

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 29TH JUNE, 1999

AT 10:30AM:

MR. COUGHLAN: Mr. Bernard Dunne.

BERNARD DUNNE, PREVIOUSLY SWORN, IS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

CHAIRMAN: Good morning, Mr. Dunne. Sit down. Of course you are already sworn.

MR. COUGHLAN: Thank you, Mr. Dunne. It's tab 5, Sir.

Mr. Dunne, you have been asked by the Tribunal to come and give evidence about a payment of €15,000 which was received by Mr. Lowry and initially I think at the time of the McCracken Tribunal, it was thought that this had emanated from Allied sorry, the Donnybrook branch of Allied Irish Banks, but in fact it's now known that it came from the Dunnes Stores, or the Bernard Dunne t/a Dunnes Stores, Marino account in bank of Ireland, is that correct?

A. That's correct.

Q. And I think your attention has been drawn to a lodgment in Mr. Lowry's current account with Allied Irish Bank, Dame Street account no. 41179269, of €15,000 and that the source of this lodgment appears to be the account known as Bernard Dunnes t/a Dunnes Stores with Marino Bank of Ireland?

A. That's correct, yes.

Q. I think you have been informed that a number of documents have come to light concerning this lodgment and there is,

first of all, there is the account and I think that the next document is a copy of a bank giro credit transfers slip for €15,000 dated November 1992, and it appears to correspond to an entry on the statement of the account known as Ben Dunne t/a Dunnes Stores indicating that on a date unspecified in November of that year, there was a debit from the account of €15,000. So you know that there was a debit from the Marino account and it corresponds to a credit to Mr. Lowry's account in Allied Irish Banks in Dame Street?

A. Yes, I have seen that documentation, yes.

Q. Now, the giro transfer payment appears to be signed B. Dunne, I think you have seen the hard copy of that, isn't it haven't you and we are just unsure as to whether this is your signature or not?

A. I might have seen the photocopy.

Q. Yes, it's poor, I agree.

A. I didn't look at it maybe in enough detail, but could I see it again or

Q. Yes, indeed, if we have the photocopy. (Document handed to witness.) I accept that it's poor quality and not the easiest

A. I wouldn't think that's my signature.

Q. Fair enough. In any event, document number 7, which is the debit transaction receipt, if you just look at it now

A. Yeah, I see it here.

Q. And I think that the name on that authorised on the transaction appears to be Mr. Michael Irwin, is that correct?

A. That's correct, yes.

Q. Now, that would seem to suggest that what happened on this particular occasion was that there was a credit transfer or a direction to transfer money to Mr. Lowry's account rather than a cheque being drawn or anything like that. That would appear to be the situation?

A. That appears to be the case.

Q. Would you agree with that?

A. I would agree with that, yes.

Q. And would Mr. Irwin have been so authorised by you to carry out such a transaction or make such a payment?

A. He would have, yes.

Q. Now

A. But he would have had authority to do it, yes.

Q. That's what I mean, yes. Now, we know from looking at other payments involving Mr. Lowry that they seemed to involve either payments to Streamline or to Mr. Lowry and they all seemed to be cheques or perhaps a bank draft on one occasion, I am not sure about that, but they all seem to be payment by way of cheque, isn't that correct?

A. They do, that's correct.

Q. And this seems to be different in that there is a transaction of a credit transfer which might indicate some sense of urgency, would you agree?

A. It could do, yes.

Q. Do you have any idea or any recollection about this particular payment and what it might relate to?

A. I have no recollection of the payment until I saw it here

Q. Yes.

A. And the only idea that I could have or that could be the case, if I was out of the country, if I had agreed to pay this payment to Michael Lowry, and if I had been away and I am not sure, I am not sure if my records I would say that was the next way of doing it if I was away. That's just one extra idea that I would add to it.

Q. You might have said to Michael Irwin?

A. I might have said to Michael Irwin, look, transfer the money.

Q. Now again, in payments to Mr. Lowry, the payments to Mr. Lowry were for by way of bonus payments or payments to Streamline were direct payments for work done or services rendered or goods supplied, isn't that correct?

A. Yes.

Q. And they were, in effect, or they were Dunnes Stores payments, as far as you were concerned?

A. Yes.

Q. Now, I know that there has been a lot of there have been a number of views expressed about this particular account in Marino but had payments been made to Streamline or Mr. Lowry out of the Marino account, as far as you know,

either prior to that or subsequently?

A. I don't know, but I would think so, yes. I am not sure.

Q. That's what I am trying to get at. What Marino used

A. On Dunnes Stores business

Q. As opposed to be used by you personal?

A. On Dunnes Stores business.

Q. On Dunnes Stores business?

A. Definitely.

CHAIRMAN: It was

A. It was used on Dunnes Stores business.

MR. COUGHLAN: Was that exclusively on Dunnes Stores

business as far as you were concerned or was there an

element of Dunnes Stores business and your own personal

business been conducted?

A. Well on a lot of accounts in Dunnes Stores, they were used

nearly exclusively on Dunnes Stores business but there was

also a bit of private business, so it would be that type of

account.

Q. I see. But from your understanding of the situation, is

it your belief that this particular payment was a payment

made in respect of Dunnes Stores business as opposed to a

private or personal payment being made by you to Mr. Lowry?

A. On Dunnes Stores business, and if I could just add a

point. At the time of the famous dispute, when Dunnes

Stores asked for this account to be handed over to them, I

think if the bank had any doubts, they wouldn't hand over

my account without my approval beforehand, so the banks handed it over straight to Dunnes Stores at the time.

Q. Now, can we take it so that I think you have told us that you don't recollect the purpose of the payment. The purpose of the payment if it was on Dunnes Stores business could only have been by way of a bonus payment to Mr. Lowry?

A. Or services rendered there would have been maybe a bit of advice, I can't recall exactly but it would have been for the benefit of work he had done for Dunnes Stores.

Q. And seeing as it was paid to Mr. Lowry directly, it would have been in the category of bonus or would that be right as far as you'd know?

A. Yeah, yeah I would say that's correct, yes.

Q. That's on the basis of understanding that Streamline would have invoiced for goods supplied or services rendered

A. Yeah.

Q. But that that was that side of the transaction was to be kept low and Mr. Lowry was to be paid bonus?

A. That was to break even or thereabouts and then performance, if the group were getting good value, then Mr. Lowry was rewarded.

Q. So as far as you are concerned, it had to be in that category, that payment?

A. Without being able to recall it, I would say the most likely place for it definitely was in that category. I am trying to remember, would I ever have at Christmas time,

if his people were getting and I am not saying that was Christmas time but if his people, if I was averaging a bonus for people who worked in his business, he would have received a cheque in the name of Streamline or it would have gone in the name of Mr. Lowry. I am not really sure.

Q. Yeah, that was discussed at McCracken, I think, wasn't it, the question of bonuses for the staff and how you made some payments

A. I just can't recall. But on the face of it here, I would say yes, it was for Mr. Lowry's benefit.

Q. I may have to ask you about this later, Mr. Dunne, but just on the off chance that you might know something now, do you remember Schedule Ten of Mr. Justice McCracken's report which lists the payments made to Mr. Lowry, disclosed as being made to Mr. Lowry by Dunnes Stores and a number of them come out of payments from the North of Ireland for services provided in the North of Ireland. If you just look at it on the monitor. Do you remember that particular schedule of payments or in fact we have given you a copy of the report. (Report handed to witness.) I think these are payments from Dunnes Stores (Bangor)?

A. This would have been would this be for work done in Northern Ireland/England.

Q. Yes.

A. I recall this, yes.

Q. And I think at the time of the McCracken Tribunal, it was possible to identify where a number of those payments

went. Item number 1 was identified as going to a certain account. Item number 8, for example, was identified as going to an account in the Channel Islands, an account of Mr. Lowry's in the Channel Islands, and the final item was identified but items number 2 to 7, whilst they were disclosed as payments made by Dunnes Stores yes, Mr. Lowry thinks that they are from Bangor, but they are sterling payments, it was not possible to identify where they went at the time. Do you have any idea yourself?

A. If were these written out of Dunnes Stores (Bangor)?

Q. That's Mr. Lowry's understanding.

A. Well, if they were written out of Dunnes Stores (Bangor), I would have thought I wouldn't know where Dunnes Stores (Bangor) payments went but I think Matt Price would have a good idea.

Q. That's what I just wanted to ask you.

A. I think he would have a good idea.

Q. Mr. Price would want to know whether the cheques were coming back or the payments had gone through?

A. I think he would want to have known, he was a very detailed man.

Q. Thank you, Mr. Dunne.

MR. CONNOLLY: I have nothing to ask, Your Honour.

CHAIRMAN: Thank you, Mr. Connolly. Mr. Sheridan?

Mr. Barniville? Mr. Gallagher? Thank you very much once again for your attendance, Mr. Dunne.

MR. HEALY: Mr. Seamus O'Neill.

MR. HUNT: At this point, Chairman, could I say that I appear for Mr. O' Neill, instructed by Denis I. Finn, solicitors, and it's my application to you, Sir, for limited representation in relation to this witness, on the usual basis.

CHAIRMAN: Limited to Mr. O' Neill's involvement, I accede to that.

SEAMUS O'NEILL, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

CHAIRMAN: Thank you very much, Mr. O' Neill, if you'd like to sit down.

Q. MR. HEALY: Thank you, Mr. O' Neill. You are aware, Mr. O'Neill, that a firm with which you were associated in the 1990s, J. C. Financial Management, was referred to in the course of evidence given at the Tribunal last week.

A. Yes, Sir.

Q. And I think since that evidence was given, the Tribunal made contact with you and, in fact, independently you made contact with the Tribunal when you heard I think on some newspaper or news broadcast a mention of the name J. C. management, is that right?

A. No, Sir.

Q. I see.

A. I made contact when I heard that there was a courier

Q. I see, I beg your pardon. Now, you have provided to the Tribunal a memorandum of evidence concerning your dealings in 1991 on behalf of J. C. Financial Management with Mr. Lowry, is that right?

A. That's correct, yes.

Q. And what I propose to do do you have a copy of that in front of you?

A. I do.

Q. is to take you through it and then there may be one or two aspects of it I might want to ask you some questions about. Now you say that in 1991 you were working as an insurance broker, financial investment adviser, and that you were a director of the firm of J. C. Financial Management Limited of 2 Marlborough Court, Marlborough Street, Dublin 2. You say that in 1991, you met Mr. Michael Lowry at his company premises in Thurles. You say that to the best of your recollection, the introduction to Mr. Lowry was effected by a friend of yours, Mr. John O'Dwyer, and that Mr. O'Dwyer had introduced you to a number of people in the Thurles area.

A. Yes, Sir.

Q. You were canvassing in that area for business and Mr. O'Dwyer had some connections in the area and brought you around to various potential customers, is that right?

A. That's right.

Q. You say in 1991 that this occurred. Are you sure of that

date?

