioned this to Mr. Murphy as well?

A. I had a long association with Mr. Murphy. He is our insurance broker. He would be well aware of the company. I think he took over our insurance probably in 87, somewhere around there; 86 or 1987.

Q. And did you ask him for an investment?

A. I did not, no.

Q. In your discussions with him did you make it clear to him that you were in need of money?

A. Looking for money, yes.

Q. And as your ?

A. More than likely.

Q. And as your insurance broker for some years he would presumably aware of the problems that you were having with this hanger?

A. Of course, yes.

Q. And had you not sorted out this problem with the hanger it might have put you out of business; is that right?

A. Depending on whether we could have found a buyer or not in time to keep us

Q. 1992 wasn't really a great time to look for buyers was it?

A. No, very bad.

Q. And Mr. Murphy would presumably have known that as well?

A. Probably.

Q. The reason I am asking you about this is that he seems to

have been the biggest investor, he put in €100,000?

A. That's correct.

Q. Almost as much as all of the four investors I have mentioned just a moment ago?

A. About a third, yes.

Q. The three investors I mentioned a moment ago?

A. Yes. The only alternative would have been that the Irish Permanent repossess our hanger and we could have kept on flying then, but we would have been working off a field or something.

Q. Yes. You received other money then from, about another €70,000; is that right?

A. Yes, 100,000 dollars.

Q. 100,000 dollars?

A. Yes.

Q. From a Mr. Snowden?

A. That's correct.

Q. And how did Mr. Snowden come to be involved in your company?

A. Through Des Traynor.

Q. And when you say you got 100,000 dollars from Mr. Snowden do I take it that Mr. Snowden is not an Irish resident or was he?

A. I don't think he was.

Q. Had you met him?

A. No.

Q. It was purely through Mr. Traynor's intervention that he

become involved?

A. Purely through Mr. Traynor, yes.

Q. And I think his investment came into your account in Dublin Airport on the 9th of February of 1993?

A. That's correct I think.

Q. Well, I am looking at your bank account. Again I have no desire to put your bank account up on the screen?

A. Fair enough.

Q. Because it has details including other material?

A. Yes, I think it was

Q. Do you have a copy of the bank account?

A. No.

Q. I can give you a copy?

A. I know it was February.

Q. Again at that stage, notwithstanding the money you had already got which was the best part of €220,000 you were still heavily overdrawn?

A. Probably.

Q. You were badly in need of this €67,000?

A. More than likely.

Q. And in fact that didn't even wipe out your overdraft, you still had problems?

A. Probably, yes we did. It extended our time, they extended our time more or less.

Q. So that all of that investment, as I said earlier was really to deal with debt?

A. Debt reclaiming mainly; mainly to the hanger.

Q. Debt reclaiming to the hanger. It may have been an albatross around your neck, but the investors were putting up money to deal with debt?

A. Debt.

Q. And it had all been swallowed up in debt

A. Yes, swallowed up in a very valuable asset.

Q. Right.

MR. HEALY: I think sir, this might be an appropriate time to stop the inquiry.

CHAIRMAN: Yes, you seem to be moving on to another aspect of Mr. Barnacle's evidence. Ten to two. Thanks Mr. Barnacle.

THE HEARING WAS THEN ADJOURNED FOR LUNCH.

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

MR. O'MOORE: Sir, before Mr. Barnacle resumes his evidence I wonder if I can make an application which is out of turn but necessitated by the evidence Mr. Barnacle gave before lunch.

I have been asked to appear on behalf of two entities; one Michael Murphy and the other is his company M Murphy Financial Insurers Limited, and the application is for limited representation. I have explained to Mr. Murphy and his company that gives no comfort whatsoever with regard to costs or consequent orders, but it is clear from the

correspondence between Mr. Murphy and the Tribunal over the weeks, it is clear he will be a witness if not today but in the next couple of days. I am anxious to make the application.

CHAIRMAN: Very good. I have to have regard to the overall spread of representation, and obviously in no sense is such an application an automatic one, but in the context of the potential significance of the role of Mr. Murphy and of his company it is, I think, correct that I accede to limited representation on the basis that you acknowledge Mr. O'Moore.

THE WITNESS CONTINUED IN EXAMINATION BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Mr. Barnacle, just to tidy up one matter we were discussing before lunch. I mentioned to you the various individuals who became involved in the raising of, putting up €290,329 for the company in or around 1992, and you mentioned that you discussed the matter with Mr. Murphy, prior to the investment; isn't that right?

A. I would have discussed the company's affairs with him, I didn't directly ask him for money.

Q. I see. After the investment did you discuss it with Mr. Murphy?

A. No, rather than keep him informed how the company was going, which he followed.

Q. After the investment did you discuss the company's affair

with any of the other investors?

A. I would have met John Byrne from time to time raising and just told him how the company was going, socially, that's all. None of the others.

Q. Did Mr. Byrne know that by the time Mr. Snowden's hundred thousand dollars was lodged to the company account in February of 1993 the company was still heavily in debt, notwithstanding the earlier investment?

A. I don't know.

Q. Did you tell him?

A. No.

Q. Did you talk to Mr. McAuliffe or Mr. Butler?

A. No.

Q. Did they make any inquiries of you?

A. No.

Q. Did you keep this did you keep contact with Mr. Traynor in relation to this matter?

A. Not as a matter of fact. I am sure he followed the company's fortunes.

Q. Why do you say you are sure of that?

A. Well, I would say he was because he is a friend.

Q. As a

A. As a friend.

Q. Right. Do you mean that you met him socially and would have discussed it with him?

A. No, no, I am just assuming that he would have followed the company's fortunes or misfortunes or whatever.

Q. I will take you onto the next part of your statement. You are dealing with Mr. Bernard Dunne. What you say at paragraph 3 (5) is that; "At no time did I ever ask Mr. Ben Dunne to invest in the company or to provide money for the company other than in respect of the flying services which the company provided for Mr. Dunne and the Dunnes Stores Group of companies"?

A. That's correct.

Q. You go on to say; "I had no discussions with Mr. Dunne regarding the affairs of the company. I did not receive the three cheques for the sums of 49,000 odd, 50,000 odd and 79,000 odd, dated the 20th of November, 23rd of November and 27th of November, 1992, from Mr. Dunne or anyone else"?

A. On the part it says "I had no discussion with Mr. Dunne regarding the affairs of the company", I may have discussed the company with him but not regarding investment. And I did not receive the three cheques from Mr. Dunne.

Q. Let's just take those two matters.

Did you ever receive any cheques from Mr. Dunne other than the cheques that presumably his company must have paid you for flying services?

A. They would all have been invoiced.

Q. In November of 1992 you certainly would have been in the need of investment, isn't that right?

A. Correct.

Q. Did you meet Mr. Dunne at all in November of 1992, or around November of 1992?

A. No idea, unless I flew him and that would be whatever.

Q. As I said, you needed money, you needed to deal with this debt that you had in the Bank of Ireland?

A. Correct.

Q. If somebody gave you €180,000 at a time when you needed money, quite badly, I don't think you would forget it, would you?

A. Absolutely wouldn't.

Q. And of the money that went into your company in 1992 and in 1993, the total of 290,000 odd, all of that is accounted for by the investments or the amounts of money I have mentioned a moment ago, isn't that right?

A. To the penny.

Q. To the penny. After that investment was made, your discussions with Mr. Murphy left you in no doubt that Mr. Murphy had paid up, if you, to put it that way, his €100,000?

A. I assume so.

Q. As far as you were concerned the €100,000 in your bank account was Mr. Murphy's 100,000?

A. Absolutely.

Q. And Mr. Murphy was obviously of the same view, he may not have seen your bank account but Now, if somebody else gave you a hundred thousand pounds it would either be in your bank account or else it went elsewhere, isn't that

right?

A. There was no other place it could go except the bank account, unless it went to another bank to pay off a loan or something, you know.

Q. But there is no other loan reduced by a hundred thousand pounds, that would have been some bit of good fortune that you would surely have known about?

A. No, no loan was written off for that amount.

Q. And just to be absolutely sure about it, Mr. Dunne says that he has a vague recollection of having given you this money, and you are absolutely sure that that did not happen?

A. Absolutely.

Q. Because it would mean that if you got that money, and if you also got the money from Mr. Murphy, Mr. McAuliffe, Mr. Butler, Mr. Byrne and Mr. Snowden, it would mean that there was £180,000 you can account for, isn't that right?

A. Exactly.

Q. Now, I want to come back to, in your statement you come back to the £290,000. You say; "it was always the intention of the company that the individuals who Mr. Traynor informed us were investing in the company in the total of 290,329 were to be shareholders of the company"?

A. That's correct.

Q. In connection with the investment it was necessary to calculate how many shares should be issued to each individual investor in the light of the value of the

company and the size of their individual investments. You say that "Pending the completion of this exercise the money was treated in the company's accounts as loan capital, although at all times it was understood that it was the intention that it represented share capital. I believe that Mr. Traynor prepared a report on the value of the company, but I no longer have a copy of the same"?

A. Correct.

Q. Now, that's a response by you to some correspondence you had from the Tribunal querying how this money appeared in the accounts as loan capital, isn't that right?

A. I think so, yeah.

Q. What you are saying is that you are in no doubt but that it was always envisaged as share capital?

A. From day one, yeah.

Q. Even though it was, in fact, intended to pay off loans of the company to the banks, that was the purpose of it, if you couldn't pay off those loans you were going to be going nowhere, isn't that right?

