

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 23RD JUNE,

1999 AT 10.30AM:

CHAIRMAN: Mr. Coughlan, I understand some discussions were necessary between counsel in relation to aspects of today's hearing, hence the delay.

MR. COUGHLAN: That is correct, Sir.

CHAIRMAN: Mr. Lowry, would you mind sitting back please?

CONTINUATION OF EXAMINATION OF MR. LOWRY BY MR. COUGHLAN:.

Q. Mr. Lowry, I think when we finished yesterday, we were discussing the consultancy work done for Mr. Bill Maher, isn't that correct?

A. That's correct.

Q. And can I take it that from the questions I was asking yesterday and the replies you were giving that you can't be of assistance to the Tribunal to this extent, you can't provide a yardstick whereby one could measure the consultancy payment of €25,000 against other consultants or an applicable rate or a negotiated figure beforehand?

A. No, unfortunately I am not able to give you a direct comparison.

Q. The next matter then would be the €10,000 payment drawn on the account of Frost Impex and that was again in respect of consultancy work for Mr. Paddy Whelan, is that correct?

A. That's correct.

Q. And that cheque was made payable to cash?

A. Yes.

Q. Can you assist the Tribunal in general terms as to the nature of the consultancy work which you may have provided to Mr. Whelan to cover that particular payment?

A. I had agreement with Mr. Whelan whereby I would do the design and consultancy work for a substantial new cold store, a deep freeze cold store together with the refrigeration plant, the electrics and the ancillary and I invoiced him for the I was paid for the consultancy services myself and my company, Streamline Enterprises, completed, supplied all the materials, the plant, the components and the labour and commissioned the plant and the company invoiced him for that particular job.

Q. Well sorry that is in contradistinction now to the invoice we have seen yesterday from Glengreen (sic), is it?

A. Yes.

Q. This was a different transaction.

A. Yes.

Q. As regards the amount of work done, can we take it that in terms of consultancy work, it was substantially less than the consultancy work you provided for Mr. Bill Maher, bearing in mind that this was a payment for €10,000 as opposed to the payment you received from Mr. Maher, €25,000?

A. Yes, I think the figure related to the overall project was roughly €109,000, €110,000 I think on memory, something

around that.

Q. Can we take it then that in terms of the amount of work done by you and bearing in mind that your own view of what Mr. Maher might have appropriately owed to you would have been somewhere between 17 and a half and €20,000 for the work and the balance is in respect of what you owe him in terms of ongoing work, that it would have been somewhere in the region of about half the amount of time that you would have been involved with Mr. Whelan in terms of the consultancy work you afforded him?

A. Well I don't I have no measurement of it but yes, there would be less it's a smaller job so obviously there would be a lot less time, yes.

Q. In that region. I am not asking for specifics.

A. Yes, and it's local as well.

Q. Yes, you had no travelling involved?

A. No.

Q. Well no travelling abroad. But again, like Mr. Maher's payment, it was Mr. Whelan who decided on the level of payment, isn't that correct?

A. Yes, the way the arrangement was structured was I had an open book situation with him. He knew what my costs were and I had made big savings for him because of that arrangement and when he saw what the savings were, then he determined the amount, you know. In that particular case, he would have sat down with me and said, look, that's the out turn, that's the completed job, I am happy with it, and

we agreed €10,000.

Q. This isn't a criticism, Mr. Lowry, but would you agree from any member of the public looking at it, to rely on the donor to the extent, the person paying for the service to be the person to decide on it is unusual?

A. It is unusual, I suppose, the few companies that I have actually worked with, I have built up a long relationship with them over a long period of time and there is trust there, You know, and in the case of Whelan Frozen Foods, I have been working for him for years and we have never had a difficulty in that regard. We have always come to a resolution and it has always been to the satisfaction of both parties.

Q. Yes, I appreciate that. And but you, I suppose, would accept that you really would be in a difficult position if you attempted to enforce some form of payment?

A. Yes, you made a point yesterday, and I suppose on reflection I accept it, yes, I do.

Q. And I suppose it would be difficult to know what the price, the ultimate contract price would be until the job was over because you wouldn't be in a position to give a price beforehand?

A. What I normally do is give a budget price and then when all the costs are in, and we have actual costs, then we total them up and that's the figure that we base our decisions on.

Q. Again, I suppose you would agree with me I suppose, that

whilst it's an unusual way to do business, but it's the way you do the business, it's perhaps not the best way for somebody who might hold public office to be doing business.

A. Well, I never linked my business

Q. I appreciate that

A. with my commercial activity, but when I see all the questions that are being asked of me for the various commercial decisions that I have taken, I do realise now in hindsight that you have to be ultra careful and that something which is totally innocent and innocuous and something which is complete above board can be interpreted in different ways and obviously I'd be I should be careful not to leave myself open to that.

Q. I suppose you wouldn't disagree, it might be suggested it's an unwise thing to do?

A. I'll accept that.

Q. Now, if I might now turn to the question of the purchase of the property at Carysfort Avenue and your relationship with Mr. Michael Holly. Mr. Michael Holly is now dead, isn't that correct?

A. That's correct.

Q. And I think Mr. Michael Holly was the principal of Cedar Building Company Limited?

A. That's correct.

Q. And I think you got to know him through Gaelic Athletic Association functions, although your interest was in the

hurling side and Mr. Holly's, I take it, was perhaps on the football side?

A. Mr. Holly would be a fanatical Kerry supporter and a very prominent member of their supporters' club.

Q. Is that how you got to know him?

A. That's how I got to know him. Personally, myself, my first love would be hurling but obviously as a GAA man, I would be very fond of football also.

Q. And I think you already told us that you were looking for somewhere in Dublin?

A. Yes.

Q. And you had put out feelers through estate agents and through, I suppose, personal friends was there anything around?

A. I had made, as I state in my statement, I had asked at least eight different people, both auctioneers and builders, people involved in the construction industry, to keep a look out for me.

Q. And you had in fact looked at one or two properties as well?

A. I looked at actually six different properties and they were unsuitable and I looked at those properties in the company of the individuals I had asked and they were unsuitable and Mick Holly rang me and said he had a property which he felt would be suitable.

Q. Was Mick Holly one of the people that you had said that you were looking for a property? Did he know I presume you

said to him, do you know of anything or would you keep an eye out

A. It was just in the course of a conversation I said look, I am looking for a property in Dublin. I am spending a lot of time in Dublin. I am spending a lot of money on rental accommodation and I think it would be wise for me to purchase a property. I had done that after discussions with my accountant who advised me that that's what I should do, so Mick Holly was just one of approximately eight people that I asked.

Q. I think it was he that spotted the property in Carysfort Avenue himself?

A. Yes.

Q. And he rang you. Were you in Brussels I think you said at the time?

A. My recollection is I think I was in Brussels with the presidency. I was chairing some council meeting or other and I think on the my recollection, but I don't have a diary so I can't check it, but I think it was at that particular time, but I got a phone call from him anyway to say he had spotted this property. He felt this was good value. That was auction was coming up immediately.

Q. It must have been proximate to the auction?

A. It was the day before it or the evening before it.

Q. And he was going to the auction anyway?

A. He was going to the auction. And

Q. Well could I just tease that little particular period out

with you now. Was he indicating I think he did indicate to you he thought it was good value and if you weren't interested, he was going to go for it himself?

A. What he said to me, in essence what he said to me was I may not have the wording exactly but he said it was a good property, it was strategically well located. He mentioned the DART, he said that the property he had got an indication of what it might be sold for. He felt it would be good value and he indicated to me that he was purchasing the property himself.

Q. Right

A. Because he felt one way or another it was going to be a good investment and that when I returned or when I got an opportunity, that I should look at the property and if I liked it, he would sell it to me at whatever he bought for.

Q. So he wasn't expecting to make any profit on this transaction?

A. No, because I had asked him, you know I had asked him to look out for one.

Q. Yes. And in fact I think his solicitor went to the auction, bid for it and got the property, isn't that correct?

A. That's correct.

Q. And in fact his solicitor paid the deposit of œ20,000 or whatever the sum was at the time?

A. Yes.

Q. And that was drawn down out of Mr. Holly's client account in fact?

A. Yes.

Q. And then I think Mr. Holly's solicitor acted for you in the transaction between you and Mr. Holly also, isn't that correct?

A. Mr. Gahon acted for Mr. Holly and there was a lady solicitor in the office who acted for me.

Q. Yes, but the firm

A. Yes, the firm.

Q. I am not suggesting there was anything and then what happened was that you arranged funding for a hundred percent of the transaction, isn't that correct?

A. I arranged a mortgage and the mortgage was paid over to my solicitor, my solicitor deducted the €20,000 deposit that had been previously paid and that the balance went to the vendor.

Q. And again I just have to go into this in some degree of detail. Were there legal fees paid by you, do you know?

A. Yes. I received a bill for the legal fees which I have submitted to the Tribunal for the purchase the transaction.

Q. The purchase?

A. Yes, which I paid myself.

Q. Yes. And apart from legal fees, there were other miscellaneous matters which had to be taken care of?

A. The legal fees, stamp duty, all of the necessary matters

were dealt with in that particular exchange and I paid a personal cheque.

Q. Now, matters came into the public domain subsequently, isn't that correct?

A. That's correct, yes.

Q. And that was the matter, the news item broke about the house in Holycross and Mr. Ben Dunne's or Dunnes Stores' involvement or funding, work being done, isn't that correct, that was the news item that broke?

A. That's correct. That happened immediately and I had to resign as a minister at that particular stage.

Q. And what did you do about the property in Carysfort at that stage? That also came into the public domain, didn't it?

A. Yes, it came into the public domain and there was obviously a lot of speculation about it and suspicion, particularly through the media, that there was something untoward about the deal. And at that particular stage, I had been receiving saturation publicity which needless to say was all negative and my situation, my personal situation in terms of my own privacy and that of my family, there was a huge invasion on that and at that particular time, my home at Holycross had become a tourist attraction and on a daily basis and at the same time, there was speculation about Carysfort, this particular house. So I simply didn't want the situation to arise again in Blackrock as it happened at Holycross, so I decided that I was never going to have any privacy there and particularly under the circumstances in

which I was at the time and I decided that I was selling it. I just didn't want to know about it any more and I asked my colleague would he purchase it back from me. I felt it was the most expeditious way and the easiest way because I felt if I went to public auction with it, I could envisage the banner headlines, Lowry sells his house, so I was trying to avoid further public discourse on it.

Q. Well I suppose I have to ask you, you wanted to get rid of it?

A. Yes.

Q. I suppose the question is why?

A. Well

Q. You had been told by Mr. Holly that this was potentially a good investment?

A. Yes.

Q. Now, I appreciate the housing market hadn't taken off to the extent that, with hindsight, one can see what did happen but if it was a good investment, I presume you knew, once you were resigning as a minister, that your financial situation might need to be secured in some way. Why would you sell it back, effectively I think for what it cost and the added expenses involved in the purchase of the property, more or less, wasn't it €223,000?

A. Well, after the commencement of the Dunnes Stores episode, in particular in respect of my house, it became clear that I was going to have serious financial obligations and implications arising from that so that was one reason, but

I'd say the principal reason, as I said to you already, was I felt that there was a gross invasion of my privacy and that I wasn't going to stay there. Secondly, or sorry the question you asked me was

Q. What I want to ask you, I think it had become obvious to you that your financial situation would worsen?

A. Yes.

Q. This property on Mr. Holly's advice and obviously a man in the property business and he was a shrewd enough man, he'd have known that this was a good investment. This was one thing that perhaps you could hold on to that could assist you in your financial difficulties as they might emerge.

Why would you sell it?

A. Well, I didn't view it in that way. Mr. Holly had been decent and honourable with me and the arrangement originally was he gave me first option on it and I didn't want to involve myself at that stage in any further I had so many difficulties and troubles at that particular time and there was so many angles and pressures coming from so many quarters, the last thing on my mind to be quite honest with you was moving into a new home or changing residence or what have you. And I simply just hadn't got the enthusiasm to proceed with it and I felt that the honourable thing to do was to offer Mick Holly the opportunity because he had been honourable with me.

Q. I take it you didn't consider sort of letting it or anything like that?

A. No.

Q. And can we take it that there was no agreement between you and Mr. Holly that if there was any increase in value or if the property was sold that there would be any splitting of any profit that might occur?

A. Absolutely not.

Q. Now I think on the purchase, you did pay the fees yourself, isn't that correct?

A. Yes.

Q. On the sale, did you pay any fees?

A. No, I asked Mr. Gahon did I owe him any money and he felt that what I had paid him would cover everything.

Q. I'll have to check this, but it may have been Mr. Holly paid Mr. Gahon. Maybe Mr. Gahon was happy with the situation, that Mr. Holly was discharging the terms of the

Now, on the Dunnes payment for €15,000, the one identified by Mr. O'Connor yesterday which in the first instance appeared to have emanated from the Donnybrook branch of Allied Irish Bank but we now know and it has been brought to our attention that it came from the Ben Dunne, Dunnes Stores t/a Marino branch. Can you throw any light on that particular payment? First of all, what it was for?

A. I do not recall that particular payment but what I can say is that it was obviously in the same context as the previous payments that I had got from Mr. Dunne which would have been bonus payments in respect of the refrigeration

services that I had provided.

Q. Right.

A. I wasn't what happened was

Q. I think you are aware that from information available to the Tribunal, this payment seems to have been made on the instruction of Mr. Michael Irwin, isn't that correct?

A. I couldn't say for definite because the only two people that I have ever dealt with in relation to payments would have been Mr. Ben Dunne and Michael Irwin, so while I do not recall, I presume that Michael Irwin obviously did the transaction on behalf of Mr. Dunne.

Q. Can we take it, or do you know anything about Allied Irish Bank, Donnybrook. That may well have been an error in the banking system. Can we just confirm, you know nothing about AIB branch in Donnybrook?

A. No.

Q. You had no dealings with that particular branch as far as you know?

A. No.

Q. And concerning a payment out of Bank of Ireland, Marino, did you know anything about that particular branch around that time you received this payment?

A. No. I subsequently learned of the Bank of Ireland, Marino came up on a number of occasions since that, but at that particular time it didn't mean anything to me.

Q. And you have no recollection in respect of this particular €15,000 payment of contacting either Mr. Michael Irwin or

Mr. Ben Dunne.

A. No, but you know, I think it's it would appear logical at least that there must have been some contact between Mr. Michael Irwin and Mr. Dunne and myself but I don't recall it. The first recollection I have of this payment was when the McCracken Tribunal had concluded and this Tribunal was getting underway, I was also in the process of had asked my accountant to do a complete evaluation of my financial position and to try and put together a history of my income and expenditure and in the course of that, he came across this payment and the moment we came across it, he informed me of it and I said it was important that we'd notify first of all the McCracken Tribunal. At that stage Mr. Justice McCracken had concluded his report but we wrote to him and at the same time, wrote to this Tribunal informing them of it. He acknowledged receipt of that letter and I think the correspondence is with you

Q. That is so, there is no doubt about that. But this particular transfer of money or transaction took place by way of bank giro?

A. Yes.

Q. Which meant that either Mr. Irwin or Mr. Dunne must have had your bank account number.

A. Yes, I accept that's why I am saying I think the logical thing one of them I would assume it would have been Michael Irwin because Mr. Dunne wouldn't get involved in the day-to-day work so I presume that what I presume

happened here was that Mr. Dunne gave an instruction to Michael Irwin that he asked me for my bank account and made the transfer.

Q. That's what I want to just ascertain there. Do you think that it would have been when you made contact with either Mr. Dunne or Mr. Irwin, probably Mr. Irwin in your own mind, that he would have asked for your, on this particular occasion, asked for your account number so that the money could be transferred by way of giro?

A. Yes, I would think that that's the way it happened.

Q. Were you ever in the habit of having money transferred by giro from Mr. Dunne, Mr. Irwin to your bank account on other occasions or that was a normal pattern or

A. It wasn't this is probably why I missed it on the first round up, that it wasn't something that I would have I don't think actually if you look back on the history of the payments, I think it only happened once or twice. This was certainly once and I am not sure if there was another occasion.