A. No.

Q. Right.

A. You know, that long ago I am very hazy.

Q. At sometime during your involvement with J. C. Financial Management?

A. Yes.

Q. At this time it might be appropriate to say that you joined that company is it around 1989 or so?

A. Yes.

Q. And you ceased to have any involvement with it?

A. 1992.

Q. 1992 or sometime around that time.

A. Yes.

Q. We'll come back to the date again at a later point. You say that Mr. O'Dwyer accompanied you to the meeting with Mr. Lowry. You can't say how long the meeting lasted, but you believe that you and Mr. Lowry may have been chatting for sometime although you are certain that you did not sell Mr. Lowry any of your company's product.

A. That's correct.

Q. And I think what you were going down to sell or to try to sell to various companies was mainly pension schemes, is that correct?

A. Yes, pensions and life insurance.

Q. Pensions and life insurance?

A. Yes.

Q. Were you selling individual pensions or pension schemes for companies or both?

A. Both.

Q. And Mr. Lowry's case was a pension scheme for his company or a pension scheme for himself that you were hoping to sell?

A. For the company.

Q. And in any case, did you not sell him such a scheme?

A. No.

Q. You say that during the course of your conversation, you mentioned to Mr. Lowry that if Mr. Lowry had any other business, and in particular if he wished to invest any monies, you might be able, because of your company's ongoing relationship with AIB, to get him a good rate of interest.

A. Yes, that would be basically correct, yes.

Q. By a good rate of interest, what did you mean? Better than you could get if you came in off the street?

A. Yes, I wouldn't be sure of how much more or anything, but because of the relationship we had with the banks, we might be able to get a point something of a percent better than

Q. I see. You had a good relationship with the bank, presumably as a result of your investment or your mortgage business, is that correct?

A. Yes, and also the company had its account there.

Q. Right. And had you been in the habit of referring people

to the bank to get a better rate of interest than they would get if they didn't come through your company?

A. Not necessarily so, because our basic product was pensions and life insurance.

Q. Can you remember how many people in all you referred to the bank or that your company would have referred to the bank around this time?

A. For?

Q. For the purposes of getting a better rate of interest.

A. One, as far as I know.

Q. Who was that one?

A. Mr. Lowry.

Q. He was the only one that you actually referred?

A. Yes.

Q. And that was the first time that you had done it, was it?

A. Yes, Sir.

Q. Was it the only time therefore that you had done it?

A. Yes, to the best of my knowledge.

Q. And how did you know that you could get a better rate of interest? Had you had discussions with the banks and had the bank indicated to you, look, you know, if you can send some business our way, we might be able to do a bit better for clients of yours or clients that you put our way than if those clients came in off the street?

A. Yes, I would think that would be the

Q. Had you had those discussions or had somebody else in your firm had those discussions?

A. I presume it would have been me.

Q. And with whom would you have been having those discussions?

A. Mr. O'Connell.

Q. And in those discussions, you wouldn't have discussed any particular rate of interest but just as you mentioned a moment ago, that you might get a point or two or a quarter of a point or a half a point above the available, generally available deposit rates.

A. Yes.

Q. You say that subsequently, contact was made between you and Mr. Lowry as a result of which both of you went to a meeting with Mr. O'Connell at AIB. That's the Mr. O'Connell you mentioned a moment ago, Mr. Liam O'Connell, who has already given evidence.

A. Yes.

Q. When you say subsequently, you mean at least at sometime after you first spoke to Mr. Lowry in Thurles?

A. Yes.

Q. Can you say how long after, even roughly?

A. No.

Q. Was it weeks or months?

A. I presume it would have been weeks.

Q. I see. And in the interim, between your meeting in Thurles and your subsequent contact, did you contact Mr. Lowry or did Mr. Lowry contact you?

A. That I can't recall.

Q. There must have been some contact between you in any

case

A. Oh yes.

Q. And there must have been some contact with Mr. O'Connell?

A. Yes.

Q. You set up a meeting with Mr. O'Connell and you met

Mr. Lowry outside the O'Connell Street branch of AIB and

you remember that Mr. Lowry was late arriving and to the

best of your recollection, the reason he gave for being

late was that he had been in his own bank.

A. No, I did not say that, Sir. I said he came from a

bank.

Q. I see. Would you just clarify for me what it was again

now you are saying Mr. Lowry said to you?

A. The word "own" there, because he did not say his "own bank"

and I specifically remember him giving me a reason. He

said he had business in "a" bank.

Q. In "a" bank?

A. In a bank, yes.

Q. And that he had come from that bank and that that's what

had delayed him?

A. Yes.

Q. And he didn't identify the bank?

A. No.

Q. You met outside on the street at the bank?

A. Yes, on the footpath.

Q. Just the two of you?

A. Yes.

Q. And you recognised Mr. Lowry?

A. Yes.

Q. And did he recognise you?

A. I would have presumed so, yes.

Q. And you accompanied Mr. Lowry into the branch and you introduced Mr. Lowry to Mr. O'Connell.

A. Correct.

Q. You say that after the introduction had been effected, you had nothing further to do with the dealings between Mr. Lowry and Mr. O'Connell.

A. That's correct.

Q. What you were opening to do was because you did a lot of business with AIB, you hoped to improve your relationship with AIB by putting what you believed was another bit of business in the bank's way?

A. Yes.

Q. And in the way of this branch obviously?

A. Yes, that's where it was done yes.

Q. I think at that time there would have been some slight delay, perhaps not as much delay as there had been in the early '80s or '70s, but still some slight delay compared to nowadays in getting mortgages?

A. There would have been a considerable delay, yes.

Q. And in having a relationship with the bank, you could deliver a better service to your customers?

A. Correct.

Q. If you were getting a mortgage from that bank?

A. Absolutely, yes.

Q. You would get it faster, in other words, or at least you would get a confirmation of the mortgage to them faster?

A. Yes.

Q. Now, you'd expect to get a commission from the bank in relation to mortgage business. There was no commission to be earned from the introduction of investment business?

A. No.

Q. And you got no commission arising out of this introduction?

A. No.

Q. Your company got no commission either?

A. No.

Q. It simply cemented your relationship with the bank a little more because you had brought your business in and you'd expect the bank to be impressed by that and to give you some bit of additional or a better service in relation to the delivery of mortgages and so forth?

A. Yes, because I had a good personal relationship with Mr. O'Connell as well.

Q. After the introduction, you moved away from Mr. Lowry and Mr. O'Connell and they went off to one end of the front lobby or whatever of the bank, is that right?

A. Yes, they stayed where they were and I moved.

Q. They stayed where they were and you went away to another part of the bank?

A. Yes.

Q. To leave them some privacy in which to conduct their

business?

A. Yes.

Q. And while you were at the other end of the bank, they stayed at that end and conducted their business?

A. Yes.

Q. However long that took. Minutes, whatever

A. I presume so, because I stayed.

Q. You stayed in any case.

A. Yes.

Q. But it certainly, I presume, wasn't more than fifteen minutes or a half an hour, that sort of

A. I doubt it.

Q. And it was just Mr. O' Neill sorry, it was just Mr. O'Connell and Mr. Lowry were dealing with matters at the other end of the bank. Nobody else was involved?

A. No.

Q. Certainly no other member of J. C. Financial Management?

A. No.

Q. And when they had completed your dealings, you and Mr. Lowry left the branch together and went onto the street and I think did you then shake hands?

A. Yes.

Q. Now, you knew nothing about the details of the transaction, is that right?

A. No, neither Mr. Lowry or the bank indicated that any business had been done.

Q. And apart from the introduction, you had no part in setting

up any deposit in that branch or in the Channel Islands or anywhere else, is that right?

A. Absolutely none.

Q. And no one in your company was involved in following up on this in setting up such an account?

A. No, Sir.

Q. And no monies went in your company's bank account?

A. No, Sir.

Q. I think you left the branch and you shook hands on the street outside?

A. Yes.

Q. That was the end of your involvement?

A. Yes. I met Mr. Lowry just briefly on those two occasions.

Q. On those two occasions?

A. Yes.

Q. Now I think you, to the best of your recollection, you say that at the time that you first mentioned Mr. Lowry to Mr. O'Connell for the purpose of setting up a meeting, you informed Mr. O'Connell that Mr. Lowry was a TD and a businessman.

A. I would have presumed that's what I would have done, yes.

Q. I think you would have been delighted or happy that you were in a position to introduce an important customer to a bank?

A. Correct.

Q. Again, as part of building up or cementing your relationship with the bank?

A. Yes.

Q. Now, it's only fair to you to say that a suggestion has been made that you or your company did a lot of leg work in relation to this deposit.

A. No. I wouldn't agree with that, because the only I only met Mr. Lowry twice, once in his office and once outside the bank and there was other than setting up of the meeting, there wouldn't have been any other contact.

Q. And you didn't even know the amount of the deposit?

A. I didn't even know if anything had been deposited.

Q. And Mr. Lowry didn't tell you afterwards whether he had completed his business, made a good arrangement or whatever?

A. No.

Q. And Mr. O'Connell didn't tell you?

A. No, I wouldn't have expected Mr. O'Connell to tell me.

Q. Would you have been familiar then with the implications of the Exchange Control Acts?

A. No.

Q. Thanks very much.

MR. CONNOLLY: I have no questions, Mr. Chairman.

CHAIRMAN: Mr. Barniville?

MR. BARNIVILLE: Just briefly, Mr. Chairman. I don't propose to cross-examine Mr. O' Neill but if I could just indicate Mr. Lowry's position, he is here and is in a

position to give evidence this morning in relation to this matter. My instructions are that Mr. Lowry will say that he still has no recollection of either the two encounters with Mr. O' Neill having taken place but, however, he will say he is not in a position categorically to deny that either meeting took place and he is in a position and is prepared to give evidence to that effect later this morning, Sir.

CHAIRMAN: But there is nothing you wish to specifically put to Mr. O' Neill at this juncture, Mr. Barniville?

MR. BARNIVILLE: No, Sir.

CHAIRMAN: Very good.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. HUNT:

Q. MR. HUNT: Just very briefly, arising out of Mr. Healy's last number of questions, your main business as it was carried on at that time was the procuring of mortgages for your customers.

A. With the bank, yes.

Q. As well as the sale of pensions and insurance product, is that right?

A. Yes.

Q. That wouldn't have involved foreign transactions, I take it, in the main?

A. Oh no. The insurance policies and the pensions would have been effected through a company, the insurance company, not

actually through the bank.

Q. Yes. And there was nothing in your ordinary day to day business that would have required you to know about exchange control provisions that would have been in force at that time?

A. 99.99 percent of our customers would actually looking for money as distinct from putting it in.

Q. In relation to the deposit, we have already indicated your absence of knowledge of the specifics of that. Did you receive any funds from anybody to place on account with AIB in relation to this deposit?

A. No.

Q. Did you fill out any forms or visit the bank other than you have described in your evidence?

A. In relation to this specific matter?

Q. In relation to this specific deposit.

A. No.

CHAIRMAN: Anybody else they have anything to wish to ask of Mr. O' Neill? Very good, Mr. O' Neill. Thank you very much for coming into the Tribunal and assisting.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Patrick Doherty.

PATRICK DOHERTY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

BY MR. COUGHLAN:

MR. COUGHLAN: Thank you, Mr. Doherty. I think,

Mr. Doherty, that you have a memorandum of proposed evidence. Do you have it with you?

A. No.

Q. We will hand you this copy so. It's tab 3, Sir.

(Document handed to witness.)