A. Correct.

Q. The report you mention that was prepared by Mr. Traynor, can you say when you feel that report was prepared?

A. Well, it must have been prepared prior to us receiving the money, because I am sure the investors would have got the same I would imagine.

Q. Prior to your receiving the money?

A. Well, I would imagine so. I don't really know to be

honest.

Q. Right. Maybe I can assist you if I put it up, I will give you a copy and put it up on the screen. (Document handed to witness).

Now, the document that is on the screen, and you have a copy in your hand, is headed "Celtic Helicopters Limited - Issue of Additional Shares". The left-hand side of this document doesn't appear to have photocopied very well.

And you see that the amount referred to is the amount we have before discussing, £290,329. If you forget the details of the document for the moment. You understood the document was prepared by Mr. Traynor, do I take from that that it was Mr. Traynor gave you a copy of it first?

A. No, I got, the first I seen of this was from Deloitte Touche.

Q. When did you first see it?

A. I can't remember when exactly.

Q. Pardon, I didn't

A. I don't remember when exactly I first saw it.

Q. Was it prior to

A. It would have been after we decided to put it into the preference shares, once they made the arrangements of how they were going to.

Q. Right. When was that done?

A. I think that was done in 96, I don't remember the exact date.

Q. Therefore it would have been after Mr. Traynor's death?

A. It would have been, yeah.

Q. Is it possible you are slightly confused when you stated that Mr. Traynor prepared the report?

A. Yeah, I didn't, I wasn't with you on the question entirely.

Q. It is just that that's in your statement?

A. It was a mistake, yes it was. Now, that was possibly a report stating what the company looked like at the time he was looking for the investment, this is what was turned out after 96

Q. Well, I don't want to confuse you, I want to look at the whole document before you commit yourself to any answer.

Nothing much turns on this so you can relax. If you look at the second page of the document, it refers to the issue of 10p shares, and you can see the subscribers are identified as Mr. McAuliffe, Mr. Butler, Mr. Byrne, Mr. Murphy and Mr. Snowden. What is envisaged clearly is the proposal to convert the existing holdings which were described in pounds into new shares, 10p shares. Is that right?

A. Yes.

Q. So whenever this document was prepared, it was prepared after the investors who are involved were known and identified, and indeed after they had actually put up specific amounts of money?

A. It had to be, yes.

Q. So it is not a document that could have been prepared prior to any investors becoming involved?

A. Correct.

Q. It must have been prepared at the very earliest, it couldn't have been prepared prior to February of 1993, which was the time Mr. Snowden's investment came in?

A. Correct.

Q. You think it came out of Deloitte and Touche in connection with the reconfiguration of the shareholdings in the company?

A. Correct.

Q. Do you know if this document went to any of the shareholders, whose shareholdings were going to be reconfigured?

A. Not to my knowledge, no.

Q. You were one of the shareholders. For instance, it says "existing shareholders", I presume the reference to existing shareholders at the bottom, second last line is a reference to you and Mr. Barnacle, you and Mr. Haughey I beg your pardon?

A. To the A Shares, yes.

Q. Were these matters handled for you by Deloitte and Touche mainly?

A. Yes.

Q. Were they handled by a member of the secretarial division of that company or that firm of accountants?

A. As far as I understand.

Q. Did you ever come across a Mr. McDarby?

A. I know the person but he didn't handle as far as I know.

Q. Right. If I can come back to your statement. "Before the company acted on the report and issued the appropriate number of shares the position of the company deteriorated and Mr. Traynor was of the view that it would be unfair to the investors to issue them with ordinary shares, but instead that they should be issued with 7 percent non-cumulative preference shares at one pound each fully paid up". This is acceptable to both you and Mr. Haughey?

A. Correct.

Q. So that document which does not refer to preference shares, I think, must have been prepared prior to the decision that you refer to in that paragraph of your statement?

A. That's correct, yeah. I don't know when this, when the 10p shares were suggested, because in actual fact they didn't come up.

Q. Were you involved in any of the discussions concerning this?

A. Not on how the shares were going between

Q. Was this in fact all out of your hands?

A. It was handled by Deloitte Touche.

Q. Handled by Deloitte Touche?

A. I had no input on how they were going to organise the shares.

Q. Was Mr. Traynor involved?

A. I would say he was prior to his death, but I have no idea.

It would have been handled between Deloitte Touche and Mr. Traynor.

Q. And after his death who would have handled it?

A. Deloitte Touche.

Q. And who in Deloitte Touche in particular would have dealt with it?

A. I believe it would have been Mr. David Mr. David Deasy.

Q. D-E-A-S-Y?

A. Yes.

Q. And does he still deal with your affairs?

A. From time to time, yes.

Q. Are Deloitte and Touche still your auditors?

A. They are, yes.

Q. Would I be right in thinking that Mr. Traynor was handling most of these matters without reference to you at all?

A. The technicalities of it, yes.

Q. Well, how much of it did you know?

A. I knew how much money we got in, who the shareholders were, basically that's it.

Q. Surely it is not a technicality to know how the shares were held; your own interests in the company could have been significantly, if not dramatically affected by the way in which the shares were going to be held, couldn't it?

A. The percentage might, but the value wouldn't be.

Q. But who was going to control the company?

A. Myself and Ciaran Haughey.

Q. Did you every envisage a situation in which any of the other shareholders would have any significant control in the company?

A. No.

Q. As far as you were concerned this money was being put up, and whether it was to be treated as cumulative preference shares or as some other form of shareholding, that shareholding was not going to carry any degree of control?

A. Not voting

Q. No voting at all, so although it was described as an investment in share capital, it wasn't a loan to the company, but it was effectively loan capital, wasn't it, in that all the investors were going to get out of it, if anything, was some return on the loan, they were going to have no control in the company?

A. No control, but they would own the assets, the percentage of the assets of the company.

Q. This was not a thriving company, Mr. Barnacle, I don't want to press you on this, but this company has had a lot of, I am sure that you provide an excellent service but for one reason or another you have had, you have been under the, under pressure from your bankers for some considerable time?

A. Since we commenced building our hanger in 91.

Q. Be that as it may, this is not a company somebody could have been persuaded to invest in as some wonderful opportunity, I would be right in thinking these investors were becoming, were being asked to interest themselves in this company simply in order to help out, to help it clear its debt with little future prospect of a return?

A. Perhaps, ask them.

Q. Did they get any return?

A. Not as yet, no.

Q. So even though the shares have now been reconfigured as preference shares; is that right?

A. Correct.

Q. Was that done only in the recent past?

A. It was done in 96 I believe.

Q. In 1996?

A. Yes.

Q. Was it done in 1996 in connection with a need the company had to borrow from the banks?

A. Yes.

Q. Would I be right in thinking that the bank would not accept a situation where they would loan a company where in the company's books some funds were described as "loan capital"?

A. Correct.

Q. Because the banks wouldn't loan money to you if what you were telling them was share capital was in fact loan capital?

A. Correct.

Q. They wanted that other lender taken out of the picture, isn't that right, or a person appearing to be described as a lender out of the picture?

A. Appearing, yes.

Q. And up to this day none of those investors have got

anything out of the company?

A. No.

Q. Have any investor, has any investor in the company other than yourself and Mr. Haughey, and I don't mean this in any, Mr. Ciaran Haughey, I don't mean this in any unfair way, you are obviously running the company and you are being paid a salary as or you have drawing as pilots, but has anybody made money out of the company?

A. No.

Q. The next paragraph in your statement deals, I think, with the situation we were discussing a minute ago. In February or March of 1996 you were seeking to borrow from Smurfit Financial, and the bank stated that before it would advance the money sought by the company the company must issue shares represented by the loan capital, so that it was share capital. You go on to state that on the 25th of March, of 1996, the company issued œ290,397, 7 percent non-cumulative shares that should probably read "MIS Nominees", is that right?

A. I am not sure if it was MS.

Q. That is the company controlled by Mr. Samuel Field-Corbett's company in Winetavern Street?

A. Correct.

Q. You say it was your understanding that MS Nominees would hold those shares in trust for Larchfield Securities, and that "Larchfield Securities would in turn hold the shares in trust for Mr. Murphy and the other investors referred to

above":

Now, for Larchfield Securities' holding in the company to be converted from loan capital into share capital, the persons entitled to that loan capital had to consent, isn't that right?

A. Say that again.

Q. In order for the in order for the matters described in paragraph 3 (10), look at 3 (10) of your statement in order for the company to issue 290,000, 7 percent preference shares to MS Nominees you needed the consent of your shareholders, isn't that right?

A. I would imagine it was the shareholders who set that up.

Q. At that time did you regard the shareholders as including Mr. McAuliffe, Mr. Byrne

A. Correct, yes.

Q. Mr. Butler, Mr. Murphy?

A. Yes.

Q. Were they involved in that?

A. In the selling up of the

Q. Were they involved in the issue of those shares or the agreement to issue those shares?

A. We were advised to issue the shares in MS Nominees Limited who we took, held them for.

Q. You say you were advised, who were you advised by?

A. We were advised by Deloitte and Touche.

Q. I will come back to that in to a moment. Can we just

approach it in this way; in order to achieve a situation where the company could issue the shares did you take advice from Deloitte and Touche?