Q. Right. So that wasn't a practice.

A. No.

Q. And to the best of your knowledge, what did this payment represent?

A. It would have it would be a similar payment to the previous payments that I had got from him in this fashion which were bonus payments in respect of services that I had provided.

Q. Well, was there any I know you have difficulty in recollecting it and it's something that came to your attention subsequently but the fact that it was being giroed, would that indicate any element of urgency about it or can you say?

A. What date was it? It was

Q. It was November 23rd November, 1992.

A. I can't say for definite but it may have had something to do with the, at the time I was heavily involved in the property at Glenray, so it may have had something to do with that.

Q. Well, the this was was this a unique situation, because what it appears to have been was an account transfer, isn't that right? It wasn't a cheque. The instrument transferring the money wasn't a cheque. The cheques had usually been signed for Streamline or yourself by Mr. Dunne or perhaps Mr. Irwin on occasion?

A. Yes.

Q. And perhaps emanating from the North of Ireland by somebody, a director in the North of Ireland, isn't that correct? That was the normal way of payment.

A. This particular one and as I say, this particular cheque and the reason

Q. This wasn't a cheque.

A. Or whatever, the fact that it was transferred, this is probably why we missed it in the first trawl in relation to McCracken. I accept what you are saying that it was

different than the other transactions and I can't elaborate on it as to why it was different.

Q. But it seems to be unique. The instrument, there was an instrument created, a cheque written normally, wasn't that right?

A. Yes, I normally received a payment by way of cheque but on a previous occasion, I think there was a transfer as well between banks.

Q. I see. I think if you take up your statement now, Mr. Lowry, and we will proceed to the lodgments and these are the matters which were covered by Mr. O'Connor to a large extent yesterday, but I think that I think page 13 of your statement, it continues. And I think that you informed the Tribunal that you understood "that at a meeting with counsel for the Tribunal on the 4th June, 1999 an explanation was sought by the Tribunal of certain lodgments to your various bank accounts. These lodgments are identified below."

And then you wish to say, "At the outset, I should say that because of the aforesaid, my financial records, it has been extremely difficult for my advisers and for me to trace the sources of some of the lodgments referred to. In an attempt to assist the Tribunal to the best of my ability, I have furnished my consent to the Tribunal to make whatever inquiries they feel appropriate with all of my banks and have, I believe, at all times offered full cooperation in this regard."

And I think in fairness, not only did you consent to the Tribunal making any inquiries of the identified banks, you in fact furnished a waiver in respect of all banks in the State and all banks worldwide, isn't that correct?

A. Yes correct, I furnished such a waiver.

Q. "Unfortunately, in respect of a number of the lodgments queried by the Tribunal, that has still not been possible despite exhaustive efforts on the part of my advisers and on my part to identify with any certainty the exact sources of those lodgments. In many cases, the banks concerned were not in a position to furnish information other than the lodgments slips themselves which unfortunately did not disclose the source of the lodgments or the manner in which a particular sum lodged was made up. I must accept full responsibility for this."

So you accept responsibility, Mr. Lowry, for the state that the as were in?

A. Yes, I accept responsibility for it and I very much regret that it occurred and we have been endeavouring to correct that deficiency and we have had considerable success but, unfortunately, when you are trying to reconstruct something like as detailed as that over such a long period of time, it's not possible to be a hundred percent accurate.

Q. And you wish to repeat to the Tribunal that you fully consent to the Tribunal contacting all banks in which I have held accounts during the relevant period to obtain such information as the Tribunal requires in relation to my

financial affairs. Where it has been possible to identify the sources of the lodgments of consent to the Tribunal, you do so now. And I think we now go through the lodgments and your belief or explanation in relation to those which can or cannot be identified, isn't that correct?

A. Correct.

Q. I think the first lodgment is one dated the 19th August, 1988 and it's in the amount of €2,500 and it's the Bank of Ireland, Thurles account, isn't that correct?

A. That's correct.

Q. And I think you have informed the Tribunal that unfortunately it has not been possible to identify the source of this lodgment. It is possible, although it is surmise on my part, that the lodgment may have included a Dail travel payment cheque of €2,290.37 dated the 8th July, 1988. However, I cannot be certain of this and it has not been possible to obtain any further information from the bank. That's your understanding?

A. Yes, that's my understanding. The reason for that is that that particular cheque would refer to that time and my secretary would, who assisted my accountant with it, would be fairly certain that it is that but I don't have verification of it so I can't say for definite but it's most likely to be.

Q. And it's your belief?

A. Yes.

Q. Now, the next lodgment is a lodgment dated the 15th December, 1988 and it's for the sum of œ4,500. I should say that you understood that the Tribunal raised particular queries in respect of lodgments which appeared large or round sum figures, isn't that correct, to seek explanation.

A. That's correct.

Q. And this was also a lodgment to the Bank of Ireland, Thurles, and I think you have informed the Tribunal that it has not been possible to identify the source of this lodgment. It is possible however that it may be payment from Butlers.

A. Correct.

Q. And why do you have that belief?

A. In or around that time, obviously I was with Butlers and I didn't have I had very few sources of income at that particular stage so I can only assume that it's that, but I can't, again I can't say for definite but I would think that if I was able to get the information from the bank, I think it would justify my claim that it is that.

Q. But that is your belief?

A. Yes, it is my belief.

Q. Now, the next lodgment is a lodgment dated the 12th July, 1989, and it's for œ10,650 and it's to Allied Irish Bank, Dame Street account, isn't that correct?

A. Correct. Again on this one, it's my belief, having checked our records, that this cheque comprised or this

amount comprised a cheque of sterling to the value of
€9,945 dated 2nd February, 1989 paid by Dunnes Stores
(Northern Ireland) and this cheque is referred to in the
Tenth Schedule of the McCracken Tribunal Report. Now, I
can't say again that that is it, but it would appear from
our

Q. Yes, I think the lodgment is the lodgment is in Irish
pounds, isn't that correct?

A. Yes.

Q. And it's your belief that it is made up of a sterling
cheque from Dunnes Stores, a sterling cheque from Northern
Ireland, is that correct?

A. Yes.

Q. In the sum of €9,945.

A. Yes.

Q. So that's number 3 in the Tenth Schedule, item number 3 in
the Tenth Schedule in the McCracken Tribunal Report.

A. Yes. Correct.

Q. And would it be your belief so that that was converted into
Irish for the purpose of this particular lodgment?

A. That would be my belief, yes.

Q. The next I know you have had to go through, or you and
Mr. O'Connor, have been through a fairly lengthy
exercise. That was, I suppose, believed or designated by
Mr. Justice McCracken as being cashed. It was
unidentified at the time, isn't that correct?

A. Yes, that's correct. It was disclosed

Q. Disclosed but unidentified. Now, the next lodgment is a lodgment dated the 19th August, 1988 sorry, I beg your pardon the 29th June, isn't that correct, 1989 and it's in the sum of €2,942.10 and that was to the Irish Permanent Building Society in Thurles?

A. That's correct, and we have tried unsuccessfully through the building society to identify the source of this lodgment. The breakdown of this lodgment, we have been unable to do so.

Q. Yes, what's your belief? Have you anything at all to assist you in forming a view as to what this might be?

A. Again, the only conclusion that I could come to myself would be that as I say, 1989, I had very few sources of income so it had to be either related to my work or my expenses as a public representative in some way or other.

Q. And that's really as far as you can't

A. Anything other

Q. You can't associate it with anything else?

A. No, I would be speculating beyond that.

Q. Now the next lodgment then is a lodgment which is made on the 21st February, 1990 and it's for €2,500 and it's to AIB Dame Street, is that correct?

A. Yes.

Q. And what's your understanding of that, Mr. Lowry?

A. I just don't have an answer. We again we have tried unsuccessfully on several occasions, we have gone back to the bank and asked them to search the records and see what

is the breakdown of that. Now, you mentioned earlier about even figures. I have always personally had a pattern of taking a number of cheques into the bank, one of the difficulties that my accountant has had is I have a tendency to hold cheques for a long time and pool them together and then lodge them and take the uneven money as cash, you know, small amount and lodge the even sum

Q. Yes, I see. We have seen some examples where you may take off 105 or something

A. You know, and all of these ones that there is an even figure, that in my view is the answer to that. That's the reason why you just get this even figure.

Q. Right. Well that's one that we can't just relate to anything.

A. I am not in a position to say what it is.

Q. Or the sources?

A. Exactly, yeah.

Q. I suppose it's just as well at this stage no, I will come back to it. On the 22nd the next lodgment is on the 22nd February, 1990 and it's in the sum of €16,976.61 and again it's to the Allied Irish Bank, Dame Street account, isn't that correct?

A. That's correct.

Q. That's the Allied sorry, and the previous one are to the Allied Irish Bank deposit account in Dame Street, isn't that right?

A. Yes.

Q. That's the 22nd February, 1990. Sorry, I beg your pardon, €16,979 we have it as 976. Perhaps it's a typographical error, Mr. Connolly is three pounds out. And what's your understanding of that?

A. This was in 1990. I don't have any personally I don't have recollection but I think my accountant dealt with it. I know that we had been in contact with AIB Dame Street in connection with this and

Q. You don't have a recollection?

A. I don't have a recollection of it. I think my accountant has dealt with it.

Q. Now, from the the next I will come back to deal with them in a global fashion and I'll also be coming back to ask you about the opening of the account in Dame Street and why and the distinction between the deposit and current account. Now the next lodgment is on the 30th May, 1990 that you were asked an explanation for and that was in the sum of €2,197 and again it was to the deposit account in Dame Street?

A. Yes. We were able to trace this one and this is in respect of a travel expenses cheque as a TD and it was cheque number 80536 dated 27th April, 1990. The amount matches exactly.

Q. And I think you furnished the schedule of expenses as well and there is a sum

A. I furnished my schedule of expenses as a public representative over the ten years and that sum should

relate to one index yes, on the second, third from the bottom, yes.

Q. And that relates to expenses sorry, the column on the left are the dates. I don't want to go into it because you are just identifying that particular one. Was that the date on the which the payment is made or which the claim is submitted or do you know?

A. The cheque was dated 27th April, 1990

Q. I see and this lodgment took place on the 30th May. So you think that this is something that you might have been carrying around in your pocket?

A. That's what I would do, yes.

Q. Now the next lodgment is a lodgment of the 21st December, 1990, it's for €7,000 and again it's to the deposit account in Allied Irish Bank, Dame Street.

A. Again my accountant has endeavoured, together with the next one of €5,000, those two to Dame Street, he has endeavoured to establish the identity of those and it hasn't been possible to break them down but I would think that they are probably an amalgamation again of various cheques that I was given and I just held them and lodged them in one group, both the 7 and the €5,000, on the 8th May.

Q. As regards the sources, you are not in a position

A. No, we have, even after exhaustive searches, it hasn't been possible as I said to break it down. If we were able to break it down, we'd know exactly what the source of it was but my understanding of it would be that it's a combination

of various expense cheques, possibly a salary cheque

also.

Q. The next one then is a lodgment of the 25th July, 1991 and it's in the sum of €11,200 and it's to the AIB Dame Street current account, I think, isn't that correct?

A. That's correct.

Q. That is our inquiries on that brought that back it's a lodgment comprised in part of a cheque for €6,500 and that cheque was dated 10th July 1991 and it was drawn on a Dunnes Stores bank account, Bank of Ireland Marino branch. It was made payable to me and this statement, I believe, refers to the reimbursement of monies paid by Streamline in relation to the Abbey Road site when I purchased the site. And the balance of that lodgment is made up of an account transfer which has been verified by the bank of €4,700.

Q. From the deposit account?

A. Yes.

Q. Your deposit account, that is?

A. Yes.

Q. The next lodgment then is a lodgment on the 2nd December, 1991 and it's in the sum of €5,620.80 and it's to the Allied Irish Bank, Dame Street current account, isn't that correct?

A. Yes. Now, for this particular period, 1991, in December, and on the 18th December

Q. There was another lodgment on the 3rd December in the sum

of €2,000 again to the same account and one on the 18th December, 1991 in the sum of €6,500 to the same account, isn't that correct?

A. Yeah. And those three particular lodgments, again we have combed the bank on several occasions but we haven't had success in identifying the source. We have, on the other hand, we have that's the lodgment. On the other hand we have income which we can't relate, so one is probably relating to the other but we can't specifically match them.

Q. Now, and I know that's an exercise that Mr. O'Connor carried out and very understandable by an accountant. But we need to establish the facts. Can we take it that you always lodged your income to a bank account?

A. Yes. The vast majority. While I said as I said on a number of occasions, I would take the small amount of money when I would make a lodgment for cash, in other words, if I lodged maybe €5,000 or whatever the figure would be, I may hold on to 100, 150 pounds.

Q. Apart from minor withdrawals in cash, is it your evidence that your income, both as a public representative and other sources of income, to the best of your knowledge, were always lodged to bank accounts?

A. Absolutely, and I think the record of my financial affairs will show, as I have outlined to the Tribunal, that everything was lodged, including cash payments.

Q. Well, I just want you to be careful in your own interest in

respect to that, that you heard Mr. O'Connor and Mr. O'Donnell discussing very learnedly the concept of materiality yesterday, that over a period, on the figures and the exercise carried out by Mr. O'Connor, there would be perhaps a discrepancy of somewhere in the region of €30,000 or €31,500 over a period, a 10-year period of time.

A. Yes well, when they did that exercise, which was an exercise that I requested because it's obviously very important for me at this Tribunal to be able to establish that, to establish all my known sources of income and that having established that, that it would be fairly clear that I didn't have any huge input of monies into any account that came from elsewhere and in the course of doing that, the exercise, they established that over that 10-year period, there is approximately €31,000, which is an average of €3,000 per year.

Q. Which is an average of about €3,000 per year.

A. Yes, how that would arise, it's possible that, just like everyone you know, I have teenagers that usually have to have some money in your pocket for them and what have you. It's possible that the answer to that is that I would obviously cash the odd expenses cheque that I would need.

Q. Yes, that's what I was just asking you and that's why when I asked you, I don't want you to over commit yourself, Mr. Lowry, without giving you an opportunity of dealing

with it, that could we take it that there would be something like, we have seen an expense cheque there for around €2,000-odd, probably smaller ones as well, that you may have on occasion cashed one of those?

A. Yes, I would say absolutely, when you get maybe smaller expenses cheque for 450, whatever, you might there is actually a trend in Dail Eireann where you go and you cash it in the, within Dail Eireann and use it to pay expenses there.

Q. Very good. Now the next lodgment that you were asked to consider was one made on the 10th January, 1992 and that was for €10,621 and it was Allied Irish Finance account and I think you have furnished a view as to the sources in respect of that?

A. Yes.

Q. What is your view?

A. My view on that is that this relates to the source it's a €10,000 draft dated 31st August. It was drawn on AIB Dame Street and payable to me. It was converted to IR €10,621.35 and lodged to this account.

Now it is our view, this is the considered view of my accountant and myself after discussing it, that this is probably part of the Northern Ireland Tenth Schedule that was not listed.

Q. That is when you add up the full amount of unidentified

A. Yes.

Q. And we'll come to deal with the €55,000

A. Take it as part of that.

Q. You think that that particular lodgment is when you convert the sterling at the time you got that Irish and that was the money that was lodged to Allied Irish Finance?

A. That's part of the 55 transaction. That's my belief.

Q. I think Mr. O'Connor's evidence yesterday was that's where approximately in the region of €65,000, so that would allow for €10,000 to have to be dealt with somewhere else.

A. Yes.

Q. I'll come back to deal with that if I may when I deal with the 55,000.

A. Yes, that's okay.

Q. The next lodgment you were asked to consider was one dated the 15th May, 1992 and that was for IR €11,900 and it was to the Bank of Ireland, Thurles?