I think, you, as a result of a meeting, were furnished with a memorandum of proposed evidence and then you made certain amendments and you faxed it back to the Tribunal, isn't that correct. So I think Mr. Doherty, you informed the Tribunal that you are Mr. Patrick Doherty and you are involved in the property development business and that you have an apartment at Finsbury House where Mr. Lowry also has an apartment and that you first met Mr. Lowry in 1994 at a race meeting, is that correct?

A. No. It was earlier than that.

Q. Sorry, I beg your pardon, sorry, the amendment, you met him probably about ten years ago, is that correct?

A. At a race meeting, yes, but very briefly.

Q. Yes. And I think at the time you were both you have informed the Tribunal you were both guests of Mr. Frank Conroy, is that correct?

A. No. Frank Conroy was in the company at another time after that again.

Q. I see. So the first time you met him, just explain the circumstances. Can you remember the race meeting?

A. I think it was Cheltenham. But I can't remember what year even.

Q. And that subsequently, on another occasion, you met him at a race meeting in the company of Mr. Frank Conroy. You were both in the company of Mr. Frank Conroy.

A. Yes, just...

Q. And I think on one of the occasions that you were in the company of Mr. Lowry, you mention and you mention the fact that you were engaged in the purchase of offices in Dublin and also you were living in a period house in London, is that correct?

A. Correct, yeah.

Q. And that you mentioned to Mr. Lowry that he had an interest in collecting antiques. I take it for your period house in London, would that be

A. Just, and for the office in Dublin.

Q. And for the office in Dublin. And that you had been collecting antiques for a number of years prior to that?

A. Yes, and paintings.

Q. And paintings.

A. Yes.

Q. And I think you did inform Mr. Lowry that you were at that time in the process of, particularly, furnishing a property in Harcourt Street in Dublin, is that correct?

A. Correct.

Q. Were those office premises at that time?

A. Yes.

Q. And I think Mr. Lowry informed you that he had some antiques and paintings he wished to dispose of, is that

correct?

A. That's correct, yeah.

Q. I think that you expressed an interest in the antiques and you indicated that you would be prepared to examine them and if you liked them, that you might purchase them, is that correct?

A. Yes.

Q. I think you also requested Mr. Lowry to obtain a valuation of the items he wished to sell?

A. Yes.

Q. And we have been over the ground of valuation. A valuation was carried out by Fleury's of Cahir, isn't that correct?

A. Yes.

Q. And that valuation for the items mentioned which we have had evidence about last week, the two pictures and the two other items amounted to €39,500, isn't this correct?

A. Yeah.

Q. And I think you yourself were involved in the development of a property in the Kerry region and in the course of a trip to Kerry, you went by Thurles and had a look at the items yourself, is that correct?

A. No, I was looking at property.

Q. You were looking at property?

A. In Cork and Kerry, yeah.

Q. You were looking at property in Cork and Kerry.

A. We weren't doing any development.

Q. I see. And on your way to Kerry or Cork, you stopped at Thurles, is that correct?

A. Yes.

Q. And you had a look at the antiques. And can I take it at that time that you knew of the type of valuation which Fleury's had put on them?

A. Yes, yeah.

Q. And I think you, or was there any haggling? Did you offer or was there an agreement reached that €35,000 would represent a fair value that you would pay for the items?

A. Yes, that's right.

Q. And how was that arrived at? Was there some negotiation or did you just say

A. No, I said I will offer €35,000 for them.

Q. You'd pay up to €35,000 for them.

A. Yes.

Q. And I think is it correct that you arranged for the items to be collected from Mr. Lowry in Tipperary?

A. That's correct.

Q. And who collected them? Did a van go down to collect them?

A. My brother collected them.

Q. Your brother?

A. Yeah.

Q. And I think when he went to collect them, he paid for them, is that correct?

A. He paid for them, yeah.

Q. And I think is it correct I'll come back and just ask a few questions about that, if you don't mind, in a moment, but I think the antiques were then in fact sent to your house in London, is that correct?

A. No, they came to Dublin first and then went to London.

Q. But they ultimately went to London.

A. Yes.

Q. I think you still have them?

A. Yes.

Q. Now, when you said that you'd pay €35,000 for them, was there any discussion between you and Mr. Lowry as to how the payment was to be made?

A. Yes. Michael Lowry said it would be cash on delivery.

Q. I am sorry, Mr. Doherty, would you keep your voice up?

A. Michael Lowry asked for COD, I said fine.

Q. What did you understand by COD?

A. Cash on delivery.

Q. Cash on delivery?

A. Yes.

Q. And you said fine?

A. Yes.

Q. And did you organise then

A. I organised it with my brother to pay, to get the cash in.

Q. To get the cash.

A. Yes.

Q. And €35,000 in cash was obtained?

A. Yes.

Q. And was put into an envelope, is that correct?

A. My brother arranged it, yeah, I gave him 15, he had 20.

Q. Sorry, could you just say that again?

A. I gave my brother 15,000, he paid 20 to it, cash

Q. And he took that down to Mr. Lowry when he was collecting
the

A. That's correct.

Q. And did you have any doubt that when Mr. Lowry said cash on
delivery, that he meant cash, he wasn't talking about a
bank draft or a check made out to cash?

A. COD means to me cash on delivery.

Q. You had no doubt in your own mind?

A. No.

Q. And apart from that transaction, Mr. Doherty, that
financial transaction, have you ever had any other
financial transaction with Mr. Lowry?

A. No, none whatsoever.

Q. Or did you have any other transactions with any of
Mr. Lowry's companies?

A. No. I think one of his companies tendered for some work.

Q. Tendered for some work lately?

A. Yes.

Q. Refrigeration work.

A. Yes.

Q. And can we take it that you had no other business dealings
through anybody else with Mr. Lowry or on behalf of
Mr. Lowry?

A. None whatsoever.

Q. Thanks, Mr. Doherty.

MR. CONNOLLY: No questions.

CHAIRMAN: Anybody any questions? I was going to leave you to the end, Mr. Barniville. Anyone else wish to make any inquiries of Mr. Doherty? Mr. Barniville.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. BARNIVILLE:.

Q. I have just a number of questions on behalf of Mr. Lowry.

Do I understand correctly from your evidence, Mr. Doherty, that it was you who first raised the fact that you were interested in antiques with Mr. Lowry?

A. Yes, we were collecting we bought quite a lot at that particular time.

Q. And it was in response to you raising that matter that Mr. Lowry mentioned that he had a number of antiques which he was interested in selling?

A. Yes, I had just purchased two period houses in Harcourt Street.

Q. And you requested Mr. Lowry to obtain a valuation of these antiques?

A. Yes.

Q. He duly gave you a valuation from Fleury Antiques, is that right?

A. Yes.

Q. And when you subsequently saw the antiques for yourself and

you agreed the purchase price of those antiques, were you satisfied that the price that you agreed was a fair and reasonable price for those antiques?

A. Yes, it was a fair price.

Q. And you are a person, I take it, that has some experience in antiques and some knowledge about antiques?

A. Yes, we collect quite a few pictures. It was mostly the pictures I was interested in than antiques.

Q. And no doubt then that the price you agreed to pay was a fair and reasonable price?

A. Yes, it was a fair price, yeah.

Q. Now, Mr. Doherty, you indicated that Mr. Lowry had asked you to be paid on a COD basis, isn't that right?

A. Correct.

Q. And I think Mr. Lowry had stated to you that he wished to be paid when parting with possession of the antiques?

A. That's what I understood, yes.

Q. Mr. Lowry has indicated that he would have been equally satisfied by a draft payment. I take it you can't disagree with that?

A. That could be I took it as being cash.

Q. But what you were told was a COD basis.

A. Yes.

Q. And I take it you are not aware, Mr. Doherty, as to what Mr. Lowry did with the cash that was paid?

A. No.

Q. So you are not aware that he lodged it or the bulk of it

into his bank account in AIB Dame Street?

A. No, I am not, no.

Q. Now I think you indicated, Mr. Doherty, that you still have the antiques in London?

A. I have.

Q. And I take it they are available to be inspected by the Tribunal if it wishes to do so?

A. Yes, I have already said this morning. I offered to have them valued.

Q. You offered to the Tribunal that they could come and see them?

A. Yes.

Q. You had no further dealings whatsoever with Mr. Lowry or any of his companies apart from this transaction?

A. No.

Q. Thank you, Mr. Doherty.

CHAIRMAN: You did mention and I think it was Mr. Lowry's evidence that he may have tendered unsuccessfully for a refrigeration job but you haven't actually concluded any agreement with him?

A. No, we haven't done any business.

CHAIRMAN: When you were furnished, Mr. Doherty, with the Fleury's appraisal or valuation of the items, did you do any homework yourself on the particular items in relation to the furniture or the paintings to see if perhaps you were getting a particular bargain or if, on the other hand,

you were being asked for too much?

A. No, I made inquiries.

CHAIRMAN: Pardon?

A. I made inquiries.

CHAIRMAN: And they had seemed in your view to bear out that that was sold by Fleury's or what was valued was not particularly far off what might be a fair price?

A. Yeah.

CHAIRMAN: Anything else? Very good, thank you very much for your attendance, Mr. Doherty.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Liam O'Connell, Sir.

LIAM O'CONNELL, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

BY MR. HEALY:

CHAIRMAN: Thank you very much again, Mr. O'Connell. You are of course already sworn from last week.

A. Thank you.

Q. MR. HEALY: Mr. O'Connell, you recall giving evidence last week in connection with the matter that I have just been asking Mr. O' Neill about.

A. I do indeed.

Q. And I take it that since then, you have had an opportunity of looking at some of the documents and maybe examining any

other material in your own branch or in the O'Connell

Street branch relating to this matter?

A. That is correct. I went to the O'Connell Street branch over a period of days immediately after my last visit here.

Q. Now I think when you last gave evidence, there was some confusion in your mind but I take it that you are now in a position to say that Mr. O'Connell or that Mr. Lowry never opened an account in the O'Connell Street branch?

A. From the records that we have examined over the last few days, there is no record of an account at O'Connell Street.

Q. So whatever purpose there was in bringing Mr. Lowry into that branch and whatever purpose there was in Mr. O' Neill introducing him to you, it wasn't with a view to or it didn't result in the opening of an account in your branch?

A. It didn't result in an account opening in O'Connell Street, no.

Q. It did result however in the letter that you sent to the Channel Islands, isn't that right?

A. That is correct.

Q. And I think you should by now know that that letter resulted in the opening of an account in the Channel Islands with the deposit of STG œ55,000?

A. Yeah

Q. So the confusion that existed surrounding that is now clear. What happened in your branch on that day was that certain steps were taken which ultimately led on foot of

your letter to the opening of an account in the Channel

Islands?

A. That appears to be

Q. The deposit of œ55,000, and on the face of it, there seems

to have been no exchange control for that transaction, i.e.

if exchange control would have been got for it?

A. As I said the other day, I still cannot confirm or deny

what the situation is. No records have been in our

attempts to investigate records over the last few days, it

would appear that the relevant records, exchange control

records of the time have been destroyed.

Q. Have you ever succeeded in opening an account abroad for an

Irish resident for investment purposes with exchange

control?