A. Deloitte and Touche issued the shares to MS Nominees Limited on our behalf to, which we gather were MIS or whatever it was, was holding them in trust for those five individuals.

Q. Right. Well MIS Nominees were holding them in trust for Larchfield Securities, and they were holding them in trust for MIS Nominees, now Deloitte and Touche didn't issue anything, the only individual or entity doing the issuing was the company?

A. Right.

Q. What I am trying to get at

A. On behalf of the company.

Q. what I am trying to get at, they weren't doing it on behalf of the company, were they organise the various steps in the companies offices, the various resolutions so as to bring about that situation?

A. Correct.

Q. Did you place yourself in their hands where the carrying out of those steps were concerned?

A. Correct.

Q. So they told you what steps would have to be taken in order to bring about that situation?

A. Correct.

Q. And you went and signed whatever documents or passed

whatever resolutions you were told had to be passed to achieve that?

A. Correct.

Q. So in due course when we hear from Deloitte and Touche they will be able to tell us what it is they did in order to achieve this?

A. Correct.

Q. This situation where these shares were issued by the company?

A. Correct.

Q. And you attended at the various meetings and signed all the various resolutions put in front of you by Deloitte and Touche, and which you were advised had to be signed or passed, as the case might be?

A. To make that happen, correct.

Q. And who was present at those meetings?

A. There would have been myself, Ciaran Haughey, more than likely Paul Carthy and possibly Brendan Doyle, possibly David Deasy.

Q. Now you say that in connection with the issue of those shares Larchfield Securities held shares in trust for Mr. Murphy and Mr. McAuliffe and Mr. Byrne and Mr. Butler.

Mr. Butler is deceased of course?

A. Correct.

Q. Were Deloitte and Touche informed that Mr. Butler was deceased at the time that this was done?

A. I am sure they were.

Q. Well, they couldn't obviously issue shares to a deceased person. That didn't occur to you at that time?

A. It didn't, no.

Q. Or to a company that was acting as a nominee for a deceased person.

A. Do you know the date of Mr.

Q. Well, I am just going by the date that's contained in your statement, which is the 29th of March, of 1996, I understand that the late Mr. Butler died prior to that date?

A. Yeah, I don't know for sure.

Q. In December of 1995 in fact.

Do you know whether Deloitte and Touche made any contact with Messrs. Butler, McAuliffe, Byrne, or Snowden in connection with any of these proposed changes in the way their investment was going to be held?

A. No.

Q. Was it Larchfield Securities who was acting for them in connection with that?

A. I would imagine so, yeah.

Q. Do you know who the shareholders or controllers of Larchfield Securities are?

A. I do not, no.

Q. Are they not, in fact, members of Mr. Charles Haughey's family?

A. Sorry I do yeah, sorry, I don't know who the Directors are, I know the shareholders.

Q. The shareholders are members of Mr. Charles Haughey's family, his children, is that right?

A. Yeah.

Q. So they were now becoming some of them in any case, is that right, some of his children in any case?

A. I wouldn't know officially, I don't know officially who is in Larchfield.

Q. Yes.

A. Or what shareholdings or who the Directors are.

Q. If you don't know officially, what do you know unofficially?

A. That it is a family company.

Q. So the family company, to use your term, were holding the shares in trust for Mr. Murphy and Mr. Byrne, Mr. McAuliffe and Mr. Butler?

A. I believe so, yes.

Q. And Mr. Snowden also?

A. Correct, who in turn was holding it in trust for MS.

Q. Mr. Traynor brought all those people in contact with you but Mr. Traynor by this time was dead?

A. Mr. Traynor arranged the finance.

Q. Yes.

A. Of the five people.

Q. Yes, he brought those individuals into contact with your company?

A. Yes.

Q. You didn't go get the investments?

A. No.

Q. Perhaps with the exception of Mr. Murphy, you mentioned the matter to Mr. Murphy yourself, but the other individuals were people that certainly came solely through Mr. Traynor?

A. Correct, and I didn't solicit investment from Mr. Murphy either.

Q. And you didn't solicit from Mr. Murphy either?

A. No.

Q. So who was the contact with these people after Mr. Traynor died?

A. I had no contact with them, so I don't know, unless it would be Larchfield Securities.

Q. I am just wondering could it be Larchfield Securities now that Mr. Traynor was dead, there had to be somebody, didn't there?

A. It stands to reason I suppose.

Q. Now, I just want to mention two letters to you. You will recall that before you gave your evidence this morning I read out a statement by your solicitors containing material which they wished to be brought to the attention of the Tribunal for the purposes of, as they saw it, correcting the opening statement.

Now, one of the matters I want to draw to your attention is this; on the 16th of October, of 1988, the solicitor to the Tribunal, Mr. Davis, 98 sorry, the solicitor to the Tribunal, Mr. Davis, wrote to your then solicitors Messrs.

Gore and Grimes seeking certain information, looking for certain answering to certain queries. I will send over a copy of the letter.

(Document handed to witness). If you go to the second page of the letter. There is a heading "Payment from Carlisle Trust", and then there is a long paragraph. I will read it out to you.

"I note that your client acknowledges receipt of a cheque in the sum of £100,000 drawn on Carlisle Trust Limited at Rotunda branch, being a cheque dated 24th of November, of 1992. Your client indicates that Mr. Traynor advised this was an investment by Mr. Michael Murphy in exchange for shares and that the funds were utilised for the company's trading purpose. Arising out of this matter in your client's responses to the specific queries raised in paragraph 1 (7) of my earlier letter, I would be obliged if your client would furnish the following information; the name and address of Mr. Michael Murphy".

Now, clearly that information, the fact that Mr. Michael Murphy was an investor had been brought to the attention of the Tribunal in an earlier letter, and in this letter you were asked for his name and address, together with an amount of other information.

Now, am I not right in saying that there was no response to that letter containing the address of Mr. Murphy, of Mr.

Michael Murphy?

A. Did you not get a letter from Mr. Gore, Messrs. Gore and Grimes?

Q. No, that information was never furnished to the Tribunal until the other day, until a statement was obtained from you and from Mr. Ciaran

Now, is there any reason why that information couldn't have been provided at an earlier date?

A. No.

Q. You certainly had no reason to keep it from the Tribunal?

A. None whatsoever.

Q. Now, to clarify one other matter, and I should have brought this to your attention earlier. It may simply be a question of emphasis. In a letter of the 3rd of November of, 3rd of February, of 1999, your solicitors wrote to the Tribunal indicating, and I am quoting; "In or around September to October of 1992 when Celtic Helicopters Limited through its Director Mr. John Barnacle made contact with Mr. John Byrne inviting him to invest in the company, the request was made orally". That's an answer to a question as to when Mr. Byrne or you might have come into contact with one another concerning a proposed investment?

A. Well, it is an incorrect statement because I never actually directly asked Mr. Byrne to invest in the company.

Q. Correct. That's fine. So that you stand in fact by what you said earlier, that it was Mr. Traynor organised all of that?

A. Yes, absolutely.

Q. Now, I want to take you back to one of the matters mentioned near the beginning of your statement. It is under the heading "Dr. John O'Connell".

Now, Dr. O'Connell will, has provided this statement to the Tribunal and in connection with that statement you were asked for a response to certain queries concerning his involvement with your company, and I think this is effectively your response, is that right, and I will just take you through it?

A. Yes.

Q. What you say is that you never directly or indirectly sought an investment by Dr. O'Connell in the company, either by way of shares or by way of loan or any other form of investment. You say that you were unaware that he had made any purported investment in the company whether in 1985 or at any other time, whether as a shareholder or otherwise?

A. Correct.

Q. You go on to say that the first time you heard of Dr. O'Connell's alleged investment in the company of œ5,000 was in a letter from Messrs. Beauchamps solicitor, dated 5th of March, of 1992, addressed to the Secretary of the company.

"I knew nothing of the matters referred to in the letter, and my fellow Director, Mr. Ciaran Haughey, decided to

discuss the matter with his father as Dr. O'Connell was known to Mr. Haughey Senior. I heard nothing further about the matter, and as far as I'm aware Dr. John O'Connell had no further contact with the company"?

A. Correct.

Q. At no stage was Dr. O'Connell ever issued with shares in the company?

A. As far as I know.

Q. Perhaps we could just have that letter of the 5th of March, of 1992, or a copy of it we will just go through this then, I can't turn up a copy of the letter at the moment.

MS. COSTELLO: For the assistance, Chairman, I have a copy to hand in.

CHAIRMAN: Thanks Miss Costello.

Q. MR. HEALY: I am much obliged to Ms. Costello. That letter should appear on the monitor in front of you in a second or two.

Now, the letter is dated March of 1992, can you see that?

A. Yes.

Q. "Re: Our client Dr. John O'Connell".

"Dear sir, I should go back from that to say that it is addressed to Ciaran Haughey?

A. Correct.

Q. How did it come to your attention?

A. It was shown to me by Ciaran Haughey.

Q. He showed it to you?

A. Yes.

Q. From that do you take it that it came as a surprise to him?

A. It did.

Q. Right. You notice that it is addressed "Strictly personal, private and confidential. To be opened by addressee only". No one likes getting letters like that, anyway that was obviously somewhat surprising.

"We act for John O'Connell who subscribed some years ago a sum of €5,000 for shares in Celtic Helicopters Limited.

Our client tells us that despite many requests he still has not received the share certificate for his shares.