A. Yes. That has been identified as the cheques that you referred to previously, Whelan Frozen Foods.

Q. That's the Frost Impex cheque for €10,000?

A. Yes, that's the one together with a cheque dated the 13th May, 1992 and that was for the sum of €2,066.95 and what I did then, those two cheques were totalled and I took back on that particular day cash, €166.95, which left you with a balance of €11,900.

Q. And an even figure going in.

A. Yes.

CHAIRMAN: The latter smaller sum, Mr. Lowry, you said public representative expenses, was it, in addition to the

Whelan draft of €10,000?

A. Yes, Sir. It was the €2,066.95 was paid to me by the Department of Finance.

Q. MR. COUGHLAN: Now the next lodgment you were asked to consider was one made on the 23rd March, 1993. Again a round sum, €5,000, isn't that correct?

A. That's correct.

Q. And that was to the deposit account in Allied Irish Bank in Dame Street?

A. That's correct. Again, it's not been possible to identify exactly what this is for, but my own belief is that it relates in some way or another to some business transaction or a combination of business and some expenses which I had intended to roll into one and lodge. It's either one or the other.

Q. The next lodgment you were asked to consider was a lodgment, €25,000 sterling, to Allied Irish Finance Limited on the 29th December, 1992.

A. Yes. This, on the 2nd December, 1992, I purchased a sterling draft for €25,000 in favour of Hausman Refrigeration Manufacturing Limited. This was funded from a debit it was funded by a debit from my AIB Dame Street account in the sum of €23,129.23.

Q. That's your Dame Street current account?

A. Yes, and I subsequently relogged that back into it. I didn't use it and what happened there was, I did a lot of

business with Hausman Refrigeration, both I paid for equipment that I purchased personally myself and my company paid them for equipment and my recollection of this is that they had some equipment that they had on special offer and I was going to purchase it from them and at the last minute, I realised that a lot of the electrical equipment was missing off of it and it no longer was good value so I cancelled it.

Q. And you put this then into the deposit account, is that correct?

A. Yeah, whatever I am not familiar with whether the current but I have the number of account here.

41179-269. And then it went back into 1/L/8

Q. To Allied Irish Finance Limited. It was a fixed deposit. Sorry, I wonder could we have that account.

It's nothing particularly to do this is

A. €25,000, is it?

Q. You purchased a draft.

A. Yes.

Q. In the normal course of business from Allied Irish Banks, first of all, you believed you were going to do business with Hausman?

A. The draft was actually made out to Hausman Refrigeration.

Q. Yes, that would be in the normal course of business.

A. Yes.

Q. And you then deposited it in a sterling account in Allied Irish Bank in Dame Street, is that correct, when you

decided not to do the business?

A. Yes.

Q. And it was for a 30-day fixed period so there was an interest rate, probably a good interest rate. I don't know at the time.

A. Yes.

Q. And can you tell us anything about the circumstances surrounding how was this in 1992 or 1993?

A. '92.

Q. '92, yes.

A. Withdrew on the 2nd December '92 and it was relodged on the 23rd December, '92.

Q. '92, into a sterling account?

A. Yes.

Q. In your name?

A. What happened was I obviously got the draft, changed my mind about doing the business

Q. No, I understand that entirely.

A. Yes.

Q. There is no difficulty with obtaining the draft. I know we are coming towards the end of exchange control.

But and in the normal course of business, you were doing business with somebody abroad. You'd get a draft to conduct the business abroad. I understand that. We are now coming towards the end of the exchange control period, but still technically within it. Did Allied Irish Bank say anything to you about you holding a sterling account as

an Irish resident or anything like that?

A. No, it was never discussed.

Q. I see. It was just a good rate being, as you understood it, being offered or

A. Yes, my understanding of it, I think the reason it probably went back into that other account is because if you left it for 30 days, you got a better rate.

Q. A good rate. Yeah. There may be some very simple explanation for it but it was definitely effectively a new account being opened in your mind.

A. Yes.

Q. Now, the next one you were asked to consider was a lodgment on the 24th March, 1993 and that's to your Irish deposit account in Allied Irish Bank, Dame Street, isn't that correct?

A. That's correct.

Q. And it's in the sum of €29,702.97 and I think you believe that the source or you know that the source of this lodgment was that sterling coming back in as Irish into the, your normal deposit account?

A. Correct. That's the previous payment that we referred to, the 25 coming back in with interest.

Q. The next lodgment you were asked to consider then was one dated the 14th April, 1994 and it was to the Bank of Ireland, Thurles in the sum of €7,419.64.

A. Yes, this lodgment was a cheque made up as a cheque from my company, Streamline, in respect of salary to the amount of

€1,556.25 together with a Department of Finance cheque drawn on the Bank of Ireland, College Green to the sum of €5,863.39. That was a public service salary cheque. And a combination of those two cheques amounts to €7,419.64.

Q. The next lodgment you were asked to consider then was one dated the 24th June, 1994 in the sum of €6,300. Again it was to the Bank of Ireland, Thurles account?

A. That was a cheque that was a lodgment of €6,300. That lodgment was a cheque to the sum of €4,143.72 in respect of TD allowances and two Bank of Ireland, College Green cheques which I also believe to be for TD allowances and salaries in the sum of €1,580.31 and €893.47 and they were totalled and I rounded it off by taking back €317.50.

Q. You would have taken €317.50 pounds back in cash. The next lodgment then is the 8th May, 1995 and it's the sum of €6,985.81 and it's to the Bank of Ireland, this is the Thurles account again.

A. Again that cheque was a Department cheque for €642.30. There was three cheques of the same amount. Sorry, it was actually seven cheques in total and one I got for the same amount. It was a Department cheque and then we had one cheque for €489.67 together with a bank draft from the TSB bank of €2,000 made out to Michael Lowry. So the total for that was €6,985.81.

Q. Can you throw any light on the bank draft from the TSB bank in the sum of €2,000 made out to Michael Lowry?

A. We have checked that and that bank draft is made out in my

name and I have actually, as late as this morning we have discussed it with my accountant. We are trying to identify the actual source of the bank draft but the source of the bank draft, it was drawn on the TSB bank in Bray.

Q. That's right.

A. And what I am trying to identify there, the reason for it just doesn't come to mind immediately, but we'll find out and communicate.

Q. To the best of your knowledge you didn't have an account with TSB?

A. No, I never had an account there.

Q. Then the next one you were asked to consider, the next lodgment was dated 25th July, 1995 and that was for the sum of €5,231.23 and again it was lodged to the Bank of Ireland in Thurles.

A. That lodgment was made up as follows: A cheque in the sum of €884.61 which was made payable to my wife in respect of her salaries as an executive director of Streamline, together with a Department cheque for €268.90 and €489.67 and then there were two other cheques from the Department of €642.31, €655.16 and one cheque for €656.08 from the Department also. A combination of those number of cheques makes €5,231.23.

Q. I think the next lodgment you were asked to consider was one dated the 5th January, 1995 and that is for €28,314.42 and this was to Allied Irish Bank, Dame Street, account number 1/L/11741/017.

A. Correct. This I have given the documentation and the background to this particular cheque. It was a sterling cheque and to that sum. It was dated 9th December, 1994. And what happened was we had asked, before I had left the company at that particular stage, I had asked a company O'Dwyer Refrigeration Electrical to do some work for me. They were paid twice and effectively the cheque was endorsed to me as a result of that. When I say they were paid, by the company and also paid by Dunnes Stores.

Q. Right. And endorsed and you converted that then, is that correct?

A. Yes.

Q. Into Irish.

A. Yes.

Q. That also, I think, as explained by Mr. O'Connor, there was a balance of €38.77 drawn in respect of balance account number, the 469, that's the current account and €2,344.06 being the balance in the account 186, the deposit account?

A. That's correct.

Q. And that's how the figure was made up?

A. Arrived at, yeah.

Q. I think you furnished all the documentation you could in relation to all lodgments that you were queried about, isn't that correct?

A. Yes. The process the ones that we could readily identify we supplied the Tribunal with all that information initially. Then what happened was the ones that were, we

didn't have an explanation for, the Tribunal sought further explanations on them. Arising from that, we went back through our own records, what records we had, and we then got onto the institutions, every one of them, and in many cases we sought requests, in some cases we demanded replies and eventually we were able to put together what we have put together for you now and I think we have been reasonably successful and it did take a lot of time, a lot of effort, particularly on the side of my accountant. It was very tedious and painstaking work.

Q. And I think in rendering assistance to the Tribunal in carrying out its work, as you I asked you about earlier, you furnished worldwide waivers for yourself, isn't that correct?

A. That's correct, yes.

Q. In respect of any accounts that may be held in your name or for your benefit or on your behalf worldwide and I think all the connected persons within the meaning of the Ethics in Public Office Act connected to you have also furnished such worldwide waivers, isn't that correct, to the best of your knowledge?

A. I furnished such a waiver on my behalf and I had a meeting with my family, both my mother, my brothers and my sisters, and all of my immediate family and asked them to do likewise and they have also furnished the Tribunal with such a waiver.

Q. Now if I might deal with, I said I would come back to deal

with the question of bank accounts in general terms again, and I will also deal with in specific terms, in a moment, with the €55,000 which went up to, as part of the €100,000 which went to be deposited offshore, the Channel Islands.

A. Yes.

Q. I think you have informed the Tribunal that "I have been asked to furnish a narrative account of my reasons for opening various Allied Irish Bank account in Dame Street Dublin 2 in circumstances where I already had accounts in Thurles. The reason why such accounts were opened, the first being opened in Dame Street in July 1989, was to provide, as far as I could, that people from my locality knew as little about my private banking business as possible. Whilst I do not in any way suggest that the banks in Thurles would have breached confidentiality in respect of my accounts, I suppose I was being somewhat cautious in opening the accounts in Dame Street. The reason why I chose AIB in Dame Street is because an official in the branch was known to me."

I think an official, somebody was known to you, another Tipperary person was it?

A. He had a connection with my parish. He had married a lady from my own parish.

Q. I think you went on to say in your statement "That the letter from Mr. Davis on the 9th June, 1999 makes reference to money being sent offshore using the service of AIB and, in particular, requests me to deal with the circumstances

in which money was sent offshore using the service of AIB and, in particular, the involvement of various individuals in Dame Street and O'Connell Street in connection with offshore transactions."

I think that is correct, you were asked we'll come to deal with that

A. Yes.

Q. "The circumstances in which money were sent to AIB Channel Islands were as follows: On the 14th January, 1991 I purchased from AIB, O'Connell Street branch, a sterling draft for €55,000. I cannot recall the sources of the funds used to purchase this but I believe that they emanated from the payments previously disclosed to the McCracken Tribunal and identified in the Tenth Schedule of the report of the McCracken Tribunal. To the best of my recollection, I was directed to AIB O'Connell Street branch by personnel in AIB Dame Street. I cannot recall who those individuals were. The draft for €55,000 sterling was lodged in a term deposit account in AIB Channel Islands, which matured in July 1991 at which stage it had appreciated to sterling €58,327.28. On the 3rd December, 1991 this sum, together with a draft in the sum of STG €34,100 which I purchased with the proceeds of a cheque in the amount drawn by Dunnes Stores (Northern Ireland), be one of the payments referred to in the Tenth Schedule to the McCracken Report and the further draft of STG €7,562.72 purchased from AIB in Dame Street, giving a total of STG

€100,000 was lodged in AIB Channel Islands on the 3rd December, 1991."

Now, first of all, if we could deal with the circumstances surrounding the purchase of the €55,000 sterling and the source, the source of the money to purchase that draft.

And whilst you have informed the Tribunal that you, at the time you furnished your memorandum of evidence, that you were not in the position to say what the source was, you surmised that the source was the disclosed but unidentified payments in the Tenth Schedule to the McCracken Tribunal, is that correct?

A. Yes. Throughout 1989 and 1990, I received a number of cheques from Dunnes Stores in Northern Ireland and those cheques have already been disclosed to the McCracken Tribunal and they were included in the Tenth Schedule of his report. Now, I have no doubt in my mind that these substantially form the basis for the €55,000 sterling, but despite our best efforts and despite numerous communications with the bank, meetings with the bank and what have you, I don't have verifiable paper for it, but that is my own belief and that is my view and I have no doubt in my own mind that that draft has been formed from those particular payments which were already disclosed.

Q. The payments disclosed to the McCracken Tribunal and which appear in the Tenth Schedule were in respect of work carried out for Dunnes Stores (Northern Ireland), isn't that correct?

A. That's correct.

Q. And that was the source of the payment?

A. Yes.

Q. So it was work carried out, I have to be careful about this, but from a banking point of view, abroad?

A. Yes.

Q. And in the Tenth Schedule to the McCracken Tribunal Report, there are identified there are disclosed but unidentified, I mean unidentified in terms of where they ultimately ended up, a series of sterling payments amounting, as Mr. O'Connor told us yesterday, in the region of €65,000?

A. Yes.

Q. And they are described in the schedule to the McCracken Tribunal Report as being cashed.

A. Correct.

Q. And there are other payments in fact, there are nine payments in all identified in the Tenth Schedule, isn't that correct?

A. That's correct.

Q. Item number 1 is clearly identifiable and it was lodged to your personal account in the Bank of Ireland, Thurles, isn't that correct? At the time of the McCracken Tribunal, you were able to establish that?

A. Yes

Q. At that time?

A. I am not familiar with the McCracken I don't have it

with me now, but if you say

Q. Sorry, we'll put it up there now, and

A. I take it that it is, yeah. Okay, Mr. Coughlan, I have it here.

Q. I think the first payment, number 1, you can take it that that was identified as being lodged to your personal account in the Bank of Ireland, Thurles. Number 2 is identified as being cashed, that was the understanding of Mr. Justice McCracken.

A. Yes.

Q. Number 3, number 4, number 5, number 6 and number 7 are all identified as having been cashed. Number 8 is the €34,100 and it's identified as having been lodged to Allied Irish Bank Channel Islands account and you have gone on in your statement to this Tribunal as to include this to show how the €100,000 which was the lodgment in Channel Islands was made up, isn't that right?

A. Correct.

Q. And then there is also a payment number 9 in the McCracken Tribunal Report which is for STG €55,314 and that was identified as being lodged to your personal account in Allied Irish Bank Dame Street, isn't that correct?

A. That's correct.

Q. Now, perhaps you don't know and it's only just occurring to me that that final one, number 9, the €55,000 which was lodged to your personal account, can you remember whether that was to your current or deposit account in Allied Irish

Bank, Dame Street? If you can't remember at this stage, we'll find out in due course from Mr. O'Connor. I am sure that information can be furnished to the Tribunal. Now, at the time Mr. Justice McCracken was conducting his inquiry, you did know or how did you identify that the œ34,000 had found its way to the Channel Islands that's payment number 8?

A. Because we were able to my understanding is that we were able to trace it.

Q. There was a documentary trail showing that that had gone?

A. Yeah.

Q. And you also of course at that time knew, or did you, that in fact there was œ100,000 had found its way to the Channel Islands?

A. Yes, I did.

Q. And did you at that time know or did you, as to what the source of the balance of the money in the Channel Islands was?

A. Yeah, we disclosed to the McCracken Tribunal that we had lodged the œ100,000 it became public knowledge and it is the same œ100,000 we are speaking about now.

Q. I appreciate that. I understand that. I am not suggesting that you weren't. You knew there was œ100,000 out in the Channel Islands. You were able to trace STG œ34,100 as being part of that, that that had found its way to the Channel Islands because there was a documentary trail.

A. Yes.

Q. In respect of payments numbers 2 to 7 inclusive in the Tenth Schedule, you had no documentary trail, is that your understanding?

A. My understanding is that we didn't have the that I knew it was Dunnes Stores money from Northern Ireland I didn't have the documentary

Q. There is no dispute about that.

A. I didn't have the documentary trail but we disclosed it and that's the way it was dealt with at that Tribunal.

Q. And because you didn't have a documentary trail, it was designated by Mr. Justice McCracken as being cashed or was that your understanding?

A. I am not sure, to be I am not sure. That would be a question, if you put to my accountant, I think he understands it better than I do.