A. I have never been involved in such transactions.

Q. Isn't it the case that you can't, in general, open an

account abroad you couldn't, during the exchange control

regime, open an account abroad for an Irish resident purely

for investment purposes?

A. That is correct.

Q. And as a matter of probability, isn't that why there is no

record of any exchange control for this transaction because

to have gone through exchange control would have meant the

transaction couldn't have been carried through?

A. I cannot speculate on that.

Q. I see. Now, you heard the evidence of Mr. O' Neill that

he understood that he could get a higher rate of interest

for clients introduced by him to your bank on any

investments they might wish to make?

A. I heard his evidence.

Q. Do you agree with that?

A. No.

Q. You don't agree with that?

A. No.

Q. Where did he get that impression?

A. Sorry?

Q. Where did he get that impression, do you think?

A. I don't know. The situation would be that in the dealings

with his company, with Mr. O' Neill himself and his many

representatives, he would have vetted or have deals

submitted to us. Now, whether the rate at which we did

business was better than elsewhere, you know, is a matter

of speculation, I wouldn't say that we were cheaper or we

were dearer or what the situation was.

Q. I see. So in introducing a customer to your branch, what

did you understand Mr. O' Neill was doing? What

particular advantage was there in having a customer

introduced by Mr. O' Neill?

A. Obviously the prospect of doing business generally

commercial mortgage business.

Q. But you weren't doing commercial mortgage business with

Mr. Lowry?

A. I was doing no business with Mr. Lowry.

Q. Didn't you send œ55,000 offshore to the Channel Island for

him?

A. Ultimately, you know, it's apparent that that went to the Channel Islands but my recollection of the entire set of circumstances outlined by Mr. O' Neill is somewhat at variance with him, as I indicated the other day.

Q. In what way is that at variance?

A. First of all, there was no appointment made to see Mr. Lowry. There was no indication he was a business person or a TD. That obviously, I would contend, that had such an appointment been made, that certainly he wouldn't doing that sort of business at a public bank counter with people present.

Q. So you had no appointment with Mr. Lowry. You didn't know what you didn't know that Mr. O' Neill was coming in to see you?

A. As far as I can recollect, that is correct.

Q. You didn't know that he was bringing Mr. Lowry or anyone else in to see you?

A. No. Because Mr. O' Neill and his many representatives had a tendency to appear regularly at the branch with different proposals either in written form or with clients to outline same.

Q. And when he brought Mr. Lowry in to you and he introduced him to you, what was the purpose of the introduction if you knew nothing up to that point?

A. The situation, as far as I can recall, is that there was no purpose or rationale behind it at all. That it was purely

that Mr. Lowry was in the branch in the company of several J. C. financial representatives, as far as I recall it.

Q. In the company of several of them?

A. I believe that there were several representatives of the firm in the branch on the day.

Q. Was it Mr. O' Neill who actually introduced him to you?

A. I actually cannot recall Mr. O' Neill being involved in the situation.

Q. You did say that on the last occasion that what you described as the leg work in connection with this transaction was done by the financial consultants?

A. Yes, but I cannot attribute that to Mr. O' Neill.

Q. What is absolutely clear is that, according to you, you met Mr. Lowry without any prior appointment either with him or with Mr. O' Neill or with J. C. Financial Management, you met him and you discussed something with him in the branch

A. I don't believe discussions took place with Mr. Lowry.

Q. Sorry, you had no discussions with him of any consequence in the branch and then arising out of that apparent non contact, you write a letter to the Channel Islands without exchange control sending €55,000 offshore? Now, isn't that a mystery? At least isn't it a mystery?

A. No, because I believe that the transaction was, as I said in testimony last week, that I understand that the transaction was carried out or activated by the financial consultants.

Q. But it was you sent the letter?

A. I sent the letter, yes.

Q. And you sent the money?

A. Correct.

Q. And you sent the history card?

A. Correct.

Q. And you sent it re: a proposed account?

A. Correct.

Q. And that led to the opening of an account?

A. Yes.

Q. Now surely Allied Irish Banks conduct business like that themselves? They don't allow financial consultants to do it and then rubberstamp what the financial consultants do?

A. Well the financial consultants at that time were representing many clients in making introductions to us.

Q. Would there be many letters like the one you sent to the Channel Islands in the files of Allied Irish Banks?

A. I cannot speculate on that.

Q. Well can you remember did you do that for many other clients?

A. As I said last week, I was involved, I believe, in very, very few Channel Islands cases.

Q. How many times did you ever open an account for a customer in the Channel Islands?

A. I would say on less than four or five occasions.

Q. Well it shouldn't be difficult to remember then that on this occasion you did open an account in the Channel

Islands?

A. This is 1991, you know.

Q. I see. But you only did this four or five times?

A. You know, my recollection is that I would, over the duration of my career, that I would have liaised with AIB Channel Islands on four or five occasions.

Q. How many members of J. C. management would you have had dealings with around this time?

A. I would say that between myself and other members of the staff at O'Connell Street at the time, that they would have had possibly about 25 to 30 representatives interfacing with us at any stage.

Q. And would you know whether offshore accounts were opened for other customers of those financial managements

A. No, I wouldn't.

Q. Would you be able to find that out?

A. I don't know.

Q. Your role in the bank at the time was as?

A. I was assistant manager in O'Connell Street.

Q. How many assistant managers were there?

A. I think about four or five, to the best of my recollection.

Q. Would you have a fair idea of what sort of business was going through the bank?

A. I suppose at the time I would, but in retrospect, I couldn't recall the business levels.

Q. I may have asked you this a moment ago, but just to recap on it, would any of those customers introduced to the bank

by J. C. management have been introduced or would many of them, I should say, have been introduced for business other than mortgage business, for deposit business or investment business?

A. I can't recollect, but in the main, I would think that certainly the cases I dealt with were large mortgages in the main.

Q. You heard the details of Mr. Lowry's Mr. O'Connell's evidence, I beg your pardon, Mr. O' Neill's evidence concerning the manner in which the exchanges that took place in the bank at the time of his introduction occurred when he said that he left you and Mr. Lowry in one part of the front of the bank, in the banking hall. Do you agree with that?

A. I don't, no. My evidence is that I believe that there were several people present and that Mr. Lowry was introduced on that occasion. I cannot recall any individual dialogue or any one to one situation.

Q. Well we will take it on that basis that you don't recall having had any individual contact with Mr. Lowry on the occasion of the introduction?

A. Other than as I recall on Wednesday last of his being introduced.

Q. Now, assuming that that were the case, how would you have come to write the letter that you wrote on the 14th June, if I am right about the date? If we could just have that brought down on the 14th January, sorry, 1991. What would

you have needed to write that letter?

A. Obviously I would have needed value

Q. Let's just take the letter line by line. It's addressed to the Channel Islands. The manager of a particular bank or branch of a bank in the Channel Islands. So you had to have instructions from somebody to write to the Channel Islands.

A. That would be right, yes.

Q. You were writing with regard to a particular customer, Mr. Michael Lowry?

A. That's right.

Q. Whose writing whose handwriting is that above Mr. Lowry's name J. and I. Lowry, do you see that?

A. I don't know.

Q. It's not your handwriting?

A. I can't tell from here, but I certainly don't recognise it.

Q. I will get you a copy of the original. Does it look like your handwriting from there?

A. Certainly not.

Q. It's re: a proposed account. So therefore you must have had instructions to open an account, a proposed account, isn't that right?

A. On the face of it, yes.

Q. Again, from whom do you have got those instructions?

A. I cannot recall.

Q. You could only have got them from Mr. Lowry or from someone on his behalf?

A. Correct, yes.

Q. "I enclose draft in the sum of œ55,000." You were now dealing with somebody's money. So you would have had to have a physical draft for œ55,000, in sterling?

A. Yes.

Q. And that draft was drawn on your branch, isn't that right?

A. It was, yes.

Q. So some account in your branch had to be debited to provide the funds for that draft?

A. Possibly.

Q. Well how could it have been drawn on your branch if that wasn't the case?

A. Well the value against it or against any transaction doesn't necessarily have to be

Q. I beg your pardon, I am misleading you. The funds could have been produced from anywhere but that draft, nevertheless, had to be drawn on some account in the bank, isn't that right, the bank's own account?

A. No, it's drawn on a UK account.

Q. I don't think it's drawn can we just go through it slowly. It says Allied Irish Banks, 37/38 O'Connell Street, Dublin. What does that mean?

A. Should I explain?

Q. Yes.

A. To the best of my recollection, when a draft the modus operandi at that stage when a draft was being purchased, that a credit would go into a sterling receivable account.

Q. Where?

A. In AIB O'Connell Street.

Q. Yes.

A. There would have to be a credit to the equivalent value of $\text{€}55,000$ sterling and that would be supported by debits, be they cheques, cash, or whatever. Is that

Q. Yes. And then that $\text{€}55,000$ would be drawn on that sterling receivable account, is that right?

A. No. I think that we would ultimately then credit the London branch where the debit would be drawn against at their end.

Q. But on whom is that draft drawn there now?

A. Ultimately the transaction takes place at one unit and then the credit, debit match up is the sterling end.

Q. So the O'Connell Street branch is issuing a draft drawn on a sterling account which of course needn't be in that branch?

A. Correct.

Q. So the O'Connell Street branch is issuing the draft?

A. Correct.

Q. And it's being drawn, if you like, on a sterling account?

A. That's right.

Q. And that sterling account is under the control of the bank, isn't that right?

A. Indeed.

Q. Now, in that case, the sterling account in question was at 64/65 Coleman Street, London, I think, is that right?

A. It's Coleman Street, London, anyway.

Q. It's issued, if you look at the bottom left-hand corner, to Allied Irish Banks, Coleman Street, London. So here now you were issuing a draft drawn on an account of Allied Irish Banks in London, so you were using the bank's money and you had to be sure that that was supported by funds that had been produced somewhere, isn't that right?

A. Well it had to be paid for in some manner.

Q. Yeah. How could all that have been done again without quite detailed instructions from somebody or the handing over of œ55,000 or however much was needed to purchase the œ55,000 draft?

A. I cannot recollect but the transactional end of it in the bank crediting and debiting is obviously an internal procedure.

Q. Of course, but it had to be put in place by somebody. If you were sending that draft off to the Channel Islands, somebody gave it to you and it was generated by some internal bank activity?

A. Yes, that's correct.

Q. And you didn't do that or if you didn't do it, somebody did it

A. Within the branch.

Q. Within the branch?

A. Correct.

Q. If we could go back to the letter now please. Now, you enclosed the draft in the sum of œ55,000 and we will come

back to the source of it in a moment. "As discussed by telephone today" so that would seem to indicate that you'd had a discussion with some person in the Channel Islands on that day.

A. Yeah, it would appear so.

Q. And again you couldn't have had that discussion, presumably, which would have involved the opening of an account without instructions from somebody?

A. I suppose not.

Q. And would those instructions, if you didn't get them personally, they would have had to be given to some official of the bank who would have given them to you.

A. Indeed or somebody else within the bank could have had the discussions. I don't know whether they were my discussions or someone else's discussions.