We would be grateful if you could send this certificate to us as soon as possible, we would appreciate a response not later than Wednesday the 11th of March".

Now, you say that you never had any knowledge of Mr. O'Connell having any involvement or even thinking he had any involvement in your company?

A. Correct.

Q. Mr. Haughey never mentioned, Mr. Ciaran never mentioned any such involvement to you?

A. Correct, we received no request.

Q. Mr. Traynor never mentioned any such involvement to you?

A. No.

Q. Were you aware of any sum of €5,000 coming into your

account at any time that you couldn't account for?

A. No, in the original investment of 80,000 in 85 there was a breakdown of I believe, I don't have it in front of me, but there was a five in there.

Q. We will come back to that in just a moment.

A. But they were all nominees, they weren't named people.

Q. Who were Mars Nominees?

A. I have no idea, they were held by Guinness Mahon.

Q. Was it a nominee company of Guinness Mahon?

A. I actually couldn't say for certain.

Q. Was it a company associated with Mr. Desmond Traynor?

A. Yes, I believe so.

Q. So your first contact with Mars Nominees was through Mr. Des Traynor?

A. Correct.

Q. Now, what the letter says is that Mr. O'Connell was telling his solicitors that despite many requests he still had not received the certificate for his shares. Now were you he made no request of you, to judge from your statement, he couldn't have because he had no contact with you?

A. That's correct, nor to Ciaran Haughey.

Q. Nor to Ciaran Haughey?

A. Well, not to my knowledge, he didn't tell me about it.

Q. This letter was a mystery to you and to him?

A. Correct.

Q. What did Mr. Ciaran Haughey tell you he would do with it?

A. He said he would decide to discuss the matter with his

father as Dr. O'Connell was known to Mr. Haughey Senior.

Q. And what more did you hear about it?

A. Nothing.

Q. Did you ever inquire about it?

A. No.

Q. Isn't it strange that you wouldn't even inquire subsequently about it? Somebody was looking for money back from you, somebody was claiming to have €5,000 worth of shares in your company?

A. Well I took it to be, it had to be addressed because we didn't hear any more about it and nothing came back from him.

Q. Why weren't you involved in addressing it?

A. Because it was addressed to Mr. Haughey.

Q. Why weren't you involved in dealing with the matter or making sure it was dealt with?

A. I did. I made sure my partner dealt with it.

Q. How do you know he dealt with it?

A. He told me. He took the letter and discussed it with his father and left it with him, that's the last

Q. Did he tell you "that I have discussed this with my father and I have left it with my father"?

A. That's correct.

Q. Did he tell you what his father said to him?

A. No, he didn't.

Q. Did you ever inquire what his father said to him?

A. I believe he told me he had just left it with his father

and that was the end of it, so I made no other inquiries

Q. Why should Mr. Haughey's father have a capacity to deal with somebody to do with your company?

A. Why should he?

Q. Yes, why should he?

A. I have no idea.

Q. Was he a shareholder in your company?

A. No.

Q. Then in what way could he deal with that matter?

A. I have no idea, that's dealing with Des Traynor at the time or something, I have no idea, as a Mars Nominee possibly.

Q. Did you have a register of members at that time?

A. We did.

Q. And who maintained that?

A. Deloitte and Touche.

Q. Now, Mr. Barnacle, I just want to take you through a few documents that have come to the Tribunal's attention and which I think have been brought to your notice in connection with the affairs of Celtic Helicopters. And the first document that I want to draw to your attention is a document produced by Guinness and Mahon Bankers, it is a minute of a meeting of a credit committee. The credit committee meeting appears to have taken place some time in 1985 for 1986.

If you look at the headings on the left-hand side you will

see business, occupation, amount, purpose, term so you

see the word "term"?

A. Term, yeah.

Q. Next to that you see "three years to the 31st of the 3rd, 88". It seems to suggest therefore that the credit committee minutes have come into existence some time around the 31st of the 3rd, 85?

A. Correct.

Q. Which as you informed me earlier is around the time that the company was first founded by you and Mr. Ciaran Haughey.

Now, do you see the background notes/outline of proposal headings. It describes the project. It says;

"This project involves the purchase of a secondhand bell jet Ranger 206/2 from Irish Helicopters. It will be operated by Ciaran Haughey and John Barnacle, ex Irish Helicopters Limited, for contract hire and joyrides.

Although they will to some extent be in competition with IHL. The position will be more one of co-operation, as total capacity to the market will not have increased. As most costs involved variable with flying hours relatively low levels of utilisation give a viable situation. Other funding will be provided by equity investors for 80,000.

These outside investors who include Seamus Purcell, Joe Malone and P V Doyle will own 40 percent of the company, C Haughey meaning presumably Ciaran Haughey, and John

Barnacle the other 60%".

Now, the purpose of the credit committee meeting or minute was to record an application for €80,000 in funds, that's at the top of the document, isn't that right?

A. Correct. Correct.

Q. You will see that in recommending

A. Is there a date on it, a date on the top?

Q. There is no date on mine, and I am simply suggesting to you that the date must be 1985, March of 1985, Mr. Barnacle, from the fact that the term is described as three years to the 31st of the 3rd, 88. Do you see that?

A. Yeah, but who is it addressed to?

Q. It is a document, it is an internal bank document?

A. From Guinness Mahon?

Q. Maybe I will just explain it to you. If you look at the bottom left-hand side corner of the document it says "credit committee"; do you see that?

A. Yes "recommended credit review date, 31st of the 3rd".

Q. Yes, 86. That's the recommended review date. That's one year after the money would have been drawn down.

MS. COSTELLO: I don't want to interrupt My Friend. I am just handing up a hard copy of the document for the witness.

Q. MR. HEALY: I am much obliged. Just to assist you, Mr. Barnacle, this is not a document that you generated?

A. Yes.

Q. It is a document generated in the bank?

A. Right.

Q. When the bank receives an application or received an application for a loan, that application was considered by the credit committee, your application along with lots of other applications presumably. The credit committee gave a recommendation yes or no based on the amount of the loan, the security and so forth, and on the proposal in respect of which the money was being sought, this is the minute of the meeting that the credit committee presumably held to consider the application for your 80,000, right?

A. Yes.

Q. The reason I am dating it to 1985 is twofold, firstly because the term is described as three years to March of 1998; secondly because the recommended review date is described as a year later; do you see that?

A. Yes.

Q. 31st of the 3rd, 86. And I think you see also that there is drawdown which is described as gleaning of helicopter purchase expected 26th of March of 19, presumably 1985?

A. Correct.

Q. That was around the time you mentioned to me earlier you were getting into business.

CHAIRMAN: Is it not the purported date of the committee meeting at the bottom right?

MR. HEALY: Perhaps on your copy, Mr. Chairman, you can

make it out, it looks like the 19 of March something, but the something is gone from mine.

CHAIRMAN: Yes.

Q. MR. HEALY: Now, who was handling that application on your behalf?

A. The name Martin Lanigan O'Keefe comes to mind in Guinness Mahon.

Q. Was it you who approached him?

A. I would have been involved in it, in applying for the loan.

Q. Martin Lanigan O'Keefe was in Guinness Mahon?

A. He was maybe a manager at the time.

Q. Did you go into Guinness and Mahon?

A. I have been in there, yeah.

Q. Did you go in there at this time, to start-up this process?

A. I would have gone in there in connection with trying to arrange the €80,000.

Q. Why would you have chosen Guinness and Mahon?

A. I don't know why, other than I was advised to try Guinness and Mahon over any other banks at the time.

Q. Who advised you to try Guinness and Mahon?

A. Possibly Des Traynor, possibly Haughey Boland.

Q. Did you have any contact with Mr. Traynor at this time?

A. Not personally, personal, no.

Q. Do you know whether Haughey Boland had any contact with him? Didn't you mention to me earlier in the course of your evidence that Haughey Boland were in contact with Mr.

Traynor in connection with your affairs?

A. I leave them for them to explain.

Q. Right. If you look at the background notes and the outline of the proposal, in the last sentence there is a reference to outside investors. I am sure you can see why a bank would be interested in knowing who else was prepared to invest in this proposal, isn't that right, it seems reasonable, doesn't it?

A. Seems reasonable.

Q. Obviously if you want to convince a bank to investigate in a proposal like this you should try to, indicate to them that other people are prepared to invest in it as well, apart from yourself obviously. Who gave the bank the names Seamus Purcell, Joe Malone, P V Doyle?

A. That's a question for the bank.

Q. Well, did you give them those names?

A. No.

Q. Did you know anything about those people at that time?

A. No.

Q. Did you know in fact that they were going to own 40 percent of the company?

A. I did know that the Mars Nominees would own 40 percent of the company, yes.

Q. And who was the person who put you in touch with Mars Nominees?

A. Well, I believe that was arranged between possibly Des Traynor and Haughey Boland.

Q. Sure a moment ago you were telling me you weren't aware of any Des Traynor involvement in producing this document?

A. Producing which one?

Q. When you wished to start-up this company?

A. Yes.

Q. You needed €80,000 from a bank?

A. And 80,000 investors.

Q. Of that 80,000 presumably yourself and Mr. Ciaran Haughey were putting up some, or were you?

A. One pound each.

Q. Pardon?

A. One pound each sorry €60 each.

Q. What you were putting up was nominal?

A. Nominal, yes.

Q. So yourself and Mr. Haughey were going to set up the company and you were going to own 60% of it, but the actual amount of money you were going to put in was going to be nominal?