Q. Yes, I appreciate that. Well what I am trying to inquire into and test really is to your belief now that the purchase of the €55,000 sterling draft in the O'Connell Street branch of Allied Irish Bank is probably made up of items number 2 to 7 inclusive of Mr. Justice McCracken the schedule in Mr. Justice McCracken's report.

A. Well my belief and the reason I can speak with some conviction on it is that I made a conscientious decision when the McCracken Tribunal started that I would discover everything and I did discover everything and I know myself

that I didn't get any other payments and I know and that balance of that money, which almost coincides with the amount that we are speaking about, plus the 10, that's a figure that I know was available to me from the Northern Ireland payments but was never actually lodged together with other monies, if you know what I mean. So it hasn't been identified through any source. So by way of exclusion, it can only be that.

Q. But looking at the schedule, one can see that the payments were made over a period of time. I think you understand that yourself.

A. Yes.

Q. And I appreciate that somebody could walk around with an instrument in their pocket for a period of time, but hardly for the length of time that some of those would have been outstanding. Would you agree with that?

A. I will accept first of all, I would say that yes, I did walk around regularly, I suppose, over the years with cheques that I would hold but in this instance, I certainly didn't hold them for that length of time.

Q. That's what I am trying to inquire into the circumstance.

They had to if you weren't walking around with them, they had to have a home somewhere?

A. Exactly.

Q. And they didn't, can I take it, as far as you are concerned, just have a home as an instrument. They weren't just a piece of paper somewhere. They were put

somewhere?

A. Yes, exactly.

Q. And can you assist the Tribunal as to where that home may have been?

A. I would what I can say for definite is that I did not cash them and it is my belief and I have, this will have given many hours agonising over this, both internally with my accountant and with the banks and with yourselves at Tribunal level, and my only my recollection of it my recollection of it was that first of all, for this particular transaction for whatever reason, it obviously was an internal reason, I was actually asked from, at AIB in Dame Street to go and to go to AIB in O'Connell Street

Q. Yes, I will come to that in a moment. I understand you never, as far as you are concerned, you never had an account in Allied Irish Bank, O'Connell Street.

A. No. Not that I am aware of.

Q. You didn't open an account or

A. No.

Q. To the best of your recollection, you didn't authorise anybody to open an account or to transfer to an account in Allied Irish Bank in O'Connell Street, as far as you know.

A. Correct. Sorry, I went off the point. You asked me the question, I didn't cash them and it is my belief, and I think the Tribunal will appreciate that we have carried out

exhaustive efforts to pin this out. One thing I am certain in my own mind that the €55,000 was made up from that Tenth Schedule, which is up to now unidentified. Secondly, I would say

Q. Let's just be clear, and I'll ask the questions so that you can give your evidence about that. Can we take it that you did not cash and by cashed now, I mean cash and take out cash, as opposed to carry out another form of transaction which could be described as cashing within the bank, but I'll use cash in its most basic sense did you not cash and put into your pocket cash to the sums of the amounts disclosed in the items 2 to 7 inclusive in the Tenth Schedule to Mr. Justice McCracken's report?

A. I can say definitely no to that, yes, I did not.

Q. And that brings us back to then, we can take it that whilst for some period of time you may have walked around with the actual instruments in your pocket or somewhere at home, that you certainly did conduct some business in your belief, with them, I mean banking business?

A. Yes.

Q. Your account was with Allied Irish Bank. I think there was one small Allied Irish Bank in Thurles at one stage but your account with Allied Irish Bank was in Dame Street as far as you were concerned?

A. Yes.

Q. And it was from Dame Street you were sent to O'Connell Street whereby the transaction occurred, transferring the

money to Channel Islands.

A. Correct.

Q. So as far as you were concerned, to conduct the transaction of transferring the money to the Channel Islands, you went in the normal course of your business to Allied Irish Bank in Dame Street?

A. Yes, and it's not a clear recollection but my recollection of that, whatever was involved in the procedure, I was informed that it could only be done from O'Connell Street.

Q. Okay. But what I am trying to first of all tease out is that as far as you were concerned, the funds were in Dame Street whereby you were going to carry out a transaction of transferring the money to the Channel Islands, as far as you were concerned?

A. That was my understanding, yes.

Q. So can we take it that if you hadn't cashed those various payments, that they must have been somewhere in Allied Irish Bank in Dame Street?

A. It is my view that it is my view that these, this cheque that we are speaking about, as I have said already, I didn't have them on my possession for that length of time. I didn't cash them. And the only explanation I can give you is that yes, they were being maintained within the AIB banking system and for whatever reason, I believe that it's probably within AIB in O'Connell Street in Dublin.

Q. But you had given no instructions?

A. No.

Q. This is something I do want to tease out with you, Mr. Lowry, because from inquiries made both by your own accountants and by the Tribunal, it's clear you had no account in O'Connell Street, isn't that correct?

A. Yeah, I have no recollection of personally opening an account in O'Connell Street.

Q. And as far as you know, as far as anyone knows, they have no account for you, a designated account for you, as far as anyone knows, isn't that correct?

A. That's correct.

Q. Now, as far as you and your advisers, Mr. O'Connor in particular, are concerned, were you ever able to see this money in Allied Irish Banks in Dame Street from looking at your accounts?

A. No. That's what puzzles us.

Q. When you went to when you wanted to put money in the Channel Islands, I think you wanted to do this for your family, isn't that correct?

A. Correct.

Q. And you wanted to make up effectively a round sum figure of around €100,000, isn't that correct?

A. Correct.

Q. And you had you knew about the €34,100 sterling and where it was going and you could identify that money.

A. Yes.

Q. The other one is a smaller sum of €7,562.72

purchased that was purchased from Allied Irish Bank on Dame Street, isn't that correct?

A. That's correct.

Q. I think Mr. O'Connor, or has he given us an explanation as to the source of that money to bring about that purchase?

A. Yes.

Q. But there is €55,000 sterling which nobody can see a transaction occurring in respect of other than the movement out of O'Connell Street to Channel Islands, is that correct?

A. Yes, as I declared at the McCracken Tribunal. This 55 was available to me and this 55 was used as part, to make up the €100,000, but the actual what's missing is what bank it was in

Q. Connecting that €55,000. You can see or you can Mr. O'Connor can identify and you believe €10,000 which would be the balance of the €65,000 out there, going to Allied Irish Finance, that was to discharge some indebtedness, I don't know, maybe it was a deposit. But nobody can see that money going in anywhere, isn't that correct? Items 2 to 7, into an account of yours anyway, nobody can see that going into an account of yours anyway, am I correct?

A. Our understanding is that it's the period between the bank draft being drawn when the cheques came in that we can't we don't know what bank account it was in at that stage.

Q. That's what I am trying to establish.

A. It is my view, as I said to you already, that

Q. It was somewhere in the system?

A. It was somewhere within the AIB system and I am only surmising, I am wondering why I am sent to Bank of Ireland in O'Connell Street.

Q. I am sorry I have to go over this in some detail because it's significant from the Tribunal's and in many respects. You will be of great assistance to I have to take this in some little detail. In any event, whilst it could not be identified as being a sum of money specifically designated to you or in one of your accounts, you knew that you must have that sort of money in Allied Irish Banks, isn't that right?

A. Yes. And that sum of money was made available to me

Q. Yes, but I want to take the steps now. I want to just discuss the steps. You knew that you had received the the payments had been received from Dunnes Stores (Northern Ireland) for work carried out?

A. Yes.

Q. It and it was in Allied Irish Banks?

A. Yes.

Q. And now you wanted to make up the €100,000 in total and you wanted to use €55,000 of this, roughly or thereabouts, isn't that correct?

A. Yes.

Q. And you went to Dame Street?

A. Yes.

Q. And can you recollect what you said that, to them in Dame Street or...

A. I can't be a hundred percent accurate, but my view at that stage, I had made up my mind that what I was, what I wanted to do and I knew that I had this 34,000 was available to me there. I knew I had money with the AIB. And effectively what I was asking them to do was to total it and to make it up to €100,000 and to put it into that account that has already been described at the McCracken Tribunal which was a Channel Island account of €100,000. My understanding at that stage was, and I stand to be corrected and it's how many years ago, but my recollection is that I was that to put this together, that for whatever reason, I was told that it would be necessary for me to visit AIB in O'Connell Street, which I did.

Q. There is no doubt about that. That's where the transaction

A. Took place.

Q. Took place, yes.

A. Yes.

Q. So when you went to Allied Irish Bank in Dame Street and told them what you wanted to do, they just said go down to O'Connell Street, is that correct?

A. My understanding is, you know, obviously I didn't go down without a phone call. There was some internal contact made but I was told that I was told that this particular transaction would require me to go to O'Connell. In other

words, the impression I got was that this type of transaction could not be done in Dame Street, that it would have to be done in O'Connell Street. Now, I stand to be corrected on that but that was my impression.

Q. Yeah, and can we take it that this would be if we take, for example, you were engaged in business, in doing business abroad, say, take the Hausman situation. In the normal course of conducting business abroad, you might have gone to your own branch, say Allied Irish Bank Dame Street or maybe a bank in Thurles or whatever, wherever and when you were conducting business, in the period of exchange control now, that if it was for the normal conduct of business, there was no difficulty, either it was in the normal course of trade or there'd be an invoice or some document or something and you knew this. You knew that this was not an unusual thing to do, just to go to a bank, if you were doing business.

A. Yeah, on several occasions I would have drawn down bank drafts to pay suppliers in England from my personal account or at home from the company account and yes, there wouldn't be any difficulty.

Q. What I am trying to get at is did you ever do it in respect of Dame Street? Would you have drawn down from Dame Street?

A. Yes, I drew a bank draft on Dame Street for Hausman, yeah.

Q. So there was no difficulty in Dame Street conducting foreign business as far as you were concerned?

A. Yes, I wasn't aware that there was anyway.

Q. But for the purpose of this particular transaction, could the O'Connell Street branch O'Connell Street branch was, you were told, was the only place it could be done?

A. Not so much it was the only place it could be done, but at least I was told that I needed to go to O'Connell Street.

I am not sure that it was the only branch but I would have had the impression that, for whatever internal reasons, that it wouldn't be done through Dame Street, that I should go to O'Connell Street, yes. Now, I might point out that I guess, that had nothing to do with me, if you know what I mean.

Q. I appreciate that. I am trying to find out

A. It wasn't anything I was doing.

Q. No, I am trying to find out just what was happening. And in any event, some contact must have been made by Dame Street with O'Connell Street and you went there?

A. Yes.

Q. I don't want to get into, whether you remember it was the same day or subsequently, it didn't matter, you went there anyway?

A. It would certainly have been I would say it was probably the same day.

Q. And you weren't carrying any instrument from Dame Street to O'Connell Street?

A. No, I wasn't carrying any instrument as I refer to it or I wasn't carrying any instructions. I was simply told

Q. You didn't have a letter, you didn't have an instrument, you had nothing?

A. I was told to go and present myself.

Q. And you identified yourself, I take it, when you got there?

A. Yes.

Q. And what happened then in O'Connell Street?

A. I presume at that stage, that the I got the draft or whatever I have no recollection of what precisely happened within the bank. My only recollection is going to Dame Street and the reason I remember going to O'Connell Street because it was unusual because I hadn't been there previously and I didn't ask any questions, I just did what I was told, and the transaction was completed.

Q. What can you remember exactly what transaction took place? What occurred? Were you asked to sign anything? Were you told anything? Were you

A. No, there was no I just, from my recollection, I think I got I don't know did I get the bank draft there and then or did I have to sign for it or what. But the €55,000 was available.

Q. I think the account in Channel Islands was opened on the instruction its of Allied Irish Bank O'Connell Street branch, isn't that correct, or do you know?

A. I don't recall.

Q. I think you have, in the course of furnishing the waiver to the Tribunal, you allowed the Tribunal to communicate directly with Allied Irish Bank in Channel Islands?

A. Yes, I did.

Q. And I don't know, have you had an opportunity of seeing this?

A. I haven't seen it, no.

CHAIRMAN: Well, it's just after half past so I think

MR. COUGHLAN: Perhaps, because

CHAIRMAN: Ten to two. Thanks, Mr. Lowry.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 1:50PM:

CHAIRMAN: Good afternoon. Mr. Lowry please.

MR. O'DONNELL: Just one matter, it's a matter I mentioned to Mr. Coughlan and I have asked if I could mention it to you, Sir, it's this. It doesn't relate to Mr. Lowry.

Yesterday Mr. O'Connor gave evidence, he had before he went into the witness-box, a black file of the Tribunal documentation together with his own working papers. They were placed on this desk before he gave evidence, and when he came down and went to look for them during lunch hour they are no longer there.

Now, we have made considerable searches for them and it may well be there's an innocent explanation but it has not been able to track down the file with both the Tribunal documentation and his own documentation and however, it may

turn up, I think it should be made clear that the information in it is confidential to the Tribunal in so much as it's Tribunal information to Mr. O'Connor and Mr. Lowry. I don't want to make any more of that because these things can often be mislaid but should it turn up, anyone should be aware, the file is Mr. O'Connor's and the information in it is confidential. It's identifiable because it has loose documentation in it and also the indexes are all Brophy Butler Thornton indexes with BBT on them. I am grateful for you letting me mention the matter.

CHAIRMAN: I am glad you told me, Mr. O'Donnell. I think we did have one unfortunate incident in the initial public sittings of the Tribunal when a young press photographer had a valuable camera taken and as a result, we had sought to step up the security and I very much hope that there might be some innocent explanation. In any event, I will certainly confirm, as you propose, that should this document have strayed into the wrong hands simply or any other connotations, it should be regarded as a particularly sensitive and confidential document, both from the standpoint of Mr. Lowry and Mr. O'Connor, his accountant and from the standpoint of this Tribunal and it should be treated accordingly. And obviously, I will bear in mind, Mr. O'Donnell and I will invite the members of the Tribunal legal team as I have no doubt they will, to liaise and facilitate in relation to any difficulty that this may face

Mr. Lowry's advisors generally.

MR. O'DONNELL: Thank you, Sir.

CONTINUATION OF EXAMINATION OF MR. LOWRY BY MR. COUGHLAN:

Q. MR. COUGHLAN: Thank you, Mr. Lowry. I think before lunch, I had asked you to consider a certain document or a series of documents which you probably had not seen that came from Channel Islands, is that correct?

A. Correct.

Q. And have you had an opportunity to look at those over lunch?

A. No, I haven't seen those documents.

Q. I see. I beg your pardon. I thought you had. Well perhaps we will just deal with it slowly so here and if we the first one is a memorandum. It's an internal memorandum and it's from Allied Irish Bank at O'Connell Street branch and it's to Allied Irish Banks Channel Islands in Jersey and you can see there are some handwritten note at the top but then it is "Re proposed account Mr. Michael Lowry" and "we enclose draft in the sum of £55,000 sterling and as discussed by telephone today, should be obliged if you would deposit same in the above name at interest rate" and it gives the interest rate of 13 and a half per annum for three months. "Please confirm transaction to us, copy history card enclosed. We would also be obliged if you would kindly contact us at maturity

date for further instructions."

Now, it would appear that this memorandum refers to proposed account so it seems to be instruction for opening of account and the transfer of œ55,000 sterling at interest rate and maturity date.

A. Correct.

Q. And it also would appear what this particular branch was enclosing also was a history card. Now, as far as you know, you had no history at Allied Irish Bank, O'Connell Street?

A. Yes, I have no recollection of having anything to do with Allied Irish Banks, O'Connell Street.

Q. That appears to have been received in the Channel Islands according to the stamp on the document on the 16th sorry, the 16th January 1991 received; isn't that correct?

A. Correct.

Q. Now there then now, there's another document which again is to the manager of Allied Irish Banks in Jersey and it appears to be from Allied Irish Banks in Dame Street, if I am not mistaken. It's in manuscript form. Do you see that?