Q. Well wouldn't you have said "As discussed by so and so with you today"?

A. I don't know.

Q. "I should be obliged if you would deposit same in the above name at interest rate 13 and a half percent per annum for three months. Please confirm transaction to us, copy history card enclosed." Presumably that transaction would have been confirmed to you by somebody in the Channel Islands.

A. It certainly wasn't confirmed to me, but no, there is a request for confirmation back to the branch within it.

Q. Can you see the difficulty, Mr. O'Connell, that here you

have €55,000 of Mr. Lowry's money or something close to it, converted into STG €55,000, a draft issued by your bank and sent under your name to the Channel Islands to open an account. You know nothing about it and there seems to be little by way of any documentation about it in the bank.

Isn't that strange?

A. Well I have endeavoured to

Q. Just answer my question. Is that strange?

A. That there is

Q. That there is you know nothing about it, you know nothing about that letter written by you?

A. I am not saying I know nothing about it. I am saying the transaction there, that as far as I am concerned, I sent a letter with a draft for €55,000.

Q. But you know nothing else about the transaction?

A. With regard to the background, no.

Q. And there is no other documentation in the branch concerning the background?

A. Apparently the documentation was destroyed after six years.

Q. I see. What's the destruction policy of the bank?

A. I don't know. I wasn't in O'Connell Street

Q. No, of the bank, of Allied Irish Banks?

A. There are certain retention periods for documentation.

Q. Well what happens to your files your files, you have files presumably?

A. Yes.

Q. For individual customers?

A. Files for individual customers would be retained on an indefinite basis but, as I said the other day, I was endeavouring to establish from waste or clearing mechanisms, what the funding of the relevant item and so forth.

Q. We will come back to that in a minute. The difficulties you had to try to see the documents or the backing transactions behind this draft, leave that aside for a moment. This document has come to hand. How are files dealt with? Are they physically removed from filing cabinets and destroyed in accordance with some policy? How do you deal with your files to this day?

A. Generally, they would be removed on an annual or biannual period into various stages, you know, second stage and tertiary stage.

Q. Can you tell me, can you remember the last time anybody removed any of your files?

A. In St. Stephen's Green, I cannot speak for any files having been removed over the last

Q. In your entire career in the bank, do you remember anybody asking you for a file on the basis that they wanted it to destroy it?

A. No, but I am not talking about destruction. I am talking about being moved to a further stage.

Q. Well, can you remember files being moved to a further stage?

A. Oh yes.

Q. How was that done, what basis is it done?

A. That information in chronological order would be dealt with and perhaps the last two years retained and the period, the historic period removed to another stage.

Q. Do you remember making decisions like that yourself?

A. No.

Q. If somebody asked you today for one of your files on the basis that he wanted to remove some documents from it, would you be the judge of what should be removed or would he, the person who asked you, be the judge?

A. I am talking in terms of a policy situation.

Q. I don't want to know about policy. The Tribunal has been trying with banks in general to find out how documents are removed from archival storage and how they are destroyed, one or the another. What I haven't been able to get from you is your personal experience of removal of documents?

A. I don't know what the procedures are.

Q. You don't know what the procedure are?

A. No, that it's handled by experts in the field.

Q. Who would be the judge then? Is it the expert who would be the judge of what should or should not be destroyed?

A. I believe so.

Q. So that somebody could remove parts of a file under your control or the control of a part of the bank that you were supervising without your knowing about it?

A. No. Generally, as I say, there would be a policy to

remove certain elements of file to a second stage filing and to leave then a current period or a relatively recent period in a live file.

Q. If I had an account with Allied Irish Banks today and there was a file concerning my account or my dealings with the bank, are you telling me that file would go back to 1990, 1991, 1992 or whatever?

A. Certainly a current file wouldn't.

MR. SHERIDAN: The evidence has been that there was no account for Mr. Lowry at O'Connell Street. Now, I am not clear what file for Mr. Lowry, presumably at O'Connell Street, Mr. Healy is referring to.

Q. MR. HEALY: Perhaps then I will qualify that. If a transaction like that was carried through, what kind of a file would it go into, that document go into?

A. I think it would be a generally branch miscellaneous file. I don't know.

Q. So when that document would be signed by you, you would have no idea where to retrieve it?

A. Within a certain period I would expect to find it on the file in the name of the client or a miscellaneous Channel Islands file or a miscellaneous L file, so to speak.

Q. If you had a miscellaneous Channel Island file, would it contain other similar letters for people who didn't have accounts in the bank?

A. I don't know.

Q. Of the four people you say you remember having four being involved in four transactions?

A. I can recall four clients with Channel Island dealings I would think over the last 20-odd years.

Q. I don't want to ask you for the names of those people now. Were they clients of the bank?

A. Yes.

Q. Of the branch?

A. Yes.

Q. Of your branch?

A. Well in the branch

Q. The branch you were working at the time?

A. Yes.

Q. Did you open any of those accounts?

A. No.

Q. You didn't open them?

A. No.

Q. They were opened already before you became involved?

A. I would have been involved perhaps in transactions.

Q. So was this the only time then in your recollection that you ever opened an account for anyone in the Channel Islands?

A. As far as I can recollect, yes.

Q. So the only person for whom you ever opened an account was a person who didn't even have an account in your branch?

A. That appears to be the case, yes.

Q. Now that strikes me as strange. Do you regard that as

somewhat strange?

A. I cannot comment one way or the other on it.

Q. Well it seems to have been for you, in any case, a unique transaction. The only time you ever opened an account for anyone in the Channel Islands was for a person who wasn't even a customer of your branch. It's totally unique in your transaction in your entire banking career, isn't that right?

A. Without trying to recall the transactions of other clients and that sort of thing, I cannot say whether it was unique other otherwise.

Q. Almost certainly it was unique on the basis of what you have told me in any case.

A. You know, without considering the other cases, I cannot say.

Q. Go to the last sentence in the letter, "We should also be obliged if you would kindly contact us at maturity date for further instructions." Who would have been responsible in following up on that letter?

A. Other deposit section, presumably.

Q. So Allied Irish Banks Channel Islands would expect further contact from you or from some person under your supervision or in your branch?

A. And I am sure it would have been diaried for somebody to follow it up to see what the situation was with the Channel Island.

Q. I think we know from the account that it was followed up,

isn't that right?

A. It would appear from the documents you showed me the other day that it was in, I think, July of 1991.

Q. And in fact there was a re-deposit, isn't that right?

A. From what you have shown me, there was.

Q. For there to have been a re-deposit, there had to have been further instructions from the client presumably?

A. Correct.

Q. And who would have sought those instructions?

A. I don't know. Somebody from the O'Connell Street branch at the time.

Q. Would have made contact with Mr. Lowry?

A. I don't know who they would have made contact with or who would have made contact with them.

Q. That's precisely what I am trying to get at. Who would have made contact with for further instructions?

A. I don't know. I can't speculate as to whether the contact would have been made on behalf of a client or by a client or made by a bank personnel to a client.

Q. If somebody in the Channel Islands wanted to know, if we could just have the Channel Islands account for the moment the statement. If you could just pull it down a little more so we can see the name of the account. I see it's been cut off, the top of the photocopy. There seems to be no address of the account holder, isn't that right, other than Allied Irish Bank, Channel Islands?

A. I presume that's the full form?

Q. Yes. So that if Allied Irish Bank Channel Islands wanted to get further instructions, they would have relied on the person who sent them the account opening documents, that is to say you or your branch?

A. Certainly the branch, I would think.

Q. And from the documentation that your branch has produced, you don't appear at least on the papers that we have seen in the Tribunal to have any address for Mr. Lowry.

A. Certainly there is no address on that correspondence.

Q. Or on the other documentation produced?

A. There is no address on any of the documentation I have seen.

Q. How would you have contacted Mr. Lowry to get further instructions for him?

A. I don't know.

Q. I think I asked you the last day whether you had any contact whether you had had any contact with the Dame Street branch of Allied Irish Banks in connection with this and I think you said you don't recall any contact?

A. As far as I can recollect, there was no contact.

Q. Coming back to the money, the €55,000, in order to issue a draft for €55,000 drawn on your account in London, you had to have value for that in Dublin somewhere, isn't that right?

A. Correct.

Q. If Mr. Lowry is correct in saying that he arrived at the branch with no money, how would you have got the money for

that or how would your branch have got the money?

A. I don't know. That is why I have been trying to establish from clearing records what the value was.

Q. And when you refer to waste, you are referring to bank paper which would have, if you like, appeared behind that document, is that right?

A. I am referring to records which show a transaction log of you know, for every debit, there is a credit, so assuming that's the credit, the other debits.

Q. So to support that there had to be somewhere, back along the line, every credit represented by a debit and ultimately there had to be a debit to Mr. Michael Lowry, isn't that right, or to some account of his or physically a debit by his handing over documents or money, handing over instruments?

A. There would have to be a debit value of some sort, yes.

Q. And if he didn't bring I know you can't recollect this but if he didn't bring any documents to the bank, then that debit had to be effected by some transfer between one bank and another bank or between one branch or Allied Irish Banks and your branch, isn't that right?

A. Not necessarily. As I said it could be a cash transaction.

Q. But if he didn't arrive at the bank with any money?

A. The value for it had to be in some shape or form, yes.

Q. But if he didn't arrive at the banks with either cheques, drafts or cash and if the only dealings he had with your

bank were on that day, then

A. The value had to be obtained from somewhere else.

Q. From an account somewhere else?

A. I presume so.

Q. Either from another bank or from another branch of your bank?

A. Possibly, yes.

Q. And that value had to have been credited to some account in your branch?

A. To the sterling draft account, I would presume, yes.

Q. And if I could just come back once again now to the document which was put on the overhead projector last week showing the application form for the sterling draft, the bottom of that document had a chit or a record of an exchange of currencies. Now, assuming that Mr. Lowry had no cash with him, had no drafts with him and no cheques with him, perhaps you would indicate again how that transaction could have been carried through in the bank?

A. Well the value, obviously if it was a transaction in Irish currency, the value of $\text{€}60,572.69$ would have to be obtained to support the transaction.

Q. So there would be a debit somewhere in the banking system if we could get at the backing transactions of that amount?

A. For possibly that amount, yes.

Q. And if the money came from another branch, if it came from the Dame Street branch, for instance, there would have been a debit from that branch for that amount, isn't that right?

A. Correct.

Q. Or several amounts equal to that amount?

A. Correct.

Q. If the money came from another bank or another branch and came into your branch by some form of transfer as opposed to handing instruments over the counter, wouldn't the money have had to go into an Irish pounds account to begin with of some kind?

A. Well for œ60,572.69, it would have, yes.

Q. And that account you haven't been able to find either?

A. No.

Q. Now, just in relation to the destruction policy, this may not, as a policy question may not be a matter that you can provide a lot of assistance on, Mr. O'Connell. I don't expect you to have precise answers, but this transaction occurred in January of 1991.

A. Yes.

Q. And I think the proceedings of the McCracken Tribunal commenced in February of 1997. Do you know I will try and get the precise date for you 7th February of 1997 was the date of the Order establishing that inquiry. Do you know whether the bank issued any instructions concerning any matters relating to Mr. Michael Lowry or relating to bank accounts in general and their destruction around that time?

A. Not that I am aware of. Just, may I say, that this whole transaction, as I said last week, that I have been out of

O'Connell Street for many years and the first subsequent interaction in relation to it was on the day before my appearance here.