A. €60 each.

Q. It is nominal, will you agree with me that's the appropriate term to use?

A. Absolutely, yes, in money terms.

Q. In money terms of course, because you were both pilots?

A. Yes.

Q. So somebody else was going to invest in you to the tune of €80,000 and you were also going to persuade a bank to put up €80,000?

A. Correct.

Q. Those €80,000 investors were going to own 40 percent of the company?

A. Correct.

Q. Now, surely you must have had some involvement in negotiating that 80, that 60/40 split in those?

A. Yes, I had negotiated to the point we would give away as much of the company as was necessary so that myself and Ciaran Haughey still had a good bit over 50 percent, which ended up being 60, it was 60/40 and the 40 was for €80,000.

Q. Who did you conduct those negotiations with?

A. They were done mostly with Haughey Boland at the time I would say.

Q. When you say "with Haughey Boland", were you on one side of the negotiations and they on the other side?

A. No, they were with us and aiding us.

Q. They were aiding you in starting up?

A. Yes.

Q. Who was the person with whom you were negotiating for the 60 as opposed to the 40?

A. Well, that's how we originally, if I can remember correctly, arranged it or how we wanted to breakdown the company.

Q. You didn't know who Seamus Purcell was, you didn't know who Joe Malone was or P V Doyle, they were not involved. As far as you were aware who did

A. I believe Mr. Traynor arranged those as Mars Nominees.

Q. Was he the person who arranged the Mars Nominees?

A. He would have been the person to arrange with Seamus Purcell, Joe Malone and P V Doyle.

Q. Was it with him you were negotiating the 60/40?

A. I would imagine it was at the time we would have discussed that in Haughey Boland's offices and said that's how we wanted the arrangement to come out, and then when that was decided I would imagine that Mr. Traynor then found investors to the tune of €80,000 in return for 40 percent of the company.

Q. And he presented that to you more or less as a fait accomplie?

A. Correct.

Q. And this group of investors were the original investors, they were not part of the group who were going to have ultimately the right to preferential shares?

A. Correct.

Q. I take it this group of investors got nothing out of the company either?

A. As yet, no.

Q. The share configuration of the company at the moment I think is that you have 60 ordinary shares in the company and Mr. Ciaran Haughey has 60 ordinary shares, is that right?

A. Correct.

Q. Of the balance of the ordinary shares Larchfield Securities holds five ordinary shares for a Mr. Cruse-Moss is that

right?

A. So I believe, yes.

Q. Is Mr. Cruse-Moss somebody who was introduced by Mr. Traynor also?

A. He had to be because I don't know him.

Q. Now, the other voting shares are held by Larchfield Securities and by Mr. Joseph Malone Junior, is that right, and by Mr. Michael Murphy?

A. Can I see what you are reading from?

Q. I am actually reading from information given to me by Deloitte and Touche, so perhaps I will take you through it more slowly. You and Mr. Ciaran Haughey certainly have 60 shares, isn't that right?

A. Correct.

Q. All the other shares

A. Mars Nominees held 40.

Q. Yes, held

A. 40 percent.

Q. 40 percent?

A. Or 80 80 shares, we held 120, they held 80. They originally were all Mars Nominees but they since transferred to MS or MIS or whatever it is, okay?

Q. Right. All of the other voting shares are held by nominee companies then apart from

A. Apart from myself and Ciaran, yes.

MS. COSTELLO: I wonder if the witness could be given a

copy of that document. He asked for a copy.

Q. MR. HEALY: It is just a note that I have as a result of information made available to me by Deloitte and Touche. I can, there is a lot of writing on it but I might be able to get a copy of it. I am going to try to get another copy but we may be able to proceed without having another copy for the moment.

A. I am not absolutely a hundred percent sure that the 80 shares have voting rights.

Q. Well, I have been listening to your evidence and I have been trying to do a calculation as you have been speaking and I think what you say is reflected in this note I have, and it suggests that you and Mr. Barnacle have 60 shares each, that Larchfield Securities and other nominee companies have 80 shares?

A. Yes.

Q. And they are voting shares, they are A ordinary shares of the same class as the shares that you have?

A. Right.

Q. Then there are shares held by a nominee, by MS Nominees for Mr. Murphy, and those shares are 7 percent non-cumulative preference shares; would that be your understanding?

A. Yes.

Q. And there are shares held by MS Nominees for the persons we mentioned a moment ago in addition to Mr. Murphy, Mr. McAuliffe, the late Mr. Butler, Mr. Byrne and Mr. Snowden. And those are also 7 percent non-cumulative preference

shares?

A. Right, okay.

Q. Is that your understanding now of the breakdown?

A. The breakdown, yes, except that the money, the €80,000 was for the B shares.

Q. The €80,000 shareholders also have B shares as well as A shares, yes?

A. Okay.

Q. If we could just take the B shares out of it for the moment, they certainly have their degree of control such as its, 80 out of 200 shares which is 40 percent?

A. Correct.

Q. The same as was originally envisaged. And the shareholders who hold that 80 are Larchfield Securities and MIS Nominees, holding it for various different beneficial owners?

A. Originally they were Mars and then they were transferred.

Q. Originally they were Mars and Mars was originally the nominee company of Guinness and Mahon, and subsequently a different nominee sharehold was substituted for MIS Nominees, sometimes called MS Nominees but I think that's a mistake, I think it is MIS Nominees.

Now, unless you want a copy of that note later, Mr.

Barnacle, I don't think we need to trouble ourselves with it any more. So at the moment, if those outside investors who formed part of that 60 percent shareholding, their

shares, their 40 percent shareholding, that shareholding must now be held by either Larchfield Securities or MIS Nominees?

A. Correct.

Q. So either MIS Nominees or Larchfield Securities should know about these people?

A. I would imagine so, yes.

MR. HEALY: Okay. Thanks very much.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. CONNOLLY:

Q. MR. CONNOLLY: A few questions, Chairman. Mr. Barnacle, I want to ask you some questions on behalf of the Revenue Commissioners. Firstly I just want to look at the situation in terms of documentation. Prior to the 31st of March, of 1996, if I understand the position, there was no written document reflecting an issue of shareholding in the company, is that right to the

A. To the?

Q. In relation to the 200,000, that's what I meant to say?

A. Yes.

Q. Correct. Nothing. And at any stage up to that time had there been any written acknowledgment from the company to any persons in relation to the €290,329?

A. Not that I was aware of.

Q. It appears to be the case that initially the 290,329 was treated as share capital but for the accounts for the years ending 31st March, 93, 31st March, 94, and 31st of March, of 95, it was treated as loan capital, and then for the

following years, as you have told Mr. Healy, it was treated, that's the 31st of March, of 1996, from then onwards it was treated as share capital yet again; is that correct?

A. Correct, it was always envisaged as share capital, not a loan.

Q. I follow that. I think you told Mr. Healy that. What I want to ask you is how did it come to pass or who decided that it would be treated as loan capital in books of accounts for three successive years?

A. The accountants.

Q. This is Deloitte and Touche, is it?

A. Yes.

Q. And are you aware that the year of, the accounts

A. I say the accountants in connection with Des Traynor over and possibly the shareholders themselves, I don't know, I had no direct input on the reasoning behind that.

Q. All right. Well, then the accounts for the year ending 31st of March, of 1995, record the loan capital as being explained in the following terms; "This represents an interest free unsecured loan with no fixed repayment terms". Now, had you anything to do with that being put into the accounts?

A. No.

Q. Were you aware it was there?

A. I was aware that it had yet to be put into shares.

Q. I appreciate that, but were you aware of that statement

that I have just read to you?

A. I wasn't aware of how it was treated as far as accounts purposes were concerned.

Q. Were you ever aware that that statement was in the books in 1985?

A. I am not sure, I can't recall straightaway but I am sure.

Q. The €290,329 that we have heard about, that's Mr. Murphy, Mr. McAuliffe, Mr. Byrne, the late Mr. Patrick Butler and Guy Snowden. When did you become aware of the identities of these persons as having a financial involvement in that €290,329?

A. When I was informed by Mr. Traynor that the money would be coming to us.

Q. When was that?

A. It had to be earlier October or middle October of 92. It had to be some time in October, I don't know the exact date.

Q. You see Mr. Snowden's, Mr. Snowden's money, the €67,796 that appears in the books on the 2nd of February, of 93?

A. Right, I knew it was coming, it was just delayed getting to us. Why I don't know.

Q. And my question is a bit more specific, while you were aware the money was coming from investors from information that you were given by Mr. Traynor, did you know the names of these investors in autumn of 92?

A. I did, yes. I was given the names by Mr. Traynor, sorry the late Mr. Traynor.

MR. CONNOLLY: Thanks very much Mr. Barnacle.

MR. HARDIMAN: No questions.

THE WITNESS WAS THEN EXAMINED BY MR. SHIPSEY AS FOLLOWS:

Q. MR. SHIPSEY: Just a few questions. I appear for Mr. John Byrne and for the Carlisle Trust Limited. I just have a few questions to ask you in connection with the investment by Mr. Byrne and the other investors. You have, I think in answer to Mr. Healy's questioned, explained that Mr. Byrne was known to you in 1992?

A. He was, yeah.

Q. And would I be correct in saying he was known to you for a number of years prior to 1992?

A. Yes.

Q. And that you would have met Mr. Byrne socially quite often, I think as a result of the shared interest in horseracing?