A. Yes.

Q. And is that signed by you or is that your signature on it?

A. Yes, that is my signature.

Q. You are giving instructions?

A. That is my signature.

Q. And the instruction you are giving here is, "Dear Sir, please forward to me care of Allied Irish Banks, Dame Street, confirmation of my deposit sterling œ100,000. Please forward original not photo-copy." That instruction, that seems to be coming from you from the Allied Irish Banks at Dame Street on the face of it at least?

A. Yes, it's certainly my signature but not my it's my signature.

Q. It may be that the instruction was written out and you were asked to sign it?

A. Yes.

Q. But your subsequent dealing appears to be coming with the money in the Channel Islands appears to be emanating from the Dame Street branch; isn't that correct?

A. That's correct.

Q. I don't know what turns on it but it just but can we take it, what I am trying to do is your recollection of being sent by Dame Street to O'Connell Street for the outward movement of the money; isn't that correct?

A. Correct, yes.

Q. Was that your only dealing with O'Connell Street as far as you know, on this transaction?

A. That's the only recollection that I have. I recall going to O'Connell Street. I have no further recollection of any dealings with O'Connell Street.

Q. And in December of 1991, that's the end of the year in

which the money was sent out, you were in fact communicating with Channel Islands from the Dame Street branch, isn't that correct?

A. According to this correspondence, yes.

Q. That would be your understanding?

A. Yes. Yes, it would be.

Q. It was at the Dame Street branch, that is your understanding, you were conducting your banking business?

A. Yes.

Q. Now I just have to put something to you for your comment which you have just heard about before you got back into the witness-box, that it is the understanding of the Tribunal that there will be a witness from Allied Irish Banks who will say that when you came to O'Connell Street, you were not sent there by Dame Street or may not have been sent there by Dame Street but that you were accompanied by a financial advisor or a member of a firm or company of financial advisers who may have had an account in the O'Connell Street branch. Do you have a recollection of that?

A. Absolutely not. I haven't had any meeting with anybody from AIB in the presence of any financial consultant. My visit to that branch that day, my recollection is that I was on my own.

Q. And can I ask you this; did you ever have any dealings with the O'Connell Street branch to the best of your knowledge other than this transaction?

A. To the best of my knowledge, no, I have no recollection whatsoever of any other dealing.

Q. Did you ever use the account of anybody in the O'Connell Street branch? I just ask this, for example, the account of a known customer there such as a firm of financial consultants?

A. No.

Q. Now, I just wish to put another document to you, this is an application form for the sterling draft, this is the STG œ55,000 and it's probably, do you know anything about it? It may be an internal bank application. Now, it's the actual, I presume customer application form for the purchase of sterling but

CHAIRMAN: It would be an internal bank document.

MR. COUGHLAN: Thanks. All right. I can leave it so. To your knowledge, did you sign any document relating to the purchase of the sterling at the O'Connell Street branch?

A. I can't say for definite, I simply don't remember but on this particular document, there's no signature

Q. No, this is internal, it would appear to be an internal document but to your knowledge you didn't sign anything?

A. I have no recollection of.

Q. You have no recollection?

A. No.

Q. Or do you have any recollection of anybody discussing anything, perhaps like exchange control or anything when

you were doing the transaction?

A. Definitely not, I have no recollection whatsoever.

Q. I think on the maturity of this STG €55,000, I think it translated into €59,000 on maturity; isn't that correct?

A. Yes, 58 something, approximately 59.

Q. And there seems to be a gap of a couple of months, isn't there, it was redeposited again. Can you offer any explanation first of all, did you receive any instrument? Did you receive a cheque? Did you receive a bank draft for the €58,337.28 yourself?

A. No, not that I am aware of no, it went through the banking system.

Q. And I just want to now we have again an internal, what I believe to be an internal instruction, Allied Irish Banks, we will put it up now, you perhaps have that in hard copy in front of you. It seems to be an instruction to forward the proceeds of the account on maturity to O'Connell Street as I understand it, is that correct?

A. The document that I have in front of me is to

Q. To branch and send cheque to branch?

A. Yes.

Q. It's emanating from Allied Irish Banks, O'Connell Street?

A. Correct.

Q. Did you issue any instructions that any funds should be held for you in O'Connell Street at that time, to your knowledge?

A. I have no recollection of doing so.

Q. Now, it was reapplied for re-invested in September, matured in July and it was re-invested in September. Where do you believe the money was or your money was for that three month period or two month period?

A. I believe it was maintained internally in the AIB system.

Q. Well, did you believe it was in the Channel Islands still or did you have any knowledge or

A. I couldn't say for definite. The most I could say on it is that I had invested it with AIB and I believed it was within the AIB system, whatever account.

Q. Still on investment as far as you were concerned or did you pay much attention to it?

A. Yes, yes. On an investment the investment I would have had I would have left it on investment and when it matured, it rolled over.

Q. Yes. Well, it didn't actually roll-over and I think it's something which has been exercising the mind both of Mr. O'Connor and the Tribunal as to where it might have been.

Can we establish one thing, you didn't have it?

A. No.

Q. But yes, I think that deposit when it matured seemed to form part, seemed to form part of the proceeds of the €100,000 at the end of the day, is that correct?

A. Correct.

Q. It was the matured it was the deposit figure plus interest?

A. Correct.

Q. But as far as you were concerned, that figure was somewhere in Allied Irish Banks and you put the other two sums to the 34,100 and the 7 and a half odd thousand sterling?

A. Correct.

Q. And where did you negotiate that particular transaction then, adding the 34,100 sterling and the €7,600 or whatever it was, was that in Dame Street?

A. The two subsequent drafts were in Dame Street.

Q. And the business was done in Dame Street as far as you know?

A. Yes.

Q. And the money went to the Channel Islands from Dame Street as far as you know at that time?

A. Yes.

Q. And you didn't go back to O'Connell Street for those particular transactions?

A. No.

Q. Now, can you remember who you dealt with in Dame Street?

A. I have no recollection of the individuals involved who I dealt with.

Q. Who would you, in the normal course of your business, would you have dealt with in Dame Street? Could it be anybody?

A. It could have been anybody, obviously at management level.

Q. At management level?

A. I would think so, assistant manager.

Q. It would be at management or assistant manager level you think you would have dealt with in Dame Street at that

time?

A. I would think so, I can't say who the individual but I presume I dealt with somebody at that level.

Q. So within the branch, it was somebody at senior level you would have been dealing with or a number of people at senior level?

A. Yes, a number of people, yes.

Q. Can you remember their names?

A. To be honest, I cannot.

Q. Well, when you were I take it that much of your banking with Dame Street might have been conducted over phone, would it?

A. Yes, any call

Q. Who would you normally call?

A. I would call whoever, just look for somebody, an assistant or what have you.

Q. I know, but when you ring up, I presume, I don't know the particular branch myself but I take it it's a big branch, is it?

A. Yes, it is, yes.

Q. And can I take it that when you'd ring up somebody at a receptionist would answer the phone?

A. Yes.

Q. And you wouldn't conduct your business at that level, you'd want to talk to somebody else I take it?

A. Normally what I would have done probably is look for a manager or an assistant manager, whoever was available.

Q. But nobody specific?

A. Nobody specific.

Q. You don't mind me just pressing you a little on this, Mr. Lowry. The reason you opened an account on that branch was because you wanted to have a bank in Dublin and you knew somebody associated with that bank, that particular branch, is that correct?

A. That's correct, yes.

Q. Would you have been conducting your business with that particular person?

A. Some of the time, not all of the time. Obviously it's like any business I suppose, it depends on availability of the individuals, whoever is in charge at the time.

Q. And I will just ask you and I won't ask you to say it in the witness-box Mr. Lowry, but I would ask you to really think about this and I appreciate you may not want to cause difficulties for any particular individuals but if, when you leave the witness-box, if you discuss the matter with your legal advisers, that you might be able to, if your recollection can be in any way jogged, that you might give that information to the Tribunal.

A. Yes, I would willingly give the information to the Tribunal if I felt it was accurate and I was being fair about it but it's, as I say, it's nine years ago and I just simply cannot recall. It would be unfair for me to speculate on any individual or number of individuals.

Q. Well, if you can assist the Tribunal, it could be in ease

also of Allied Irish Banks, because it might narrow down the field of inquiry that's necessary.

A. Yes, I have fully cooperated with the Tribunal and I will continue to do so.

Q. I want to acknowledge that, Mr. Lowry. I think you concluded your statement by making some concluding comments, is that correct?

A. Correct.

Q. And would you like to read those out yourself, if you would. Page 21, if you can find it, I can give you a copy.

A. These are my concluding comments as stated in my statement to the Tribunal.

"I appreciate that insofar as it has not been possible to identify the sources of a number of lodgments for the Tribunal, that this statement is somewhat unsatisfactory.

However, as I have attempted to demonstrate to the Tribunal the inability on my part and on the part of my advisers to identify the specific sources of particular lodgments, some dating back as far as 1988, is due to poor and sometimes nonexistent record keeping on my part.

I have, as I believe the Tribunal will accept, cooperated fully with the Tribunal since it was established and indeed also cooperated with the McCracken Tribunal. My advisers have made themselves available to the Tribunal and both I and my advisers will continue to do so.

I reiterate that I am and have at all times indicated to the Tribunal that I have no objection whatsoever to the Tribunal making such inquiries as it feels appropriate with the banks with whom I bank and which are the subject of this inquiry."

Q. I think you say that both

A. Sorry .

Q. You conclude by saying "both you and your advisers have done and will continue to do whatever the Tribunal deems necessary to help the investigations in this regard and you would be happy to supplement this statement to explain or clarify any matters required by the Tribunal."

A. That's correct.

Q. And that continues to be your position?

A. That continues to be my position.

Q. Thank you.

MR. CONNOLLY: Chairman, we'd like to reserve our position as far as the Revenue Commissioners is concerned. We will have some questions for Mr. Lowry but we understand he is coming back at a later stage when you will be dealing with matters touching directly on the Terms of Reference concerning the Revenue Commissioners and I think it's appropriate to deal with matters at that stage and on that basis, I'd like to reserve our position.

CHAIRMAN: I will permit you to do that, Mr. Connolly. You will have regard obviously to the discussion and rulings

that have arisen in situations effectively involving more Mr. Nesbitt's and Mr. Hardiman's clients than Mr. Lowry and my only general intimation given the Terms of Reference, you are, in effect, carrying a shield rather than a sword as regards the specific Term of Reference that relates to your client and also of course I will be most anxious to have assistance you can give on the recommendatory aspects of the Tribunal but I will leave those aspects open to be discussed further at the later stage you refer to. Thank you.

Mr. O'Donnell, I will leave you to the end which is the procedure that has been adopted to date and I will check with some of your colleagues, Mr. Nesbitt, anything arising?

MR. NESBITT: I have no questions at this time, Mr. Chairman.

CHAIRMAN: Thank you. Mr. Gallagher I think was here this morning. Mr. Sheridan?

MR. SHERIDAN: Sir, the only documents which have been produced to Allied Irish Bank prior to today were the memorandum of the 14th January 1991 and the telefax of July 1991. There are other documents which have been shown today which we have not seen beforehand, although they are documents of Allied Irish Banks, Channel Islands, that is actually a separately incorporated subsidiary for

regulatory reasons is not something to which, to whose papers we have automatic access. We depend on the Tribunal in respect of the production of those documents so subject to that, there being something in the subsequent date in respect of which we may need to ask questions, I have only one question for Mr. Lowry just to

CHAIRMAN: I accept this particular situation has been visited upon everyone including yourself rather suddenly and I accept that in general terms and if you have one or two short matters that may fall to be dealt with now, well and good.

MR. SHERIDAN: Today I wish to ask Mr. Lowry more for the purpose of my own understanding, is it, Mr. Lowry,

CHAIRMAN: Incidentally, Mr. Lowry, this is Mr. Brian Sheridan, solicitor for Allied Irish Banks.

A. Yes.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. SHERIDAN:

Q. MR. SHERIDAN: The instructions, Mr. Lowry, contained in the memorandum from O'Connell Street to Jersey on the 14th January 1991, do you accept that they are your instructions?

A. I can't recollect precisely but I am sure they are.

Q. Thank you.

CHAIRMAN: Mr. O'Donnell, perhaps, Mr. O'Donnell, just one

or two short things. Mr. Lowry, you have had quite a searching examination by Mr. Coughlan and in putting one or two concluding matters, I'd like you to be confident I am not in any way indicating conclusions that I may be seeking to come to which is something that can only be fairly and properly done when all the evidence has been heard by the Tribunal. I am only teasing out one or two small additional matters in my own mind and I certainly won't detain you more than a minute or so.

As regards the consultancy fees that Mr. Maher paid to you, it occurs to me that one could understand that when someone was at the earlier stages of a career in refrigeration, there might be a natural tendency to say that one would take whatever the client felt disposed to pay and to some extent, you are saying that whilst there was more to it than this, you did say to Mr. Maher whatever you feel to be an proper rate of remuneration, having regard to what I have done. Isn't this so?

A. Yes, it would be.

CHAIRMAN: It is the case that at the time of your work for Mr. Maher, you were already a member of the Dail and you had already attained effectively a leading position on foot of your appointment by Mr. Bernard Dunne for his group?

A. Correct.

CHAIRMAN: Might it not have seemed that you were by then a

sufficiently senior person in the refrigeration business to have perhaps stipulated a somewhat different and more positive basis for seeking your fees?

A. It would have been wiser of me to have done that but the facts are different. I didn't I left it to Mr. Maher to agree the figure. As I say, he was generous with the figure and I was happy to accept it and I believe as he believes that he got good value for the money that he gave me.

CHAIRMAN: Yes. I will bear in mind all the evidence that you have given in reply to Mr. Coughlan as well. Touching then equally briefly on the aspect of Mr. Holly and again I must have regard to one of my own earlier rulings that one must be very careful as regards what may be inferred in relation to persons who are unfortunately deceased. Now again you will appreciate I am not indicating even any provisional finding but it is fair to say perhaps that people in certain particular fields, perhaps including that of the building trade, they can naturally tend to be somewhat more hospitable to Cabinet ministers than they might be other persons, well, those potentially though I am not saying so here, is that fair enough?

A. I suppose it's a fact of life that in any walk of life whether it be construction or whatever business, I think there is probably more respect shown to Cabinet ministers than there is to TDs or senators or individuals in communities.

CHAIRMAN: What I'd like you to tell me in ease of your own position, what ongoing degree of contact with Mr. Holly had you had in the earlier years of the 1990s when you were in a less eminent position in politics?

A. I would have had the same level of contact with him as I retained up to his sad and untimely death. In other words, just meeting him socially, the occasions we would meet would be the likes of GAA games, also the likes of Cheltenham, Leopardstown, Listowel, on those type of occasions. I would generally have the same level of contact up to his death as I say.

CHAIRMAN: Yes. You said earlier today that I think you had been keeping some, approximately eight people on standby to try and keep you informed as to a suitable house in Dublin.

A. Yes, at the same time, I didn't ask over that short period of time, I asked approximately eight people and I had given the names of those companies and individuals to the Tribunal. Around the same time I asked all of them and it was really a question of who came back to me. A number of them came back to me and offered different properties. I looked at those properties, deemed them to be unsuitable and eventually I found one that was suitable and it just, simply Mick Holly was the one that came up with that particular building that suited me at the time.

CHAIRMAN: In other words, had you ongoing contact with Mr. Holly or was it that this contact may have been somewhat out of the blue?

A. No, I had ongoing contact with Mr. Holly, yes.

CHAIRMAN: By telephone, you asked him along with I think Mr. Mark Fitzgerald and a number of others to keep an eye out for you?

A. Exactly. He was I had asked him to perform the same function as I asked approximately eight other people at the same time.

CHAIRMAN: Thank you. Mr. O'Donnell?

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

Q. MR. O'DONNELL: Thank you, Sir. Mr. Lowry, I think you said at the end of your statement that you will be happy to supplement or clarify any matters as they arose. Can I just deal with some of those clarifications at this point. I think you were asked in relation to the 10th Schedule payments referred to in the McCracken Tribunal, that's payments from Dunnes Stores Northern Ireland. In relation to the last payment which is 15th March, 1993, STG œ55,314 to ascertain into what account that was paid and I think you have been able to do that over lunch time. And I think that was in fact the Sterling Retail Deposit Account - for the benefit of the Tribunal - in Dame Street, the same one that was opened I think by the lodgement on the 29th

December 1992?