Q. Yes, of course, yes

A. So anything in relation to the transaction involving O'Connell Street branch, I am now or have been, last week, trying to piece together.

Q. I understand that, but I am also mindful of the fact that you tell me that this is possibly or probably the only time that you ever did this, carried through a transaction like this?

A. As I said, I have been involved in transactions with four or five clients in relation to Channel Islands business.

Q. This is the only time you ever opened an account?

A. I cannot say categorically.

Q. I am not expecting you to say categorically. Probably the only time you ever opened an account.

A. From recollection, I think so, but as I say, you know, I could be disproven on that.

Q. And just one last to come back to a point you mentioned to me a moment ago and this is the last point I want to take up with you. You mentioned that if there wasn't an account file for Mr. Lowry, if he didn't have an account with the branch as we now think he didn't have, and his documentation went into a general file, how would that file ever be destroyed or how could it ever be destroyed without averting to someone like you?

A. I don't know how, I presume that within O'Connell Street branch, someone would revert to someone in relation to it but what I am led to believe, that apart from certain compliance with a six-year policy on item destruction, that the relevant branch was also visited by experts from one of our head office departments at sometime in 1997 to create a training unit and documents and files went astray sometime after that.

Q. In 1997?

A. Or 1998. It was sometime obviously following my departure from that particular branch.

Q. Have you ever filled out an A4 form or an E4 form?

A. I presume I have. You know

Q. During the period when exchange control operated?

A. I can't be, you know, at this stage recollect, you know, not overly conversant with items that came to, were suspended in 1992.

Q. And you certainly don't ever remember carrying through an exchange control transaction without getting exchange control?

A. I don't, no.

Q. Although on this occasion, there is no documentation anywhere to suggest that exchange control was obtained?

A. Certainly none that can be located.

Q. Either by you or by the Central Bank so far?

A. No, I haven't been in contact with the Central Bank.

Q. Thank you.

MR. CONNOLLY: I have no questions, Chairman.

CHAIRMAN: I will leave you to the end, Mr. Sheridan.

Anyone else wish to raise any points? Mr. Barniville?

MR. BARNIVILLE: I have no particular questions of Mr. O'Connell. I think Mr. O'Donnell fairly put Mr. Lowry's position to Mr. O'Connell last Wednesday and ultimately I have nothing to add to that.

MR. HUNT just very briefly, Mr. Chairman.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. HUNT:

Q. MR. HUNT I represent Mr. O' Neill, Mr. O'Connell, and you indicate in your evidence to My Friend, Mr. Healy, that you varied in some respects in relation to his account of what occurred?

A. Certainly in recollection terms, yes.

Q. In the branch. Just in relation to those differences, I take it that you would have a daily schedule of appointments as an assistant manager?

A. Normally you would, if appointments are made, they would be diaried either on the day or by appointment.

Q. So if an appointment wasn't made in advance, that would leave Mr. O' Neill in the position of bringing a person whom he regarded as being of some importance to your branch on the off chance that he might get an appointment with you, is that right?

A. That's fair comment.

Q. I want to suggest to you that that in fact is not a reasonable probability or is not a reasonable supposition in relation to what happened here, that the probabilities are that Mr. O' Neill contacted you in advance in relation to this person to make an appointment so that he could be sure of effecting the introduction?

A. Certainly, I can't recall any previous dialogue but as I say, I don't recall Mr. O' Neill as being involved in the introduction. I just have in mind that it was J. C. finance involvement.

Q. Well, you heard Mr. O' Neill give his evidence in relation to that. Will you accept that he is in the best position from the point of view of both himself and J. C. to say what happened in relation to this?

A. Possibly so, but as I said there are various elements of his evidence that I would contend with.

Q. Would you not agree that it's also a reasonable probability that you heard Mr. O' Neill, as I say, indicate that he felt that Mr. Lowry was something of an unusual type introduction, given his public position and other matters of that type. Can I suggest to you that as a person who was keen to effect introductions to cement an ongoing business relationship that, in fact, that would have been the first thing he would have told you if an appointment was being made in relation to meeting Mr. Lowry?

A. Sorry, he would have told me what?

Q. He would have told you first of all he was a businessman and secondly, what his other jobs and interests were.

That this would be something

A. If in the normal course of dealings with the company by prearrangement, you know, you would have a submission or perhaps a telephone call indicating the type of situation that we are going to be dealing with or the person or whatever, the promoters.

Q. And specifically in relation to this particular incident, Mr. O' Neill is clear that he spoke to you in advance and that he indicated that Mr. Lowry was both a TD and a businessman of some substance.

A. I have no recollection of Mr. Lowry being introduced as such.

Q. Well were you surprised when he turned up off the street?

A. No, because as I said in earlier evidence, J. C. or personnel from J. C. had a habit of introducing a lot of clients at that time to various members of our staff.

Q. I will come back to that in a moment. But in relation to this particular client, were you surprised when assume that it was Mr. O' Neill, but we can even take it that it was somebody else for the sake of argument, were you surprised when they showed up with somebody of Mr. Lowry's position?

A. I wouldn't have known anything of, whether a client, without introduction, what their position was.

Q. Well, when you discussed the matter, presumably there was

some discussion took place with Mr. Lowry, is that right?

A. You know, my recollection is that no discussion took place with Mr. Lowry, that Mr. Lowry was in company and introduced as a respective mutual client of the banks and J. C.'s.

Q. You would have had to find something out about him whether or not you were going to do some business on his behalf?

A. And obviously nothing was found out because the situation would be that if somebody, be it a politician or a major personality or something, was being introduced to a branch, it is most unlikely that the interaction would take place at a public counter in front of a queueing system and so forth.

Q. Mr. O'Connell, you are clearly not going to agree with me. I will just formally put it you, firstly an account was made and secondly, Mr. O' Neill indicated in advance who the person was and what they did.

A. I have no recollection.

Q. Thanks. And that, in fact, there was only one person who effected the introduction, that was Mr. O' Neill. There was no other person involved on behalf of J. C. at that time.

A. As I say, from my recollection I cannot confirm or deny that.

Q. And that Mr. O' Neill took no active part in the details of your discussion or any subsequent dealings of Mr. Lowry?

A. I don't know.

Q. You don't know. I see. And in relation to the leg work that you say was done, can you be more specific as to that?

A. No. As I say, it was a general statement.

Q. There is no such leg work or no such preparatory work. Anything that was done for Mr. Lowry was done by the bank, presumably at his behest, isn't that right?

A. I don't know.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. SHERIDAN:

Q. I wonder could we have the memorandum of the 14th January please.

Mr. O'Connell, it wouldn't be unusual for customers of O'Connell Street in particular, if they were in the financial consultancy business or solicitors or accountants, to refer business to the bank?

A. No, it would be usual.

Q. And it wouldn't be unusual for the banks to refer clients occasionally to customers of the branch?

A. It was a two-way street, yes.

Q. And in those circumstances, in your experience, would matters of interest rates be likely to be discussed?

A. Possibly.

Q. Would

A. Normal

Q. Typically might it be, we'll look after rather than a specific?

A. General, yes.

Q. This is ground we traversed the other day but because of Mr. Healy's questions to you, we have to come back to it.

The memorandum of the 14th January, it doesn't, on the face of it, ask for the opening of an account, does it?

A. No.

Q. It's purely the transmission of money?

A. From that is what it looks like.

Q. Now if I could put to you two different types of transactions that might occur in your branch. On the one hand, the opening of an account and on the other hand, the purchase of a draft. Of those two transactions, is there one which would be more likely to be dealt with at the counter than another?

A. Certainly a draft purchase would be dealt with at counter level. The opening of an account it depends on the circumstances obviously but ordinary draft purchases could be at the counter and customer opening can also be at the counter.

Q. But if a customer, particularly a new customer was being introduced to you, would it not be more usual to bring him to

A. You would bring somebody, in that circumstances, you would bring to an interview area.

Q. So that your recollection is quite clearly that this was a transaction, a single transaction?

A. In a public area of the building.

Q. And that perhaps would also be consistent with the absence

in your recollection of an appointment having been made?

A. Correct.

Q. That would be the memorandum refers to a conversation with the Channel Islands, a telephone conversation. Can you say that that conversation requested the opening of an account?

A. I cannot, nor can I say the conversation was with me.

Q. And in relation to the, a request for the opening of an account, would it not be usual to convey information as to the name of the account holder, his address, perhaps certain other details?

A. That would be the norm.

Q. And the memorandum doesn't refer to that?

A. No.

Q. And I think, in fact, the documents, both the requisition for a draft and the memorandum, all the actual evidence, without there being any contemporary witnesses as to what happened, all the evidence is the purchase of a draft and its transmission to the Channel Islands?

A. That is correct.

Q. You were asked as to whether, as to what instructions what instructions there were for the sending of the funds to the Channel Islands. In the case of the purchase of a draft, the client's instructions, would it be true to say that the client's instructions would be contained in two things, the requisition for the draft and the actual payee of the draft?

A. That would be correct.

Q. On the face of it, the payee of the draft is the person, the person reconciling the draft has asked for the draft to be made payable in favour of?

A. And that person should benefit from it, yes.

Q. And that person in this instance is AIB Channel Islands, account Michael Lowry?

A. Correct.

Q. So if reasonable that to say that it is likely that the transaction which occurred in O'Connell Street on the 14th January was the purchase of a draft for €55,000 sterling and in compliance with the instructions of the purchase of the draft, the transmission of that draft to Jersey?

A. That looks more likely to be the case.

Q. In your searches in O'Connell Street, did you come across any incomplete files? I think Mr. Healy was asking you whether it would be possible for somebody to move documents from one file?

A. Certainly no.

Q. And I think you also said, did you, that in relation to the purging of files, that what tended to happen was documents before a particular date would be removed?

A. Generally, depending on file volume and chronological order and so forth.

Q. Thank you.

CHAIRMAN: Anything in conclusion?

MR. HEALY: Just one thing.

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

Q. I think a moment ago you said to, you clarified one thing. In your own evidence to me I think it was one of the opening remarks you made, Mr. O'Connell. You indicated to me that you were now aware the €55,000 was used to open an account in the Channel Islands.

A. Well, you have shown a statement there that shows an entry of €55,000.

Q. Are you aware of that from any inquiries you made yourself?

A. No.

Q. Assuming that that is what it was used for, I take it that you are agreeing with me that that can be the only purpose then of that letter?

A. I am saying to you

Q. I want to know what are you saying?

A. You know, the situation is it's unclear whether the opening of an account or the transmission of funds is being dealt with in the letter.

Q. I see. You think the letter is just the transmission of funds?

A. Yes. Whereas you know if you see €55,000 on the account, you know, that's marrying up the two transactions.

Q. What does "proposed" mean there?

A. I don't know.

Q. You don't know. Thanks.

MR. SHERIDAN: There is just one further matter which I should have put to him.

THE WITNESS WAS EXAMINED FURTHER AS FOLLOWS BY MR.

SHERIDAN:

Q. The purchase of the draft, and again this was put to you I think the other day, is it possible that sterling was tendered for that draft notwithstanding the chit at the foot of the

A. It's a possibility, or any currency, you know, while the calculation is an Irish pound calculation, that doesn't indicate what ultimately the value was.