A. Correct.

Q. And insofar as Mr., the late Mr. Butler is concerned, was Mr. Butler also well-known to you in 1992?

A. Correct.

Q. And had the late Mr. Butler availed of your help on helicopter services on a number of occasions?

A. Only a few, yes.

Q. Insofar as Mr. McAuliffe is concerned, Mr. McAuliffe was also a person who was known to you?

A. Yes.

Q. I think Mr. McAuliffe was and perhaps still is a helicopter

enthusiast?

A. Yes, I believe so.

Q. And as far as Mr. Byrne is concerned, were you aware that Mr. Byrne was also if not a helicopter enthusiast a keen aviation enthusiast?

A. Very keen, yes.

Q. There was perhaps a common thread or a number of common threads in relation to the persons who were investing, perhaps with the exception of Mr. Snowden, whom you don't seem to have known, but all of the other individuals, particularly Mr. McAuliffe, Mr. Byrne and Mr. Butler were known to you for a number of years?

A. Correct.

Q. Had either used your helicopter services or were interested in the helicopter business, were also presumably known to you as wealthy private individuals?

A. Correct.

Q. And would it also have been the case that insofar as Mr. Murphy was concerned you have stated that he was your insurance broker for a number of years but he was also a person who was well-known to you?

A. Correct.

Q. Now, I think you have stated that you personally didn't actually solicit money or solicit investment from any of these individuals, that was done for you, you believe by Mr. Traynor; is that correct?

A. Correct.

Q. Would I be correct though in saying that you would have spoken to the individual investors, perhaps with the exception of Mr. Snowden on a number of occasions, about your business and particularly I am obviously concerned about Mr. Byrne, you would have

A. Mr. Byrne, yes.

Q. Mr. Byrne would have known about your business?

A. Yes.

Q. And you have not, you would not have been unwilling to discuss your business with Mr. Byrne?

A. No.

Q. Such was the nature of your friendship or your relationship?

A. Correct.

Q. And insofar as the individuals were concerned in 1992, it is, I think, your evidence that none of them were given any form of written prospectus prior to their investment; is that correct?

A. Correct.

Q. They didn't actually seek a written prospectus and you didn't make one available to them?

A. Correct.

Q. It was done very much on the basis of personal contact, their personal knowledge of you and your company; would that be correct?

A. Correct, but I didn't direct Mr. Traynor to these individuals.

Q. I appreciate that. But all of those who were approached were persons who were known to have been known to you and knew about your company?

A. Correct.

Q. Now, you have also stated in your statement, if I can just find it, where you said; "I have no knowledge of any connection between Mr. Byrne and Carlisle Trust Limited".

When did you first learn about or become aware of the company called Carlisle Trust Limited?

A. Basically when I started getting the information from the Moriarty Tribunal.

Q. I think you mentioned certain inquiries made by an inspection appointed by the Tanaiste?

A. Yes, I knew, I was told by him that the hundred thousand had come from Mr. Dunne, but I wasn't aware of Carlisle Trust or how it came from Mr. Dunne.

Q. And therefore it was subsequent to Mr. Ryan's, Inspector Ryan's inquiries that you became aware for the first time about Carlisle Trust?

A. That's right, yes.

Q. And insofar as you became aware of the company, Carlisle Trust Limited, for the first time, that's presumably sometime in 1998, if not late 1998; would I be correct?

A. Yes.

Q. Would it also be true that that was the time when you first became aware of any connection between Mr. John Byrne who was known to you and the company called Carlisle Trust

Limited?

A. Correct.

MR. SHIPSEY: Thank you.

CHAIRMAN: Mr. O'Moore.

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

Q. MR. O'MOORE: I have questions, Mr. Barnacle. I appear on behalf of Mr. Mike Murphy. It was suggested to you by Mr. Healy that the Tribunal Solicitor had written to your solicitor Messrs. Gore and Grimes and asked to identify Mr. Mike Murphy and give details of a person who appears to have made investment of €100,000 in Celtic Helicopter; is that right?

A. Correct.

Q. Did I gather your response, your understanding was that Messrs. Gore & Grimes had given that information?

A. I wasn't aware of whether they had or they hadn't, there was no reason not.

Q. Can I put it this way; if I read your response correctly to Mr. Healy you seemed surprised that information hadn't been given, would that be right?

A. There was no reason, there was a little mix-up there. Gore & Grimes was acting for us and then they weren't, we released them because we didn't realise what was going on and we have only rebrought them back in once we applied for assistance or whatever.

Q. Whatever about that, just so it is not left hanging in the air, it is the case, isn't it, that Mr. Murphy never suggested to you either directly or indirectly that you should be coy about the release of information.

A. No, absolutely not.

Q. Are you aware of whether Mr. Murphy was offered share certificates in Celtic Helicopters?

A. Not as yet, I don't think so, they were issued they were issued to MIS.

Q. Mr. Murphy's evidence will be that he was never given any share certificates in the company at any time?

A. That would be correct.

Q. Can I ask you about the approach made to get investors in the company in late 1992. I think you have said at paragraph 3.2 of your statement that Celtic required an injection of capital during that year. And you and Mr. Ciaran Haughey requested the late Mr. Des Traynor "to help us in that regard", and I think, I haven't been here for all your evidence, Mr. Barnacle, I gather during the course of it you said you never solicited financial contributions for the company at that time; is that so?

A. Not from individuals, no.

Q. Not from individuals. You had known Mr. Murphy for some years; isn't that right?

A. Yes.

Q. And you knew that he was involved not just in insurance brokerage but in financial services generally?

A. Correct.

Q. Mr. Murphy's evidence is that he had never met Mr. Traynor in his life?

A. Right.

Q. And that under those circumstances it is most unlikely that Mr. Traynor would have lifted the phone to him or made any contact whatsoever with him to solicit the introduction of finances into Celtic Helicopters. Does that make sense, Mr. Barnacle?

A. It does.

Q. And Mr. Murphy's express evidence will be that he was not approached by Mr. Traynor, but rather that you suggested to Mr. Murphy that Mr. Murphy might see if there was anyone interested in providing financial assistance to the company?

A. Correct, I may have asked Mr. Murphy if he knew of a way of getting finance. I didn't directly ask Mr. Murphy for finance.

Q. Precisely, so you talked to Mr. Murphy whom you knew was in the general line of business and you suggested that maybe finance might be got and Mr. Murphy might be of some assistance?

A. Correct.

Q. And that would be Mr. Murphy's evidence, that he took that as an inference to invest in the company. Did Mr. Murphy not discuss with you at a later time the fact that the investment that was procured by him was not investment

personal but rather on behalf of a foreign gentleman?

A. No, I wasn't aware of that.

Q. Mr. Murphy will say that you were aware?

A. No.

CHAIRMAN: Mr. O'Donnell?

MR. O'DONNELL: No, no questions sir.

CHAIRMAN: Very good. Ms. Costello.

THE WITNESS WAS THEN EXAMINED BY MS. COSTELLO AS FOLLOWS:

Q. MS. COSTELLO: Firstly, Mr. Barnacle, I think Mr. Byrne

gave evidence on last week to the effect that when he

discovered that certain monies had gone through this

company, Carlisle Trust, in 1994 that he caused inquiries

to be made of Celtic Helicopters regarding a cheque for

100,000 drawn on the accounts of Carlisle Trust Limited.

Are you aware of any inquiries being made either by Mr.

Byrne or on behalf of Carlisle Trust Limited to Celtic

Helicopters in 1994 about the cheque of £100,000?

A. No.

Q. Did you receive any letters?

A. Not to my knowledge, no.

Q. Or telephone inquiries?

A. No.

Q. Mr. Byrne suggested that possibly the inquiries might have

been carried out by a Mr. Pat McCann on behalf of Carlisle

Trust, did you ever receive any inquiries from Mr. Pat

McCann?

A. No.

Q. Or possibly from Mr. Byrne's solicitors in this regard?

A. No.

Q. And then to turn then to the issue of the shareholding in the company, I think Mr. Healy has gone through the shareholding as it currently stands in the company, and just for clarification purposes, can you confirm that Mr. Charles Haughey was never a shareholder in the company?

A. Correct.

Q. And he doesn't have any share options in respect of the company?

A. No.

Q. And I don't believe he was ever a Director of the company?

A. No.

Q. Did he attend any meetings of the company?

A. No.

Q. Would he have been involved in the conduct of the affairs of the company in anyway?

A. No, not that I'm aware of.

Q. I understand that Mr. Charles Haughey was a client of the company?

A. He was.

Q. And he paid for his flights with the company?

A. Paid for all his flying.

Q. Other than flights which he paid are you aware of any benefit which he might have received from the company?

A. No.

MS. COSTELLO: Thank you Mr. Barnacle.

MR. O'MOORE: Before Mr. Healy re-examines I should say my instructions were slightly out of sync. It wasn't Mr. Barnacle but rather another gentleman of Celtic Helicopters who was told the investment was not a personal investment but rather

CHAIRMAN: I accept, Mr. O'Moore, that events have moved very fast forward as regards taking instructions, and I am not going to be too hard and fast in that regard. Anything in conclusion?

THE WITNESS WAS RE-EXAMINED BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Yes. Just in relation to a remark you made a moment ago in response to Ms. Costello. You say Mr. Charles Haughey was never a shareholder, and you say he was not involved in the conduct of the affairs of the company?