A. That's correct.

Q. And there's one other matter I think in your statement, you also referred to lodgement of the 12th July, 1989 which has not been possible to identify and I think in your statement you surmised that that might have been part of the same Northern Ireland monies but I don't think that's, on reflection, correct?

A. No, that was a misrepresentation of the position. The evidence given by my accountant was the accurate one, yesterday. It has not been possible to conclusively establish the source of that particular lodgement of the 12th July 1989.

Q. If I can then just deal briefly with some of the matters you have been dealing with in detail over the last day and a half. In relation to the purchase of your house in Carysfort in Dublin, that happened over a very short period of time I think, I think it was purchased at auction in July 1996?

A. Correct.

Q. The sale closed to you in September 1996?

A. Correct.

Q. And as we know, the late period of 1996 was a particularly traumatic period for you, you had to resign as a result of matters that arose from the McCracken Tribunal, you had to resign as minister?

A. Correct.

Q. Very shortly afterwards I think on the 10th January 1997, you sold the house back to Mr. Holly?

A. Yes, for the reasons as I outlined earlier today to the Tribunal.

Q. And so the whole transaction, if you like, is, it covers a six month period?

A. Correct.

Q. Between being discussed and being sold back to him and Mr. Holly, I think, bought it at public auction for €200,000 and made no profit on this transaction with you and when you sold it back to him, I think you recouped the expenses you had incurred in the purchase but otherwise you made no profit?

A. That is correct, I made no profit on the transaction.

Q. In relation to the matters that the Chairman asked you about, I think you had met Mr. Holly or you were in the habit of meeting Mr. Holly in racing and GAA circles and one point that you said he contacted you on the phone when you were in Brussels?

A. Correct.

Q. Was that contact made by you mobile phone or by land line as it were?

A. It was made by mobile phone. Anybody, those that I asked, Mark Fitzgerald, Ken McDonald and the rest of them, I would have given them the mobile phone as the contact.

Q. It wasn't a case of Mr. Holly interrupting you at a meeting or anything like that?

A. No, he wouldn't have known.

Q. In relation to the other matters, just without going into any tedious detail about the refrigeration business, I think you have already given evidence to the McCracken Tribunal about this and about the general business, it was covered in some respects but the need for refrigeration in modern food retail is very extensive indeed, isn't that right?

A. Yes, with European Union regulations and with health regulations, it's now a key area and in any operation, particularly in the area of fresh food, so it's an expenditure on refrigeration is now a big percentage of capital expenditure for any particular project.

Q. I think even in physical terms, it extends much beyond the sort of ice cream cabinets that you think of, it extends to the maintenance beside the supermarket unit of chilled preparations, frozen preparations and there's a very extensive back-up of which all required refrigeration and different control, isn't that is right?

A. Absolutely. The food chain right through to the consumer and this obviously is of huge importance to have it right.

Q. And moving back along the food chain is where Mr. Maher operated, that's in relation to the meat business, that also has a requirement both for refrigeration for fresh food and for freezing, for frozen food, isn't that right?

A. Correct.

Q. And it's a business which has grown in its importance

because of the importance of the food business and because of providing fresh produce to the customer?

A. Yes, refrigeration is an expanding business. There's more demand now for refrigeration and refrigeration services than has ever been before.

Q. And I think the figures were given in the McCracken Tribunal, some of them have been referred to already, in relation to the business you did with Dunnes Stores, taking that as a bench mark between 1989 and 1996, there was some €12 million worth of business done in terms of equipment alone?

A. Yes.

Q. And maintenance?

A. There'd be approximately, possibly more than €12 million directly by my company but that €12 million would not take account of the direct purchases by the group itself so in other words, in total I'd imagine over that period of time, I would have been servicing a contract valued in the region of 25 to 30 million.

Q. Yes. Well, the other side of that equation is one I was going to ask you about. I think again at the McCracken Tribunal you gave evidence and this appeared to be accepted by the others involved in the business that over and above those transactions, there were savings achieved by the design and consultancy, the obtaining of the particular products and the layout, the runs between the various areas and you estimated that at something in the region again of

12 million to 23 million pounds and I think the witnesses from Dunnes Stores, as I say from both sides of the Dunnes Stores camp, seemed to accept that, is that

A. Yes, that would certainly be accepted by Dunnes Stores and the figures are there to prove it, that the savings were made and the standards were improved.

Q. One thing that has never been in dispute, this business, important as it is and lucrative as it is, is one that you are very good at?

A. I I will have to be modest and say I suppose I am as good as the rest. Yes, I have built up a reasonable amount of experience and skills in that area.

Q. But it's a very significant business and one that generates money and it generates significant costs to all the consumers of that business, like whether they are meat companies or other food companies or supermarkets?

A. It's an absolutely essential and crucial area to get right for the providers of products to the consumer and for that reason, it obviously takes special attention and you need specialist advice and assistance in that area.

Q. And the advice which you were giving to the customers is valuable advice, there's very little doubt about that, Mr.

Lowry, is there?

A. There's no doubt about that.

Q. Now, I think you discussed how you did business and even as you do business today, it is the case that you don't necessarily pin down in advance the precise amount you are

going to be paid but I think it's, is it fair to say that both you and the customer have a reasonable idea of the type of figure by reference to the cost of the business, is that

A. Absolutely, yes, that would be correct.

Q. Do you give an indication without necessarily setting out precise prediction?

A. Yes, obviously you would sit down at the beginning of a job, I would give budget figures and obviously reference would be made to what the cost would be involved and I would include an approximation of costs but you wouldn't agree the figure until the job is complete.

Q. When the job is complete, there would be some room for manoeuvre of dealing between you and the customer?

A. Absolutely. You have got to be flexible in these matters.

Q. Also there are figures you regard as too low and the customers would regard as too high?

A. Exactly.

Q. In if I can move on, in relation to some of the transactions that have been discussed, one of the features or a single unique feature of your dealings with Mr.

Whelan's frozen foods, with Mr. Maher and Mr. Doherty, are that in all cases, however the money came to you, you lodged that money to your bank account?

A. Yes, I lodged all such payments to my, to one personal bank account.

Q. In Mr. Maher' case I think you were paid in the Royal

Dublin Hotel shortly before Christmas and you lodged that on the 23rd December, I think, 1992.

A. Yes.

Q. To your Dame Street account.

A. That's correct.

Q. In the case of Mr. Doherty, the money was delivered in Thurles and you lodged it to your account in Dublin?

A. That's correct.

Q. And one thing that does appear from your financial affairs that have been so exhaustively examined here is that any monies you receive, give or take the monies that you might have cashed and which you have discussed, you have, however they emanated, however they came to you, whether from Dunnes Stores Northern Ireland or Ben Dunne or Mr. Maher, they ended up lodged in one of your bank accounts?

A. That is correct.

Q. One final matter, Mr. Lowry, because we have been dealing, there's been some focus on what I accept can be a confusing issue which is the question of the lodgments for which it has not been possible to find a precise source.

Now, looking back over those 10 years, I think that you saw on the screen the individual ones that it had not been possible to pin down.

A. Yes, I did see them.

Q. But I suppose another part of the story is each of those statements and there are many more statements than those have very large blank areas which are transactions which it

has not been possible to pin down?

A. That is correct, we have been, I would have to say initially when we started this process and when I engaged my accountants, I thought that it was an impossible task and I have been pleasantly surprised at the extent to which they have been successful in identifying those lodgments, yes.

Q. But they were I think to try and put the figures in, when you go through the figures year on year, I think Mr. O'Connor has done the exercise of identifying the lodgments which it's not possible to identify with precision and the income which you undoubtedly obtained which it has not been possible to identify either and when you look at the total of the 10 year period, I think the amount of lodgments which, unidentified lodgments in excess of unidentified income is some €31,000?

A. Yes, that figure has been established as a result of this exercise and the figure is €31,000 over 10 years and even that figure is, you know, we have, I have explanations for it but I can't give conclusive proof of it because I don't have the verification.

Q. But that's the total figure but if we were to look at the incidents of lodgments which it can't be pinned down, the vast bulk of those relate to the period 1987, 1988 up to I think the end of 1991?

A. Yes, well again, during the course of that exercise, what we found was that the further back we went, the more

difficult it was to get information from the institutions with which I dealt because they didn't keep records that long and I found the same thing with the State departments that I dealt with in terms of determining my income from that source and I think if you look at the results of the exercise, you will see that as we have progressed to the present day, it was getting clearer and clearer all the time and in actual fact, the two years that were particularly important to me as a public representative, the years when I was a minister, we were able to identify every lodgement to my account during that time.

Q. That was one thing I was going to ask you, Mr. Lowry, I think you are obviously involved in the business of refrigeration but for a significant period you were involved in the business of politics and in that business I think perception is particularly important, that's part of the business from day-to-day. And I think you would accept that some of the transactions that you were engaged in as a businessman have given rise to difficulties of perception in your role as a politician, is that fair?

A. That is a fair summation and it's something that I very much regret and it's something that I paid a very high price for and I am sure it's something that will cause me a lot of difficulty into the future.

Q. One thing I was going to ask you. In relation to those transactions with Mr. Maher or Mr. Whelan or in relation to lodgments prior to 1986, 1987,'88 up to 1991 or whatever,

were any of those matters related to your position as a politician?

A. No, I can state clearly and categorically any of those payments identified were solely for business and commercial reasons. They had absolutely no connection whatsoever with my role as a public representative.

Q. Thank you, Mr. Lowry. I have no further questions.

CHAIRMAN: Thank you, Mr. Lowry. Anything in conclusion, Mr. Coughlan?

MR. COUGHLAN: No, Sir.

CHAIRMAN: Thank you very much for your attendance, Mr. Lowry.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Liam O'Connell.

MR. LIAM O'CONNELL, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

Q. MR. HEALY: Thank you, Mr. O'Connell, you are an official of the Allied Irish Banks; is that right?

A. That is correct.

Q. What's your position with the bank at the moment?

A. At the moment I am branch manager in our St. Stephen's Green branch.

Q. And prior to that, what positions did you hold in the bank?

A. I would have several roles at manager and assistant manager level prior to that over the last 20 years in the Dublin area.

Q. In 1990 and 1991 where were you working?

A. I was in 37-38 O'Connell Street I think up to mid 1991.

Q. Mid 1991?

A. Yes.

Q. When you say mid 1991, what time would that be?

A. I cannot be certain because I moved to our neighbouring branch so there was no formal date as such because the two branches were located so close to each other, it was an ad hoc arrangement but I would say Easter 1991.

Q. Were you dealing with Mr. Michael Lowry's affairs or himself personally in 1991 in the O'Connell Street branch?

A. I met Mr. Lowry in 1991 on one occasion.

Q. What was the purpose of that meeting?

A. Mr. Lowry had been introduced by a client or I suppose a group who are financial consultants and who accompanied him so far as I can recall to that meeting.

Q. Well, we will come to the details of that in a moment.

What was the purpose of the meeting?

A. Purely introductory. The clients introduced Mr. Lowry as a person who would be doing business with them and perhaps with us.

Q. What was your role in the bank?

A. My role at the time was that I was the assistant manager

dealing with the client firm of financial consultants.

Q. Did you did your branch open an account for Mr. O'Connell or for Mr. Lowry?

A. I cannot recall whether we did or we didn't. This I will just explain by way of background if I may that I arrived back in the country on Monday evening and this 1991 transaction has been presented to me in the intervening period so insofar as I can recollect, certainly from the correspondence shown there on screen

Q. Yes?

A. I was involved in the opening of an account in O'Connell Street for Mr. Lowry.

Q. Well, Mr. Lowry, as far as he is concerned, believes that he never had an account in O'Connell Street and that his only role or the only reason for his going to O'Connell Street was to open an account in the Channel Islands. Now as far as I know, no account of Mr. Lowry's has ever been found in O'Connell Street in that branch; is that right?

A. That's my understanding.

Q. How did an account, how could it have been the purpose of the meeting was to open an account?

A. Well no. The purpose of the meeting so far as I can recall was that the meeting was with the the meeting with Mr. Lowry was purely a hello-goodbye affair almost with the financial consultants indicating there would be business conducted on his behalf.

Q. Sorry?

A. That the financial consultants indicated that there was a possibility of business being conducted on his behalf in the future either with them or with us.

Q. Who was that firm of financial consultants?

A. Am I allowed?

Q. Yes?

A. JC Financial Management Limited.

Q. Who was the person with whom you were dealing?

A. There was a multiplicity.

Q. Who was the person introduced Mr. Lowry to you? It must have been an individual.

A. I cannot recall, there were certain individuals from that company introducing clients on an ongoing basis.

Q. I see. Was that a company or a firm of financial consultants with which your bank was regularly in contact?

A. Absolutely, yes.

Q. And they sent clients to you regularly?

A. Correct and generally accompanied those clients.

Q. Accompanied them physically to the branch?

A. Correct.

Q. Now, I will ask you to look at a number of documents and we will come back to the details of what actually transpired at the time. Can I ask you to look at a memorandum of the 14th January of 1991. (Document handed to witness.) Now, that document purports to have been signed by you, is that correct?

A. That is correct.

Q. And it's addressed to the manager, AIB Bank, Channel Islands.

A. That's correct.

Q. It says "Re proposed account, Mr. Michael Lowry. I enclose draft in the sum of STG œ55,000 and as discussed by telephone today, I should be obliged if you would deposit same in the above name at interest rate 13 and a quarter percent per annum for three months. Please confirm transaction. Copy history card enclosed. I should also be obliged if you could kindly contact us at maturity date for further instructions."

Now can you tell me first of all what a history card is?

A. It's a card that would carry a sample signature and perhaps client's name, address, date of birth and so forth.

Q. And would the bank have retained a copy of that history card?

A. In the normal course, yes.

Q. Would it be associated with a client's account in a particular branch?

A. It would, yes.

Q. Above 'proposed account', do you see 'J and I Lowry'?

A. I do.

Q. Is that a reference to two other people, is it?

A. I don't know, I have never seen that before.

Q. I want you to we will come back to that document in a moment. I want you to look at another document, this time I think it's an internal bank form and it appears to be an

application for a draft. (Document handed to witness.)

Now, attached to this document is what looks like a docket or a chit recording a foreign exchange transaction and that's dated 14th January 1991 which is the same date as the last document I asked you to look at. Do you see that.

A. Yes.

Q. Now, we will go back to the body of the application form.

I take it that's an internal bank request for a draft; is that right?

A. Certainly it looks like it.

Q. It says "to Allied Irish Banks Plc," it says "For completion by customer" STG €55,000, in favour of Allied Irish Banks, Channel Islands, debit my account, account Michael Lowry" and then on the right-hand side, there are two names or one name, what does that mean? It says date and there's the word 'Liam', is that your name, is that a reference to you?

A. Perhaps. I honestly don't know but I am assuming that it is a reference to me.

Q. Yes.

A. In fact rather than date, I would hazard a guess the word 'prior to it' is 'refer'.

Q. 'Refer Liam', is it?

A. Yes.

Q. Does that mean that some official at the branch, if it wasn't you, filled out the application form and if the

person procuring the draft wanted any information, they should refer to you, would that be right?

A. It is a strong possibility.

Q. Now, the at the bottom right hand corner, there's an ampersand and then there's the figure 9080 and a reference TS 141. Do you know what that is?

A. I have no idea at all.

Q. Now in any case the other chit or receipt at the bottom of the document refers to or records a foreign exchange transaction whereby STG €55,000 was purchased by a payment of IR €62,572; is that right?

A. That would appear to be right, yes.

Q. Can I take it that the purpose of that purchase was to obtain a sterling draft which was to be sent by you under cover of your letter to Allied Irish Bank, Channel Islands for deposit in a new or proposed account of Mr. Michael Lowry?