Q. Because if supposing Mr. Lowry had come in with sterling effects, be they draft effects or whatever, what would have been and wished to purchase a sterling draft what would the procedure have been?

A. Transactionally?

Q. Yes.

A. I would think the sterling would probably be purchased at an equivalent rate to the that both transactions would probably be carried out at a similar rate.

Q. You see the chit which is the record of the purchase of the draft, if Mr. Lowry had tendered sterling for the purchase of that draft, wouldn't there be an additional corresponding chit which showed a sterling foreign exchange transaction, the purchase of sterling?

A. That is a probability, yes.

Q. And I think there was reference made the other day to the absence on that chit of a commission.

A. Yes.

Q. In the circumstances where sterling effects were tendered for the purchase of a sterling draft, would the commission be charged on both legs of the transaction or might it just be charged on one?

A. I think it could be charged on one, then it might be inbuilt to rates. I don't know, I am not sure.

CHAIRMAN: But it could not have been contrary, Mr. O'Connell, to banking practice if an existing customer, which Mr. Lowry was not, was to be facilitated by directly given perhaps value for an English cheque for £100?

A. Probably.

CHAIRMAN: Rather than having to put it through a two-way rather meaningless transaction?

A. Rather than having the customer paying twice.

CHAIRMAN: Involving commission at both ends.

MR. SHERIDAN: Sir, if you wish, I think we can produce further witnesses to say that the way in which the ultimate transaction would be effected would be such a two-way conversion. That would be the way in which typically they would be

CHAIRMAN: Alright. I will have regard to that,

Mr. Sheridan. Whilst obviously, Mr. O'Connell, your evidence has differed in a number of respects from that of Mr. O' Neill, you do seem to agree with him that the vast preponderance of clients introduced by Mr. O' Neill's company would not be people looking to deposit money but people looking formally by way of mortgage or otherwise?

A. Yes, Sir.

CHAIRMAN: Yes. Obviously one must allow for the historical difference between now and the early nineties in relation to interest rates, both for borrowing and lending, but would it be fair comment to say that the facility that was being offered, namely a rate of in excess of 13 percent, was an attractive one?

A. I actually haven't done any sort of rate comparisons of the year at all. I apologise.

CHAIRMAN: But obviously, rates were higher.

A. Very much so and a lot higher than the rates quoted within that particular memorandum subsequently.

CHAIRMAN: It does appear from the Channel Islands account that interest was credited gross?

A. Do you wish me to look at the statement again? If that's apparent, yes, correct.

CHAIRMAN: And is it, Mr. O'Connell, an aspect that the Tribunal needs to look into, that in a minority of cases, in the last two years of exchange control, that procedures

may have become more casual?

A. My Lord, I can't speculate, Sir, as to whether they were more casual, but certainly there was a lead-in period to the termination of exchange controls in 1992, but whether people were more relaxed or not, I don't know.

CHAIRMAN: But on foot of the several questions addressed by Mr. Healy, can you give any further assistance, having checked papers and jogged your memory over the weekend?

A. No.

CHAIRMAN: Very good. Thank you very much.

MR. HEALY: Just one thing arising out of one of the questions put to the witness both by you, Sir, and by Mr. Sheridan.

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

Q. Just to clarify one matter. In relation to that chit that was on the screen a moment ago showing the foreign exchange transaction, I think you were canvassing with Mr. Sheridan the situation that would have obtained if you had been given sterling effects to purchase that draft or if sterling effects had been tendered to purchase that draft. Now, if you were given or if the bank was given cheques to purchase that draft, would they have given value on the same day for those cheques to a person who wasn't a customer of the bank?

A. Technically, I don't know.

Q. As a matter of probability, it seems unlikely, doesn't it, without checking up somewhere?

A. Obviously records would have to be checked to see where that would be a situation but normally you would like to have value before you would part with anything.

Q. Before you would write a cheque effectively on the bank's own account in London, isn't that right?

A. Yes.

Q. And if you had been given sterling drafts, i.e. drafts drawn on other banks, you might have given value for them there and then, is that possible?

A. I'd say it's unlikely.

Q. It's unlikely again.

A. I would think, you know, maybe I am projecting an over-cautious attitude, but I would think that for most financial transactions, you would like to have clean value

Q. Cleared effects?

A. Before you would hand over funds.

Q. But in this case we know that to judge from the evidence, that everything was done on the same day.

A. I don't know.

CHAIRMAN: Thank you, Mr. O'Connell.

THE WITNESS THEN WITHDREW.

LIAM O'BRIEN, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

CHAIRMAN: Thank you, Mr. O'Brien. Sit down.

Q. MR. COUGHLAN: Mr. O'Brien, I think you are manager of Allied Irish Banks at Dame Street, is that correct?

A. That's correct.

Q. I think that you have, at the request of the Tribunal, prepared a statement in respect of a particular transaction you were asked to about, is that correct?

A. Correct.

Q. I think it's in relation to a sterling draft in the sum of €7,562.72 which issued on the 30th August, 1991 in favour of Mr. Michael Lowry, with the Irish pound equivalent of €8,345.27 and there is no evidence of this amount having been debited to either of Mr. Lowry's accounts at the branch, namely, at number 41179186 and 41179269 on the 30th August, 1991 or on the 2nd December, 1991, is that correct?

A. That's correct.

Q. I think those two accounts, one is a current account and the other is a deposit account of Mr. Lowry?

A. That's correct.

Q. And I think from your inquiries which indicate that there was no debit from either of those accounts, that this would indicate that instruments, an instrument or instruments other than a debit of Mr. Lowry's accounts were supplied in respect of this sterling draft?

A. Correct.

Q. You do not have a record of those instruments as all waste transactions with records to 1991 are no longer retained, the retention period having passed, is that correct?

A. That's correct.

Q. And I think that dealing with the question of exchange control, that in relation to Central Bank exchange control approval, it would always have been bank policy to comply with exchange control approval requirements?

A. That is correct.

Q. That's hardly surprising. That's what banks would be expected to do?

A. That's right.

Q. As regards policy.

A. Sure.

Q. And we, I think you will accept as a banker, have been looking at a transaction which on the face of it, at the moment anyway there is no evidence that there was exchange control and it flew in the face of exchange control, doesn't it?

A. Well, that transaction, even if for the opening of a new account in the Channel Islands, exchange control would have been a prerequisite.

Q. Didn't any banker know during the period of exchange control, exchange control was there for the purpose of protecting the currency?

A. Exactly, in terms of movement.

Q. And the banks themselves had a delegated function from the

Central Bank who themselves were the agents of the Minister in respect of the operation of exchange control, isn't that correct?

A. That is correct.

Q. And there can be little doubt but that no Irish resident would have been allowed to have an account abroad for investment purposes, isn't that correct, during the period of exchange control?

A. Without permission from the Central Bank.

Q. Have you before known or had you ever heard of the Central Bank granting approval for somebody in Irish, an Irish resident to have approval for an investment account abroad, a deposit account abroad?

A. Possibility I would say that it would have been a possibility with Central Bank permission

Q. Only the Central Bank could give the permission?

A. That's right, that's right. It wasn't delegated.

Q. It wasn't a delegated function. And it would have flown in the face of the whole exchange control policy if the Central Bank were giving people permission to invest to be taking a position against the currency, wouldn't it?

A. That's right.

Q. That's what an Irish resident would have been doing?

A. Absolutely.

Q. They would have been taking a position against the Irish currency?

A. And there would be no control over it.

Q. There would be no control at all. Now, what was delegated was that in relation to transactions, if you had seen invoices or matters of that nature, you proceeded with it?

A. True, true.

Q. You have no E4 forms in respect of this particular transaction of Mr. Lowry's?

A. None when requested, we searched for the a possible E4 form although it wasn't mandatory in this case after 1990. You see

Q. That's in respect, as you say, of a sum under œ10,000?

A. Correct, indeed. And.

Q. But not a draft.

A. But in amounts in excess of œ10,000 for services, one was obliged to have an E4 form completed but not necessarily in relation to goods because

Q. Sorry, yes, I beg your pardon

A. Once the bank was satisfied about the commerciality of its customers, you know, we cited the documents on occasions, the practice was to brand an invoice on the back and return it to the customer.

Q. So that for a sum between, post 1990 until the end of exchange controls, December of 1992, for a transaction under œ10,000, the bank, that is the associated banks who had delegated functions, did not have to fill out an E4 form in respect of that transaction but had to satisfy themselves that it was appropriate in terms of an appropriate commercial transaction?

A. Sure, yeah.

Q. But a cheque or sorry, I beg your pardon, a draft being made payable to the customer of the bank could hardly fulfill that particular criteria, could it?

A. Wouldn't it?

Q. I am asking you, I don't know.

A. He may well have an invoice, you see, the customer, an invoice to himself, you know, for the payment, in relation to goods or something that he might be importing from the UK. So it wouldn't matter whether it was a cheque or a draft, you know, that you were if I understand you correctly

Q. I am slightly confused. If the customer if the client of the bank was conducting business abroad and had invoices say from the UK or we'll take the UK he would be seeking to the purpose of obtaining sterling would be to pay that particular bill, wouldn't it?

A. True, yes, that would be one reason.

Q. It could be the only reason, couldn't it?

A. Pardon?

Q. It could be the only reason that the bank would satisfy itself that it would grant exchange control approval in respect of

A. On occasions, customers could be going to the UK maybe to inspect goods, you know, and it wasn't unknown to, you know, for us to give a draft when it was under the £10,000 payable to themselves which they could endorse over, having

inspected the goods either in the UK but which they wouldn't have given that would be another occasion, if you understand me.

Q. I don't. I am sorry, I don't. As I understand it, that when the relaxation took place, the Central Bank would nonetheless require the associated banks who had a delegated function to be rigorous in their application of their delegated function.

A. True.

Q. And they had to satisfy themselves as to the commerciality of a transaction, isn't that right?

A. Yes.

Q. Now, if somebody was going to inspect goods, there would be, or there may be nothing due and owing at that time, isn't that right?

A. Yes, but if, for instance, and it wouldn't be a regular occurrence, but as an example, that if somebody was, say, purchasing a boat in the UK, you know, and okay, and had been quoted a price for it, a customer, now, out of the branch, had been quoted a price for it and he'd say well, I don't want to send over a draft until I see the goods and I don't want to issue payment, but if the bank would give him a draft payable to himself and having satisfied himself as to the goods being okay, he would endorse the draft over to the you know, that would happen

Q. And would the bank then satisfy itself that the boat had come into Ireland or had been purchased? I am just asking

you that because if you give a draft to somebody made out to themselves or just bearer or whatever, wouldn't that be precisely what the Central Bank would be trying to avoid, that somebody could just walk out of the country and without carrying out any commercial transaction, just lodge the money abroad themselves?

A. Sure, yes, absolutely, but bear in mind for amounts under €10,000 and after April '90, you know, that in relation to goods, one had to sign documentation and brand an invoice and so forth, you know. But on the odd occasion, for services then, like, or such like, if again to follow that example, if somebody was going to inspect something outside and you would, on the odd occasion now, it would be a rare occasion, give them a draft once you knew the customer, possibly payable to themselves, and if the goods were okay, he would come back and come back to the invoice to you.