A. Not to my knowledge.

Q. Do you remember the discussion we had no more than a few minutes ago about the letter you got from Dr. O'Connell?

A. Yes.

Q. Wasn't it to Mr. Haughey, to Mr. Haughey, Mr. Charles Haughey's attention that that was drawn?

A. That would probably be father and son, not father & Company.

Q. I see. Were there other father and son matters affecting

the company that you knew nothing about?

A. Not that I'm aware of, no.

Q. Just two last matters just for the sake of the record. I drew to your attention earlier a letter of the 16th, I think of October, to your solicitors seeking certain information, and as you correctly pointed out in response to a question a moment ago at one point you ceased to have solicitors acting for you, even though solicitors have now come on record for you again; isn't that right?

A. Correct.

Q. But during the period when you ceased to have solicitors acting for you, are you not aware that on the 7th of December, 1998, Mr. John Davis, solicitor to the Tribunal, wrote to you at Celtic Helicopters, Heliport in Knockseedan, Dublin Airport. Do you recognise that letter?

A. I don't recognise it as this letter because I was getting letters every day from Mr. Davis, so

Q. Well, how many letters did you get in December from Mr. Davis?

A. I couldn't tell you.

Q. Well, you have said you were getting them every day, could you just

A. In January they were coming every day like, you know?

Q. This is December, not January?

A. Right.

Q. Could I draw your attention to the last paragraph on the

first page? The other two paragraphs inform you that because you were no longer dealing through solicitors Messrs. Gore & Grimes, the Tribunal is writing to you directly, you were informed that a similar letter is written to your co-Director, and then you are told; "You will also be aware the Tribunal wrote to your solicitors on the 16th of October, of 1998, seeking certain additional information.... So as to deal with a number of outstanding matters. The Tribunal has received no response in relation to that, and I would now ask you to please let me have a statement concerning this further conversation" .

Now, that's a letter to the, a reference to the letter I mentioned a moment ago in which details were sought of Mr. Murphy's address. You were given an opportunity to respond to that. As you say yourself there was no reason why you wouldn't respond, yet you didn't respond; isn't that right?

A. I gather I didn't, immediately.

Q. And in fact the information wasn't furnished until the Tribunal, until after the Tribunal had commenced its public sittings; isn't that right, last Tuesday, the 2nd of February?

A. That's the first time I wrote back.

Q. Doesn't that seem to suggest there was a reluctance to let the Tribunal have access to this information?

A. No, sir, I would say it was a lack of legal representation.

MR. HEALY: Thank you.

CHAIRMAN: Thank you, Mr. Barnacle.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Dr. John O'Connell.

HAVING BEEN SWORN DR. JOHN O'CONNELL WAS EXAMINED AS
FOLLOWS BY MR. COUGHLAN:

CHAIRMAN: Thank you Dr. O'Connell. Please be seated.

Q. MR. O'COUGHLAN: Dr. O'Connell, I think you have furnished
a statement to the Tribunal, and I intend taking you
through the statement, and then I may ask you a few
questions about it. Do you have a copy of the statement?

A. If you forgive me, my hearing is quite impaired.

Q. Do you have a copy of the statement?

A. I do indeed.

Q. For your assistance in front of you?

A. I do.

Q. I will take you through the statement in the first
instance. I think you have informed the Tribunal in your
statement; "that, I, John O'Connell, was a TD in the years
1965 to 1993. I was a Labour TD from 1965 to 1981. I was
an Independent TD from 1981 to 1985, during which time I
served as Ceann Comhairle to the Dail. I was a Fianna Fail
TD from February 1985 but lost my seat in 1987. I was
then appointed to the Senate. I was reelected to the Dail
in 1989 as a Fianna Fail TD, and from 1989 to 1992 I was a

back bencher. I was appointed Minister for Health in March 1992 and resigned as Minister in or about February of 1993"?

A. Yes.

Q. I think you also informed the Tribunal in your statement; "that in or about March 1985 I was asked by Mr. Charles J. Haughey to make a contribution to Celtic Helicopters or if I had any friends who would make a contribution"; is that correct?

A. That's correct.

Q. "Mr. Haughey told me he was asking a few friends to make a contribution of œ5,000 each to Celtic Helicopters"; is that correct?

A. Correct.

Q. "I did not realise at the time that I was making an investment for shares in the company. I had no information in relation to the company of any kind, other than I knew it was a company controlled by Ciaran Haughey, Charlie Haughey's son"; is that correct?

A. Correct.

Q. "The request for a contribution was made at a meeting in Mr. Charles Haughey's offices in Government Buildings"; is that correct?

A. Correct.

Q. "He indicated he was asking some of his friends to make a contribution"?

A. Correct.

Q. I think you informed the Tribunal that on the 25th of March, of 1985, you wrote a cheque for œ5,000 in favour of Celtic Helicopters Limited and handed it to Mr. Charles Haughey; is that correct?

A. Correct.

Q. The cheque was drawn on your account with Bank of Ireland, and you have kindly furnished the Tribunal with a photocopy of the cheque stub, the cheque book stub. I wonder might we just have that. I know it is very poor, but I think that is the cheque book stub that you wrote on that occasion; is that correct?

A. Correct.

Q. Now, I think if you I think the cheque book stub, if I might just take you through it. It is dated 25th of the 3rd, 1985; is that correct?

A. That's right.

Q. There is a monitor there, Dr. O'Connell, which may be easier to see, under that is written the word "Celtic", is that right?

A. Yes.

Q. I can't make out what's next, can you?

A. Pardon?

Q. Can you make out what's next?

A. "Celtic Helicopters - œ5,000".

Q. Celtic Helicopters?

A. Yes.

Q. Now, I think you informed the Tribunal; "that in early in

1992 Mr. Charles Haughey told me that" and you quote "We were looking up the register of Celtic Helicopters Limited and you never got your share certificate, if you ever want a lift in a helicopter please let us know"?

A. Correct.

Q. Is that your recollection of what Mr. Haughey said to you in 1992, Dr. O'Connell?

A. Yes.

Q. And was it he who brought up the conversation or had you at that stage asked him anything in 1992 when he brought this up?

A. Pardon, I can't hear you?

Q. Sorry. In 1992 when Mr. Haughey said that to you, had you at that stage raised anything with him about the previous cheque?

A. No, I never knew anything about shares.

Q. Yeah. So, it was Mr. Haughey who brought the issue up with you?

A. He brought the issue up.

Q. Discussing the affairs of the company?

A. That's right.

Q. Now, I take it you tell the Tribunal that this was the first time that you realised that the payment to Celtic Helicopters had been treated as a payment for shares?

A. Yes, correct.

Q. Now, I think you also informed the Tribunal that, "shortly afterwards Mr. Charles Haughey said something to me", and

you quote about those shares, "we would like to buy them from you"?

A. Yes.

Q. He said that to you?

A. That's right.

Q. "I said that I wanted the shares, not the money"?

A. Correct.

Q. "And then after some discussion I indicated that if he wanted the shares I would require a payment of €15,000"?

A. Correct.

Q. You were driving a fairly hard bargain there, Dr. O'Connell, weren't you? "Mr. Haughey after some discussion agreed to pay the sum and we shook hands"?

A. That's right.

Q. "I believe this conversation took place on the very same day that Mr. Charles Haughey resigned as Taoiseach at the beginning of February of 1992"?

A. Yes, I am also certain of that.

Q. You informed the Tribunal, "when Mr. Haughey did not pay me this sum of €15,000 I instructed my solicitors, Messrs.

Beauchamps, on the 4th of March, of 92, to write to Celtic

Helicopters seeking a share certificate of my shares", and

I think we have seen the letter up on the monitor?

A. Yes, that's right.

Q. I think you also informed the Tribunal that, "I felt that this was the best way of progressing matters. My solicitor wrote to the Secretary of Celtic Helicopters on the 5th of

March, of 1992, but received no response"; is that correct?

A. That's correct.

Q. I think you informed the Tribunal that in October of 1992, "Mr. Haughey contacted me and said if I came up to the Convention Centre in Donnycarney on a particular evening that he would give me, he would have the money for me"; is that correct?

A. Yes, that's correct.

Q. And you say that that was in October of 1992; is that correct?

A. Yes, that's right. There was a convention in, for I think his son was going forward for nomination for the elections.

Q. I see. And that's how you are able to fix the approximate date?

A. Yes, that's right.

Q. "I went to Donnycarney as requested at the beginning of October of 1992, and Mr. Charles Haughey handed me a cheque for œ15,000"; is that correct?

A. Correct.

Q. "The cheque was drawn on the account of Irish Intercontinental Bank, No. 1 account with Bank of Ireland". And you attached a copy of the cheque with your statement; isn't that correct?

A. That's correct.

Q. And is that the cheque which is now on the monitor?

Perhaps the lower monitor might be easier for you, Dr.

O'Connell. It is dated the 2nd of October, of 1992?

A. 1992.

Q. It is Bank of Ireland. Payee: Dr. John O'Connell.

€15,000 and it is the account of Irish Intercontinental

Bank, No. 1 account. Is that correct?

A. That's correct.

Q. And that's what you received from Mr. Haughey?

A. Yes.

Q. I think you informed the Tribunal that you, "I have never

had any money in what is termed "the Ansbacher accounts"

and have never had any beneficial interest in those

accounts. I had no knowledge that the cheque drawn on the

Irish Intercontinental Bank, No. 1 account Bank of Ireland

was connected in anyway with the Ansbacher accounts"?