A. It's possible, yes.

Q. Isn't it, in fact, as likely as not that that was what was involved. It's hardly just a possibility.

A. Well, you know, it's a likelihood.

Q. I see. What I am suggesting to you, Mr. O'Connell, and perhaps you can tell me if I am wrong in this, that looking at your memorandum to the Channel Islands and bearing in mind that it refers to a proposed account of Mr. Michael Lowry and a STG €55,000 deposit, that that is one and the same as the STG €55,000 draft referred to in the

application form which also contains Mr. Lowry's name and is the same date as the date of your memorandum?

A. I would agree with that.

Q. So in all probability, the two documents are connected and the purpose of the second document was to send the draft abroad for opening an account in the Channel Islands?

A. Yes, I would think so.

Q. Now, if you go back once again to the form, I want to ask you one or two other questions about the application form.

If you go to the bottom left-hand corner of that application form, there are four lines.

A. Yes.

Q. The first words are, above the four boxes, if you like, are "complete as applicable. Funds from an external source." I take it in this case as we are talking about Irish pounds being used to purchase an Irish draft, on the face of it, the funds were not from an external source.

Would that be right?

A. There could be confusion around that that if the STG œ55,000 was actually being purchased through the medium of a sterling exchange, in other words, the draft was being brought with a sterling cheque for œ55,000, the computation would only have been for noting purposes.

Q. But here, isn't this clearly a case of Irish pounds purchased, IR œ60,572.69 purchase a draft for œ55,000, isn't that the what the record shows?

A. No. Unfortunately

Q. We will just go back for a moment. You are telling me that document doesn't mean what it says on its face?

A. I would accept that the memo with the draft certainly that related to the purchase of the draft for €55,000, as to whether the computation was 65,000 and 72 or the payment mechanism was something else, I cannot verify.

Q. I see. We will pass on from that. "Approved under delegated authority," notice number blank, paragraph number blank. On the next line it says "Approved exchange control Form attached" and the next line it says "Specific exchange control permission held."

Now, these are all little parts of a form to be filled out if relevant in connection with exchange control, isn't that right?

A. That is correct.

Q. And I take it that as you say your career in the bank began, did you say, 20 years ago?

A. Oh more.

Q. More than 20 years ago. That you are familiar with exchange control regulations?

A. I am.

Q. Those regulations continue to operate up until December of 1992, is that correct?

A. That is correct.

Q. And dealing solely with this transaction, where a person in Ireland wished to open an account abroad, that person would have to obtain exchange control, isn't that right?

A. Of course, yes.

Q. And in administering the exchange control system, the Central Bank operated as an agent or as a deputy, if you like, to the Minister for Finance but the day-to-day operation of most exchange control transactions was carried through by the banks as effectively agents of the Central Bank, isn't that right?

A. Correct.

Q. The banks had specific delegated authority to operate a statutory scheme or a non statutory scheme, as it was at one time, of exchange control; is that right?

A. That's right.

Q. So in the first instance, the bank was the person acting not in its own interests but as a delegate of the Central Bank, was the first person in any transaction who would have to consider the exchange control implications, isn't that right?

A. Correct.

Q. Unless the client himself was well aware of it. Now, isn't it the case in relation to this transaction that exchange control was required to open an account in the Channel Islands?

A. I cannot be sure of that.

Q. Why not?

A. On the basis that there's no box ticked nor is there a notation on it that invoices have been cited.

Q. Were you aware that exchange control was required to open

an account in the Channel Islands?

A. Yes.

Q. Now we are not talking about an invoice here, we are talking about opening an account.

A. Okay.

Q. We are not talking about paying a bill in a foreign country so in the ordinary way if you had a bill in a foreign country, you'd simply produce the invoice to your bank manager or whatever official you were dealing with and usually that would be sufficient to convince the bank to exercise its delegated authority but here an account was being opened, isn't that right?

A. That's right.

Q. On the face of it, didn't that require exchange control?

A. Yes.

Q. And do you know whether exchange control was operated in, was obtained in relation to this transaction?

A. I cannot confirm or otherwise.

Q. When you were sending that sterling draft for £10,000 abroad, did you know whether it had exchange control?

A. It was 55,000.

Q. £55,000, do you know whether it had exchange control?

A. I am not aware whether it did or didn't.

Q. Would you have sent it abroad if it didn't have exchange control?

A. No.

Q. You wouldn't have?

A. No.

Q. You were absolutely certain before signing that letter you would have checked to see whether this had exchange control?

A. I am not absolutely certain, no.

Q. Are you telling me you wouldn't have sent it

A. The normal practice would be for such transactions would not be entered into without compliance with exchange control regulations.

Q. Did the person who carried out the foreign exchange deal with exchange control

A. Pardon?

Q. Did the person who carried out the foreign exchange deal, this one here, the one we have just referred to a moment ago

A. Sorry?

Q. Did the person who carried that out have exchange control?

A. I don't know but certainly looking at the form, without the box being ticked, it would appear that there wasn't.

Q. It would appear in the branch you were operating a STG œ55,000 draft was sold a customer and then sent abroad without anyone having gone through exchange control?

A. I can't confirm or deny that.

Q. On the face of it?

A. On the face of it, without the document being ticked.

Q. Have you ever heard of an E4 form?

A. It's an exchange control form.

Q. Yes, when an exchange control transaction action is carried through, the bank carrying it through is obliged to complete an E4 exchange control form, isn't that right?

A. It's historic since the early 1990 so I can't be sure but documentation would have been a requirement.

Q. It should be possible, shouldn't it, by making an inquiry in the Central Bank to find out whether an E4 form was completed in relation to this transaction?

A. Indeed or at the branch itself.

Q. Now, to go back to the transaction for the moment and the circumstances which you came to be involved with Mr. Lowry was simply to introduce him, you are saying that he was not, as he suggests, sent down by Dame Street?

A. That is my recollection.

Q. And when he came from Dame Street, according to himself, he did not have anything with him, he had no money with him, he had no draft with him, he had no cheques with him.

A. I actually don't know whether he came from Dame Street or where he came from.

Q. According to him he came from Dame Street and went into your bank and managed to procure a sterling draft from your bank without any money changing hands.

A. I cannot say whether he procured the draft.

Q. I am asking you, would that be very strange?

A. Oh it would be very strange.

Q. Have you ever heard of anyone in the branch before carrying out a transaction like that in the way in which Mr. Lowry

described?

A. Insofar as being directed from one branch to another?

Q. Yes.

A. No.

Q. Or where a sterling draft was being obtained in any way without any cheques changing hands or cash?

A. No.

Q. Could I ask you to look at one or two other documents and then we will consider another aspect of the transaction.

You may not have had any involvement with these documents.

I want you to look at a document that emanated from Dame

Street nevertheless, just to be certain with whether you

know anything about it. It's a letter from Dame Street

addressed to the Manager, Allied Irish Banks, Channel

Islands. (Document handed to witness.)

A. I have never seen the item before.

Q. You have never seen that before.

MR. SHERIDAN: I think, Sir, am I correct when you opened

these sessions, I think one of the things, either you or

the counsel to the Tribunal did indicate was that documents

would not be put to witnesses which had not been put to

them previously. I think when you opened

CHAIRMAN: In general terms, Mr. Sheridan, that is an

integral part of the Tribunal proceedings and if it

transpires that some further notice is necessary for this

witness, I will give him an opportunity to return but I

think in the first instance, we should make what progress we can. If it's necessary for me to defer or give a further opportunity, of course it will be provided.

MR. HEALY: I am sure any arrangement that Mr. Sheridan wants with regard to these documents can be made but I should say the Tribunal has been endeavouring to obtain a statement in relation to these matters for sometime.

MR. SHERIDAN: Unfortunately Mr. O'Connell has been on holidays until Monday and was introduced on his return from holidays on Monday.

CHAIRMAN: I appreciate that it has arisen rather suddenly for him and as I have already stated, if it's necessary to perhaps take up any remaining aspects of his evidence next week, I will arrange that that be done.

MR. HEALY: Could I ask you to look at another document, Mr. O'Connell, to confirm whether you are aware of it or aware of that type of document. It's called a 'journal voucher', it may be nothing whatsoever to do with banking in Ireland. (Document handed to witness.)

A. I have never seen such a document previously.

Q. And you are not aware of it as a type of document that's generated in an Irish bank branch?

A. No.

Q. It may be associated with the Bank of Ireland, Channel Islands.

CHAIRMAN: Well that's at

MR. HEALY: Absolutely, yes of course. If Mr. Lowry did have an account at O'Connell Street, it should be possible even at this point to check that out.

A. It should, yes.

Q. Notwithstanding the lapse of time.

A. Certainly it should be possible.

Q. And if he did have an account at O'Connell Street, one would have expected statements at sometime to be sent to him in relation to that account, isn't that right?

A. Certainly.

Q. And it should be possible to obtain copies of those statements from the branch, isn't that right?

A. Correct.

Q. Now, if this transaction, which was carried through on the face of it as far as we can see, without any exchange control, did involve sending €55,000 abroad, then that would have been in breach of the exchange control regulations; is that right?

A. That is right, if there is no evidence of exchange control.

Q. And the only way of getting funds like this abroad through a bank would be either by following exchange control or by simply bypassing it?

A. Yes.

Q. Did your branch do a lot of business with Channel Islands AIB?

A. No.

Q. You didn't?

A. No.

Q. What sort of business was Mr. Lowry being introduced to your branch for?

A. I can't recall what specifically.

Q. Was he being introduced to your branch as an ordinary new customer?

A. Yes.

Q. Is it usual for customers of one branch of the bank to be introduced to another branch as a new customer just like that?

A. No.

Q. Would it be usual if somebody was introduced to the bank as a new customer, for the bank to check whether they were already a customer of the bank?

A. It would, certainly nowadays yes.

Q. But even then, wouldn't you surely ask a person who they were banking with at the time of any such introduction of a new account?

A. In the normal course, yes.

Q. And in the normal course, if they were already banking with AIB, you might inquire why they were changing from one branch to another?

A. Yes.

Q. And would that usually involve some contact between O'Connell Street and Dame Street?

A. It would involve contact with whatever institution they were moving from or branch and seeking of references in the normal course.

Q. Did you know that at the time of the introduction to you that Mr. Lowry was a TD?

A. No.

Q. The person who introduced Mr. Lowry to you did not tell you that they were introducing a new customer and did not tell you what his occupation was?

A. Insofar as I can recollect, the situation eight and a half years ago, they did not introduce him as a TD or existing AIB client.

Q. If a person was being introduced as a new customer, would usually details of their occupation, business or otherwise be noted by the bank?

A. They would, yes.

Q. And you'd expect a file to be kept showing a note of those records?

A. Correct.

Q. Now, Mr. Lowry has no recollection at all of any of this happening as I understand it from the evidence he gave earlier here today. Do you find that strange that somebody would go to a branch of a bank, open a new account and go through the normal procedure that you have mentioned and yet not remember it?

A. Well, I would find it somewhat strange but it's eight and a half years later and my own recollection is hazy of the

situation but I believe the financial consultants did most of the so-called leg work on the situation.

Q. When you say did most of the leg work, what leg work was that?

A. In other words, that they would have they would have made whatever submission it was to us at the time. Once again, I cannot be concrete on this.

Q. Do you mean written submission?

A. Perhaps, yes.

Q. And again, would that be available if there was a written submission?

A. It should be but since returning to Ireland on Monday, I haven't been able to obtain it from O'Connell Street.

Q. Is it they didn't make a written submission? What kind of submission would they make?

A. Probably verbal.

Q. To whom?

A. I would have assumed in the circumstances of that transaction to me or some other member of the management team in O'Connell Street at the time.

Q. Your dealing with Mr. Lowry, you said, was purely on an introductory basis?

A. That is the only thing that I can recall, the only interfacing I can recall with Mr. Lowry ever.

Q. Do you know the manager of Allied Irish Banks, Channel Islands?

A. No.

Q. How did you come to address this letter to him if the only contact you had with Mr. Lowry was of the "hello, how are you" variety?

A. Without being able to confirm the situation or without sight of the documentation, my view or best guess is that the request would have come through these financial consultants.

Q. The request for what?

A. For the transaction.

Q. You were saying that the financial consultants would have requested that the bank carry through a transaction involving sending œ55,000 to the Channel Islands?

A. I am saying it is a possibility but had they made that request they would have submitted some documentation supporting it from Mr. Lowry.

Q. You have a hard copy of this document in your hand, the application form for the sterling draft.

A. Yes.

Q. Do you recognise the handwriting on it?

A. I don't, no.

Q. It must have been a member of your staff, isn't that right?

A. It's in all likelihood because it's an internal document but at the same time these documents at the time and currently are available for clients to take away and complete.

Q. If somebody came to your branch, whether through a firm of financial consultants or otherwise and wished to open an

account in an offshore branch, there's only one proper way of doing it, isn't that right?

A. Historically?

Q. Yes.

A. Yes, as we have discussed.

Q. There was only one way of doing it and that was by going through exchange control?

A. Correct.

Q. And no Irish resident would have been allowed to open an account off shore, deposit account offshore?

A. No.

Q. Isn't that right?

A. That's correct.

Q. So that this account, to come back to the question I asked you earlier, was opened offshore, it must have been done with exchange control or if it wasn't the law was being broken?

A. That is they are the only two options to consider.

Q. Well now can I ask you then to ensure that you put whatever further or make whatever further inquiries are required in your branch to ascertain

A. Sorry, I presume you mean the O'Connell Street branch.

Q. In the O'Connell street to ascertain where the history card is and whether there's any record of exchange control in relation to this transaction. When did you go on your holidays, Mr. O'Connell?

A. This year?

Q. Just the holiday you have come back from.

A. 31st May.

Q. You went on the 31st May?

A. And returned on Monday.

Q. Well, in fairness to you, the Tribunal wrote to the solicitor for the bank on the 9th June of 1999 seeking some of the information that I have now been asking you to produce. Thanks very much.

MR. CONNOLLY: No questions, Chairman.

CHAIRMAN: Mr. O'Donnell?

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

Q. MR. O'DONNELL: Just one or two questions. Mr. O'Connell, I think you fairly said that these events occurred some eight and a half years ago and your recollection of them is somewhat hazy?

A. Indeed.

Q. You are looking at the documents and trying to recall what on your evidence was a fairly fleeting transaction or dealing with Mr. Lowry?

A. That is correct.

Q. And I suppose over that period, there would be, it wouldn't be surprising if memories can be wrong or

A. I agree that without some documentation evidence to support some of my thoughts that my best recollection is as I have recounted.

Q. Yes. And in this case, what you have also said is that Mr. Lowry was not introduced to you as being a TD or a person of any note in that regard?

A. No, he was introduced as a prospective client of the bank and financial consultants.

Q. And you must have a number of such introductions made to you on a fairly regular basis, would that be right?

A. At that time consistently, yes.

Q. It's just that Mr. Lowry has no knowledge of JC Financial Consultants and I don't think they ever acted for him and/or ever dealt with him. If that is the case, it might be, might it not, that there's, you are, you may be mixing them up with different introductions?

A. I don't believe so.

Q. But certainly it is the case in this transaction that what you recall is simply one face-to-face meeting with the consultant, is that right, and Mr. Lowry?

A. Correct.

Q. And there's no written record of that meeting?

A. Well, I don't know whether there is or isn't. I haven't been able to procure such over the last two days since returning to Ireland and I don't know whether the relevant branch which I left eight years ago approximately have such records.

Q. One other thing is that I think you have said you don't recall the identity of the person in the consultants' firm who was present at the meeting that you recall?

A. That is correct but my recollection is it was an introduction through that firm who had, I believe, somewhere of the order of 33 representatives interacting with clients and introducing them to us at that time.

Q. Thank you, Mr. O'Connell.

CHAIRMAN: Anything you want to raise, Mr. Sheridan?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. SHERIDAN:

Q. MR. SHERIDAN: Mr. O'Connell, the Mr. Healy has characterised the memorandum of the 14th January as the opening of an account and I am just a little bit puzzled on the face of that document as to where he gets that interpretation from. Can I just bring you through it. It refers to proposed account and then it refers to a draft being enclosed and asks that it be deposited and encloses a history card. It doesn't on its face ask for an account to be opened, is that the case, or it could be an existing account?

A. It is a possibility.

Q. Or it could be an account being opened by direct contact?

A. Correct.

Q. So on the basis of the document that's been produced to us, it doesn't seem to be an application for the opening of an account?

A. I agree with what you have said there. It is possibly following on direct contact between other parties.

Q. So is it fair to say on the face of it, it may be simply the transmission of funds?

A. That's a possibility.

Q. On the face of it

A. On the face of what is here.

Q. Yes. And the requisition for a draft if we could have that photocopy, the tally sheet at the foot of it, Mr.

Healy interpreted that as indicating that the draft had been bought with Irish pounds. Now, if a customer comes in with a sterling instrument, with a payment in sterling, whatever that payment be it cash or draft or whatever, to buy a sterling draft, what procedure is followed?

A. Once again, they are historic procedures and this is the point I was trying to make, while there is a computation or conversion to Irish pounds there, the purchase may not have

Q. Wouldn't the sterling draft converted to Irish pounds and a computation be done for a sterling draft?

A. That would be the modus operandi at this stage.

Q. So that tally sheet is not in fact an indication that the origin of those funds was Irish pounds?

A. No.

Q. If somebody comes to a branch to buy a draft and goes to the counter, typically this application form would be completed how?

A. Generally that application form would be completed by the purchaser or alternatively by the member of the foreign

exchange staff that may be interacting with them.

Q. Yes. And it then is carried away elsewhere into the branch to have with the draft and with any underlying documentation?

A. Correct.

Q. To have the draft signed by a senior official, isn't that the case?

A. That is the position.

Q. And all those, in terms of detail, all that's on the right-hand side of that is 'refer Liam'?

A. That's what, you know, somebody else made something else of that writing which is a possibility but I think it does read 'refer Liam'.

Q. So that if a junior member of staff was selling a draft at the counter and taking the details of a customer and the customer said that Liam O'Connell knows about that and then the official then took the documents to you

A. It is a possibility that they would have appended that note and subsequently brought documents to me.

Q. You see there's no evidence, is there, of any account relationship with Mr. Lowry at O'Connell Street. All that appears to have happened is a single transaction?

A. Insofar as I can glean from this.

Q. Now the documents, the boxes on the document in relation to exchange control approval, properly speaking they should have been completed, shouldn't they?

A. Correct.

Q. In terms of internal procedures?

A. Indeed but there are several other procedures missing from the document as well.

Q. If, for example, this was a payment and invoices were produced

A. There is no section within the form that you would mark there.

Q. And is that and if invoices are produced, was that adequate?

A. It was adequate at that juncture subject to the bank as the representative of the Central Bank under the delegated authority branding the invoice and returning them to the client.

Q. Yes, I think it was the payment permission that was delegated, I don't think the ability to open accounts, I don't think that was ever delegated by the Central Bank and that remained

A. That was subject to prior approval.

Q. Yes. So that that couldn't be done by the bank. That was an obligation on the person opening the account?

A. Yes.

Q. And if it was simply a single transaction for the purchase of a draft, you wouldn't expect to find a customer file obtained in O'Connell Street would you?

A. No.

Q. Thank you, Mr. O'Connell.

CHAIRMAN: Just taking that document again, Mr. O'Connell,

if you look at the lower portion of it, if you take the stamping of the translation between the two currencies, is there any significance in the fact that special commission appears as zero. Am I right in thinking ordinarily if one were to go into any Allied Irish Bank branch with perhaps either a foreign instrument or a foreign coinage, normally the rate for the day would be applied but normally some limited commission would also be levied as well?

A. Not necessarily on transactions of this magnitude, considered relatively large at the time, where the commission would have been built into the exchange rate.

CHAIRMAN: Yes, this may reflect the use of the discretion and perhaps the bank's obvious inclination to acquire additional business.

A. Possibly.

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

MR. HEALY: Just one or two matters. I am wondering in the light of Mr. O'Connell's earlier answers and in view of the question Mr. Sheridan asked him, may we take it there are no account records of Mr. Lowry in the O'Connell Street branch?

MR. SHERIDAN: When the Tribunal first asked Allied Irish Banks for the documents, it's now it was a period of time ago. A diligent search was conducted throughout the system to try and locate whatever records there were. Such

records as were available including, might I say, the requisition for draft which has been produced this afternoon, were forwarded to the Tribunal some considerable period of time ago. We are making further that included an inquiry in relation to O'Connell Street. We are making further inquiries to see if something is missed out but our instructions at the moment, the bulk of documentation in the system pertaining to Mr. Lowry was in Thurles and Dame Street.

CHAIRMAN: Well, I will take it as the likelihood for the time being subject to your ongoing searches not uncovering anything more, that the present likelihood is that all that is discoverable has been produced.

MR. HEALY: Just to clarify one matter, I think you are quite correct when you say, Mr. O'Connell, that the opening of an account would have required specific exchange control and the, as I mentioned to you, when I was speaking to you a moment ago, asking you questions a moment ago, the approval for individual transaction was one that could have been granted by the bank under its delegated authority, isn't that right, but specific exchange control permission is what would have been required in the case of the opening of an account and that is something that is provided for in this application form; is that right?

A. It's on the form, yes.

Q. So it's the last of the four boxes, if you like, which

would have been applicable to the opening of an account?

A. That is correct.

MR. SHERIDAN: Sorry, Mr. Healy simply, with respect, cannot say that. We simply do not know. These could have been external funds in which case the first box would have been appropriate. What we can say is that if the proper internal bank procedures were followed, that form should have been properly completed. But we may not say on the face of that document what the source of the instrument used to purchase the draft was.

MR. HEALY: I am only going on the evidence so far, Mr. Lowry said he went to this branch to send œ55,000 offshore. That's the evidence as far as we know. I was simply going to remind this witness in case he wasn't here this morning when Mr. Coughlan was taking Mr. Lowry through his evidence and he put up on the overhead projector a copy of Mr. Lowry's Channel Islands account and if we could have it on the screen, you will see, Sir, that the account was opened with a deposit of œ55,000 and that deposit was recorded on the 17th January of 1991, some three days after the letter of the 14th January from Mr. O'Connell was sent to Allied Irish Banks, Channel Islands with reference to a proposed account. In those circumstances, doesn't it look like the proposed account was the new account that was opened there, isn't that right?

A. It is a œ55,000 transaction but I don't know whether that

account was in place prior to the transaction

MR. SHERIDAN: My point, Sir, was that what I understood Mr. Healy to be talking about was the exchange control permission required in terms of the requisition for the draft. Now that exchange control permission depends on the source of the funds, depends among other things on the source of the funds used to purchase the draft and I am just looking at what Mr. Healy was saying had the requisition been properly completed, the requisition form been properly completed, the appropriate box to be ticked was the final one. I was merely pointing out on the face of the documents before us, Mr. Healy cannot say that that was the appropriate exchange control. It could well have been what was in issue was funds from an external account

CHAIRMAN: Well, we have incomplete documentation and we have a divergence of recollection from the witnesses and obviously I am going to have to consider it and give you the opportunity of producing any further documentation that may transpire in the future.

MR. HEALY: I should say, Sir, Mr. Lowry made available to the Tribunal as part of his worldwide waiver a complete waiver directed to Allied Irish Banks, Channel Islands and the only documents produced by Allied Irish Banks, Channel Islands were consistent with what you have been told by me

and by the witnesses this morning, that this was the opening of an account with a deposit of €55,000 on the 17th January 1991 and I didn't want to get bogged down in too much technicality with this witness simply to ask him if, as Mr. Lowry says and as Allied Irish Banks in Channel Islands appear to say, this was or as their documents appear to say, this was the opening of an account, then it would have required exchange control before you could have sent it abroad?

A. That would

Q. And we can try to seek that exchange control which has not turned up to date being identified?

A. Obtained, yes.

Q. There's one other matter I don't want to deal with in the witness-box, enough detail has been given but before you'd leave perhaps you would be kind enough to give to the solicitor for the Tribunal the address of JC Financial Consultants. Thanks very much.

CHAIRMAN: Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Fleury.

MR. FLEURY, HAVING BEEN SWORN WAS EXAMINED AS FOLLOWS BY

MR. HEALY:

Q. MR. HEALY: I hope I am pronouncing your name properly. There's some debate concerning the pronunciation of it.

A. It's fine.

Q. Thank you very much. Very briefly I want to take you through one or two documents and mainly a document that has been mentioned in evidence already and I think may have been put up on the overhead projector and with which you are I think familiar, a Certificate of Appraisal prepared by Fleury Antiques on the 15th March, 1995 in connection with the valuation of certain antiques; is that right?

A. Yes.

Q. Now you and your wife Denise conduct an antiques business both from Cahir, County Tipperary and more latterly I think also from Francis Street in Dublin?

A. Yes.

Q. And you and your wife between you I think have considerable amount of experience in this business, is that correct?

A. We think so.

Q. Yes. Now, the Certificate of Appraisal that you have in your hand on the overhead projector is dated 15th March, 1995.

A. Yes.

Q. I think it's in your wife's handwriting but it is the result of an appraisal or a consideration of certain items by you and by your wife; is that right?

A. By me.

Q. By you, I see. Now you came to produce this as a result of a request from Mr. Michael Lowry?

A. Yes.

Q. And what was that request?

A. To go to his house and have certain items valued.

Q. And were those the items that are mentioned here, just these four items?

A. To the best of my recollection those four items, yes.

Q. They are a landscape by Henry John Boddington I think?

A. Yes.

Q. A painting of dogs by Colin Graham; is that right?

A. That's correct.

Q. A three piece bureau and a 19th century clock set and a George II walnut bureau.

A. Yes.

Q. Now, you were familiar with some of these items, either because you had sold some of them to Mr. Lowry or in the case of the valuable painting, you had worked on it at his request, is that correct?

A. That would be correct, yes.

Q. When did you first come into contact with that item or become aware of the existence of that item? It's first item on the list.

A. The first item, the most valuable item was a painting which was in Michael's house and Michael bought some antiques from us three or four years before that and this painting was in his house, I think it was in the house. Anyway, it was loose in the the canvass was a little bit loose and also the painting was coming, the stretcher was coming a little bit apart from the frame itself so Michael asked me

was there anything we could do with the painting and so I said I'd take it away. Now the painting was also very dirty and, you know, he left us a bit of business so he wanted to do it right so even though I don't think he asked us to clean it up and when we were cleaning it up we actually found the signature. I knew the first day I saw it it was a valuable painting because it had a very good quality so we actually came up with the signature of Henry John Boddington, which is an extremely good signature and those are his dates, born 1811, died 1865.

Q. When you brought that item back to Mr. Lowry, again that was some years prior to this valuation, did you let him know what you thought of the picture

A. I did, yes.

Q. And the artist?

A. If I knew he was going to sell it I wouldn't have let him know.

Q. Right. Well subsequently when he came to you to value these items, you didn't know the purpose for which this valuation was being sought, did you?

A. No, because just about every valuation I have ever done is for insurance purposes. Normally when people deal with you, believe it or not, I usually suggest to get a valuation done if we start talking about insurance or something and as far as I was concerned, this insurance or this valuation which we did in 1995 was for insurance.

Q. Of the items of the four items that are mentioned, how

many had been sold by you to Mr. Lowry?

A. Two. The clock set and the painting of dogs by Colin Graham.

Q. So the only two items which you were not completely familiar were the painting by Boddington and the bureau?

A. Well

Q. You are obviously some bit familiar with the painting because you had cleaned it but you hadn't considered valuing it whereas you must have put a value on the other items?

A. I knew it had value. I had seen paintings by Boddington himself and I knew it was valuable.

Q. The only point I am making you must have put value on the others at some stage because you had to sell them?

A. Exactly.

Q. You were now putting value on the items, the bureau and the Boddington that you had never put a value on before?

A. Exactly, yes.

Q. In other words, to put a value, the dearest of the items, almost half the valuation, how did you put a value on that?

A. To the best of my recollection, I went to Michael's house and it was either that night or the night afterwards, my wife and I got together and we looked up the books, we had a library in Cahir and we looked up the books to see, we can get these art sales with indexes to tell you what the different artists make and that would have helped us, my wife and I, as you said, were in business together and we

like to discuss things, you know, so we came up with these values, you know.

Q. You have never sold a Boddington yourself?

A. No.

Q. From the sales of Boddingtons, from the market prices you came up with a value of €18,000?

A. Yes, I am pretty sure that a painting by him of the same size had sold for something about STG €15,000. It's just, like a dream to me that I saw something like that at the time.

Q. You used that as a guide?

A. Exactly, yes.

Q. But in any case you provided him with a valuation?

A. Yes.

Q. You may not be aware of the evidence given he eventually sold these items for €35,000?

A. I am aware of it since.

Q. Were you aware of that before the evidence given in these proceedings?

A. I was told last Friday.

Q. What do you think of that price?

A. Well, it would be a good price, yes.

Q. Thanks very much.

MR. CONNOLLY: I have no questions, Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. BARNIVILLE:

MR. BARNIVILLE: Mr. Fleury, just a few questions on behalf of Mr. Lowry. I think you were very familiar, I think as you said to Mr. Healy, with the first three items on the appraisal; is that right, the Boddington which I think you have restored and worked on previously, isn't that right?

A. Yes.

Q. And the two other items, the painting of dogs and the clock set, both of which you had previously supplied I think to Mr. Lowry?

A. That would be correct, yes.

Q. And I take it you agree that each of those four items are valuable items of antiques and art work?

A. Yes.

Q. When you were assessing their value, I take it that the value which you put on the Certificate of Appraisal was what you regarded as the true and fair value?

A. Obviously, yes.

Q. Of each of those works?

A. Maybe a little bit higher because when you are I thought it was for insurance so when you are doing it for insurance, you go a little bit higher because believe it or not, insurance companies will actually knock more off it when you are underinsured than being overinsured.

Q. I take it having heard the price that you heard Mr. Lowry sold the four items for, you wouldn't disagree that that was a fair and

A. Well, that's what I said, he did all right.

Q. Thank you.

CHAIRMAN: But there's no question of Boddington, whilst a very reputable painter, being in the class of a Turner you would suddenly read in the Sotheby's sold for some enormous sum two months later.

A. Well, I think if that happened, people around Thurles would stop voting for Michael.

CHAIRMAN: Fair enough. Thanks.

MR. COUGHLAN: Thank you. Those are the witnesses available today, Sir, and in relation to Mr. Lowry, there's only Mr. Bernard Dunne to sorry, Mr. Doherty of course who will be available next week and Mr. Bernard Dunne to deal with the €15,000 payment. It was intended that Mr. Dunne would come tomorrow. The Tribunal will be going into a session where the public will be excluded for the purpose of obtaining information from bank witnesses to enable the Tribunal serve people who may be affected by the orders made by the Tribunal later this week and my suggestion at this stage, Sir, is that perhaps Mr. Dunne's evidence which would be quite short would be deferred until next week when we are dealing with Mr. Doherty and other substantive issues of the Tribunal in public and that the rest of this week, the work being conducted by the Tribunal would be, subject to one day, would be work where the public would be excluded and allow the Tribunal ascertain information from

bank witnesses.

CHAIRMAN: Well then, save for effectively closed sessions that you indicate, you will be moving to tomorrow conceivably continuing for a time than your realistic application, Mr. Coughlan, that the balance of the evidence pertaining to Mr. Lowry's involvement in the Terms of Reference be deferred until Tuesday at half ten.

MR. COUGHLAN: That is so, Sir. Very good.

THE TRIBUNAL THEN ADJOURNED UNTIL FRIDAY 25TH JUNE, 1999 FOR PRIVATE SESSSION AND TUESDAY 29TH JUNE, 1999 AT 10:30AM FOR PUBLIC SESSION.