A. Absolutely correct.

Q. I think that reference that you make in the final paragraph

of your statement relates to information which the Tribunal

brought to your attention in connection with the Ansbacher

accounts; isn't that correct?

A. That's right, yes.

Q. And I think evidence will in due course be called in

respect of that.

Dr. O'Connell, have you any doubt that Mr. Haughey was the man who raised the question of shares with you?

A. No, I have no doubts at all about it. I knew nothing

about shares until he mentioned it to me.

Q. And you had, can we take it, forgotten the €5,000 at that

stage or had you?

A. Well, I understood it was an once-off payment. I was in the, I had just joined the party and was about, I had joined the party in January of 85, and this was in March, and I presumed that a lot of members of the party had been asked to contribute, I presumed that.

Q. Absolutely.

A. I have no information otherwise.

Q. You have no knowledge or information otherwise?

A. But I did think it was a once-off payment.

Q. Yes. Well, when you say a once-off payment, who did you think the once-off payment was being made to at that stage? Who did you think the once-off payment was being paid to?

A. To Celtic Helicopters.

MR. COUGHLAN: Thank you, doctor.

MR. CONNOLLY: I have no questions, Chairman.

MR. HARDIMAN: No questions.

CHAIRMAN: Anybody got anything?

THE WITNESS WAS EXAMINED BY MR. GARDINER AS FOLLOWS:

Q. MR. GARDINER: I would like to ask you some questions on behalf of Mr. Haughey in relation to your statement.

At the first paragraph of your statement you point out that from 1989 until 1992 on your reelection to the Dail you

were a back bencher; isn't that right?

A. That's right, yes.

Q. And I think you were promoted to Minister for Health by Albert Reynolds, isn't that right?

A. That's right, yes.

Q. You received no promotion from Mr. Haughey upon your reelection to the Dail in 1989?

A. Pardon?

Q. You were not made a Minister under Mr. Haughey's tenure as Taoiseach; isn't that right?

A. No.

Q. Now, you wrote your cheque in 1985 to Celtic Helicopters, according to your cheque stub; isn't that right?

A. That's right.

Q. Mr. Haughey's recollection is that at all times it was clear that you were making an investment in Celtic Helicopters. Do you draw a distinction between a contribution and an investment?

A. Sorry, I can't hear you?

Q. Sorry. Do you draw a distinction between making a contribution and making an investment?

A. Well, I knew nothing about an investment.

Q. Yes.

A. I was asked for a contribution, but there was no mention whatsoever of an investment, and investment I would have thought they were shares, but it never arose.

Q. Yes. Mr. Haughey's recollection is that he informed you it

would be an investment?

A. No, no.

Q. Your recollection is that this contribution was solicited in Mr. Haughey's office in Government Buildings?

A. That's right, yes.

Q. Mr. Haughey wasn't in Government in 1985; isn't that right?

A. Just bear with me now. It was in his office, he didn't come into, he didn't become Taoiseach until 87, that's right.

Q. Yes. So is your recollection that it was in the Government Buildings correct or not?

A. Incorrect.

Q. Now, Mr. Haughey it was who raised with you, you say, the issue of your shares in 1992; isn't that right?

A. Yes, it was, I think it was in 1991, around the end of 91.

Q. You had been of the view that the €5,000 cheque made out to Celtic Helicopters, when it was made out was something you would never see again?

A. That's quite right.

Q. And it was Mr. Haughey who raised with you the fact that you had shares in Celtic Helicopters; isn't that right?

A. Yes.

Q. That came as a surprise to you it appears?

A. It did, yes.

Q. But that was a matter, according to Mr. Haughey, that back in 1985 he had made clear that you were making an investment in Celtic Helicopters?

A. You will have to forgive me, I am only hearing some of what you are saying.

Q. Sorry. Isn't that consistent with Mr. Haughey's view that in 1985 he was soliciting an investment in the company?

A. Yes, yes.

Q. Now, the payment of €15,000 which was made in October of 1992 was made by Mr. Haughey at a convention meeting attended by many people, isn't that right? This was a big meeting, I think Mr. Reynolds was there, and many other people in Fianna Fail?

A. That's right, many Ministers were there.

Q. So, the context of your statement where it says; "In October 1992 Mr. Haughey contacted me and said if I came up to the Convention Centre in Donnycarney on a particular evening he would have the money for me", was in fact in the context of a convention meeting in Donnycarney attended by yourself and many other people; isn't that so?

A. Yes, that's right.

Q. And Mr. Haughey gave you the cheque which was put up on the screen on that evening; isn't that so?

A. I am sorry?

Q. Mr. Haughey gave you the cheque that we can see on the screen on that occasion; isn't that right?

A. That is correct, quite right.

Q. But that's not a cheque written by Mr. Haughey; isn't that right?

A. I must confess I never looked at it until just lately and

Q. If you look at it now?

A. His name is not on it, no.

Q. I simply want to make that point in light of media reports which suggest that Mr. Haughey had written that cheque, that's not so; isn't that right?

A. That's right.

MR. GARDINER: Thank you.

MR. O'MOORE: I have some questions arising on behalf of Mr. O'Connell out of that.

CHAIRMAN: Of course.

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

Q. MR. O'MOORE: Dr. O'Connell, can I ask you the following questions; why did you make the payment, the €5,000 payment to Mr. Haughey, Celtic Helicopters in 1985? Who did you think was going to benefit?

A. Sorry, I cannot hear you.

Q. Can you hear me now?

A. Pardon?

Q. Can you hear me now?

A. Yes.

Q. When you made the payment in 1985 of the €5,000 who did you think it was who going to benefit? Was it going to benefit Celtic Helicopters or somebody else?

A. Celtic Helicopters.

Q. Had you any interest whatsoever in making an investment in Celtic Helicopters at that time?

A. Sorry?

Q. Had you any interest whatsoever in making an investment in Celtic Helicopters in 1985?

A. I just thought it was a contribution to Celtic Helicopters, no question of an investment.

Q. Yes. You have heard Mr. Gardiner on behalf of Mr. Haughey say that Mr. Haughey will say that in fact you were buying shares in 1985, I think that's not your recollection or understanding?

A. No, it is not my recollection at all.

Q. Did you know anything at all about the company in 1985?

A. No, nothing, nothing.

Q. Now, in 1991 or early 1992 Mr. Haughey mentioned to you, I think you said for the first time that there were shares in your name in Celtic, are available for you in Celtic; is that right?

A. He mentioned to me.

Q. Yes, did he offer at that time to get the shares for you?

A. No.

Q. All he offered, as I understand your evidence, is that you will get a lift in a helicopter sometime if you wanted one?

A. Yes, but I don't think he meant that as payment for the investment or the money or the contribution.

Q. Yes, of course not.

A. He just said "when we looked up the register we seen you

did not get your shares".

Q. Yes.

A. Then he said "if ever you want a lift in the helicopter don't hesitate to ask".

Q. Dr. O'Connell, at this stage or any time since then have you had any interest in having a lift in one of Mr. Haughey's helicopters?

A. Not at all, I have a pathological fear of flying. I certainly wouldn't be in a helicopter.

Q. Now, I think in February of 1992 or around the time Mr. Haughey left office you agreed that he would pay you €15,000 rather than have an interest in the shares good, bad or indifferent?

A. Yes.

Q. Do you remember specifically that exchange with Mr. Haughey, when he agreed to pay the 15,000?

A. I said I would rather keep the shares, if I had shares I would rather keep them and he said "well, to tell you the truth we would like to buy them".

Q. Yes, and in fact you seem to have got from Mr. Haughey more than the €5,000 you put in, you got €15,000 for your shares?

A. Yes.

Q. Do you recollect when Mr. Haughey agreed to pay you the €15,000?

A. Yes, I am almost certain it was the day that he resigned as Taoiseach.

Q. Yes. Why do you remember that Mr., Dr. O'Connell? Why is it that you remember that particular day?

A. I don't know why it was that particular day, because he sent for me and when I went up he was very upset about the, about his position that day, and he said he had received a phone call from Bob Hawk in Australia and saying there was life after politics, but I did notice he was very upset initially.

Q. So there or thereabouts about the time Mr. Haughey left office you are able to locate the time at which he agreed to pay the €15,000?

A. I am almost positive.

Q. You have seen as you sat in the Tribunal today the letter that your solicitors, Beauchamps, sent on the 5th of March, of 1992?

A. Yes.

Q. Now, that refers to an attempt to get shares issued to you. Will you explain to the Tribunal why you told your solicitors to approach it in that way?

A. Because whilst he agreed to pay I had heard nothing further from him.

Q. And is it fair to say that looking for the shares at that stage was a device in order to get your money from Mr. Haughey?

A. It was, yeah.

MR. O'MOORE: Thank you, Dr. O'Connell.

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

Dr. O'Connell.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Sir, as you have already indicated people have to take instructions rather speedily because of matters which are happening today, and unfortunately we wouldn't be able to proceed any further with evidence at this stage, and I ask you in those circumstances if you leave the matter to tomorrow.

CHAIRMAN: I think we have made certain progress. 10:30 tomorrow. Mr. Coughlan.

THE HEARING WAS THEN ADJOURNED UNTIL THE 10TH OF FEBRUARY, 1999.