Q. Yes, I can understand that. That you know the customer well and perhaps even had a history of carrying out business and knowing that the customer always behaved appropriately and understood his obligation under exchange control. The problem with this particular one of course is that Mr. Lowry has told us that this particular draft formed part of a larger sum of money which ended up as being a sum of €100,000 in Allied Irish Banks in the Channel Islands in a deposit account of Mr. Lowry's for which there doesn't appear to be any exchange control and which on the face of it there probably could never have

been exchange control approval, isn't that right?

A. Bearing in mind that Mr. Lowry was in business himself, and he could well have had an invoice, you know, to himself you know from the UK for goods or whatever, you know, and requested a draft then, you know, which payable to himself which he would be possibly passing on or endorsing on or alternatively, he may are you with me on that?

Q. I am. I am slightly confused, I am sorry, and it's probably my fault, but Mr. Lowry told us that there were two particular there may have been three particular transactions giving rise to the €100,000 being lodged to the Channel Islands. One of the transactions which he says took place in O'Connell Street branch of Allied Irish Banks and then when that particular sum matured, he then added two further sums, one was €34,100 sterling which we know was a payment from Dunnes Stores, Mr. Lowry believes Dunnes Stores (Bangor), Dunnes Stores (Northern Ireland) and the other was this particular draft of 7 and a half odd thousand pounds.

A. Correct.

Q. And he said that both of those transactions took place in Dame Street, the Dame Street branch. Now I am only asking you about the €7,500 one at this stage, and he didn't go back to O'Connell Street and they would appear to have gone from they were issued in the Dame Street branch and they found their way to the Channel Islands to the part of this particular account. That couldn't have happened that

couldn't have happened with any appropriate exchange control approval from you as a delegated person from the Central Bank, could it?

A. When we talk about the continuous transaction, no

Q. Yes, that's what I mean. That couldn't have happened with appropriate exchange control?

A. With appropriate

Q. So how could it have happened? I am asking you how could it have happened?

A. The request shows, as you can see from the draft application on the 30th August, '91, was for the draft of £7,562.72 payable to himself. And the scenario I have just set for you, he could have had an invoice or have been invoiced himself for this amount of money and come into us for a draft and we issue a draft payable to him, stamp the invoice and return it to him. Alternatively, Mr. Lowry, might have said, well I am going to the UK, I have goods because he was in business you know and I am going to the UK and I am inspecting goods over there, but I don't want to pay for them until I inspect them and see. Would you make the draft payable to myself? And of course, and having satisfied myself with the goods I will endorse it over.

Q. Do you think the Central Bank would have known that drafts were being made payable to people themselves going off to inspect goods?

A. Well, you see like, the other thing is that it could be

another member of the family, M. Lowry, I think the draft was payable to M. Lowry, you know, and

Q. On the application form, if we could just put up the application form. That's the application form now.

A. Correct.

Q. And we have seen such an application form previously in the case of O'Connell Street branch and it's for that amount of sterling and it's in favour of M. Lowry. There is a signature of Mr. Lowry's and then there is a reference under that, if you go down, just follow that down just there. Is that Peter T? Who is that?

A. That would be Peter Tierney, an official in the branch.

Q. Who would, on the face of that document, would appear to have had carried out the transaction. Is that what your understanding would be or what?

A. True. And before that, there is just a reference then, ref: Dee, D-E-E, that would be

Q. What's that?

A. That would be one of the officials, at least it reads Dee, one of the officials in the branch at the time.

Q. Who was that?

A. A Deirdre Twomey. She would have been in the foreign exchange section to my recall at the time.

Q. Because there would have been a foreign exchange transaction took place for this?

A. True.

Q. And would she have been the dealer in the foreign exchange?

A. She would have been in the department in Dame Street and quite at that time, more than likely.

Q. And the request, on the face of that, would appear to have come from Peter T and the foreign exchange transaction carried out by Dee, would that be your understanding of that particular document?

A. Yes. It was Peter Tierney was in another division of the branch and the modus operandi would have been to request in the foreign exchange to make out the draft.

Q. I think we have heard evidence, in the course of this Tribunal, about banking, that the same person wouldn't carry out both sides of the transaction, isn't that correct?

A. Yes, because

Q. Would that be standard banking?

A. We have a foreign exchange division which would look after all of that.

Q. Is Peter Tierney still in the branch, do you know?

A. No.

Q. Do you know if he is still in the employ of Allied Irish Banks?

A. He is indeed. He was transferred from the branch some months ago.

Q. Who would have dealt with Mr. Lowry's accounts? Would that have been the official you would have understood to have dealt with Michael Lowry's accounts?

A. It would have been Peter Tierney in Dame Street.

Q. Was he an assistant manager?

A. An assistant manager.

Q. Just on the other side is the foreign exchange transaction, the calculation in respect of that?

A. The calculation.

Q. So it definitely was punts in Allied Irish Banks Dame Street?

A. That's right. In Dame Street. What the instruments were like

Q. I understand. He can't see a debit from either of Mr. Lowry's accounts. So something had to be brought in?

A. Correct, correct. There had to be some instrument you know

Q. Can I just inquire, maybe you can't answer us at this stage, but I take it that you know that, of evidence

Mr. Lowry has given to the Tribunal that when he went to Dame Street branch, which was his branch, for the purpose of carrying out the transaction which ultimately took place in the O'Connell Street branch, he said that he was told if he wanted to do that, he was to go to O'Connell Street, that that was where it was done. Do you know anything about that procedure or on this particular occasion?

A. No, not a thing and I would consider it highly unusual, highly unusual.

Q. Another thing I'd like to ask you about is this that Mr. Lowry said that when he went to O'Connell Street, that he didn't have any document or instrument, document or

instrument, he said he didn't have a letter or any instruments when he went to O'Connell Street and that it was his understanding that the money, his money, the STG €55,000, or whether it was in sterling or Irish, was somewhere in the banking system, Allied Irish Banks' system. Could you cast any light on that particular

A. Well it's certainly not in Dame Street. We have checked our records, you know, and all of that.

Q. And if there is money in the bank, it has to be represented somewhere, doesn't it, on some document, that there is a record of it?

A. Either on deposit or current account, you know, or if one is getting an advance or something

Q. Does the bank have an internal account itself, a suspense account?

A. Yes, impersonal accounts. Like for instance on the day, just if I can help you, just that when this draft was issued, that the Irish pound amount would go into an impersonal account for sterling drafts, which is a daily reconciliation account, and then the funds on that would be a daily settlement would go to our international financial division, you know, to marry up with the sterling draft when it homes in.

Q. Yes, but what I am trying to establish is this, that if Mr. Lowry's €55,000 sterling or as we see it, it was probably either STG €55,000 or €60,000-odd odd punts, if it was in the banking system, there had to be a record of it

somewhere in the banking system in some form or other?

A. True. If it was an account that funded it, it would be taken out to meet that £55,000 sterling draft.

Alternatively, it could be that he had sterling instruments himself.

Q. Yes, that may be so, but as far as your inquiries go, you can not see that coming out of Dame Street at all?

A. No. Out of either his accounts or any impersonal accounts.

Q. And it's not coming out by way of either an instrument being created or a transfer to O'Connell Street or anything of that nature around that time?

A. No.

Q. Just to get back to the foreign exchange transaction.

That Dee, carrying out the foreign exchange transaction, would receive the application form or the request, isn't that correct?

A. Sure.

Q. And Dee may not herself actually have the documentation but might refer back to the person on the other side of the transaction within the bank who was requesting the foreign exchange?

A. Sure, yeah, if she wanted to clarify anything.

Q. She might ring up and say are the documents alright in respect of this or words to that effect or would that be...

A. Well if she wanted to clarify anything, you know, like, she

would refer back to whoever requested

Q. If it was Peter T was the person Mr. Lowry requested the draft from, it's that official in the first instance who would satisfy himself or herself of the commerciality of the transaction, isn't that correct?

A. True.

Q. And if there wasn't he might not take in the document if he was satisfied himself, particularly if it was under $\leq 10,000$, but would give an instruction for the foreign exchange deal to take place and if Dee had to raise any query, like a simple query like are you sure of the commerciality of this transaction, she'd pick up the phone and go back to Peter T, isn't that the way

A. Correct.

Q. She might never see any documents?

A. No.

Q. And can I take it, as seems to be so in banking and there can be many reasons for it, not least to ensure that there is no fraud taking place or you don't end up in a Barings situation, that on foreign exchange transaction, there are always two sides to it. There is the person requesting it and the person carrying out the deal, isn't that right?

A. Yes.

Q. The same person doesn't carry out

A. Well, when you say the same person doesn't carry out, somebody could welcome into the counter at the foreign exchange section themselves, you know, and might just, you

know, want to do some small

Q. That would be something small like œ100 or

A. Normally, when it's

Q. Well you are talking about sums of monies in the thousands, there is somebody who is designated as the foreign exchange dealer in the branch?

A. Sorry?

Q. There is somebody designated to carry out the foreign exchange deals in the bank?

A. We have a foreign exchange department.

Q. And the request will always come from another department?

A. Not necessarily on occasions it can come from the customer directly, because in Dame Street, if we talk about Dame Street where the foreign exchange department is always staffed with maybe seven, eight to ten people and customers doing an awful lot of international business, you know, and where Central Bank approval was required, the other section would request, on occasions, you know, that the foreign exchange department to correspond with the Central Bank and it was that department that corresponded because they were

Q. If there was only one reference there, would you take it that on the face of it then the same person was carrying out both sides of the transaction, making the request and carrying out the foreign exchange deal themselves?

A. In this one?

Q. No, if there was only one reference, would that indicate to

you that one person was carrying out the total transaction,

the request and the actual

A. No, not necessarily. No, not necessarily.

Q. Can I ask you this, would Dame Street branch be a bigger

branch than O'Connell Street branch for the purpose of

carrying out foreign exchange deals?

A. Dame Street branch is a very large corporate and personal

branch.

Q. With extensive corporate business

A. In my view, yes.

Q. Yeah, it's just my colleagues have just drawn my attention

to the stamp at the bottom of the application. Bottom

right-hand corner. You see there seems to be a stamp.

A. That's right. On the 2nd September.

Q. The 2nd September, which is a different date to the date of

the draft, which is the 30th August. Would it just be

going through the system and be stamped approved?

A. In this particular case, the 30th August is a Friday, 2nd

September is a following Monday and it wouldn't be unusual,

you know, that you could have, you have a meeting with

clients, you would have got the draft or they might have

come in after hours and the transaction waste log would be

closed off and you just hold over the transaction until the

following day. It isn't the fact that there was three

days in the difference. In fact it was a Friday to

Monday. It was a weekend.

Q. When you see the application form and you see the signature

of Michael Lowry and then the reference, who would write the reference? What's the purpose of that? Is it for the foreign exchange dealer to be able to make contact with somebody or

A. Yes. Whose handwriting that is, I don't know.

Q. But why would it be written there? Would it be to allow the person to carry out the foreign exchange deal to check it out, if they wanted to check back and say who requested this? So it's for an internal would that be standard practice that the person carrying out the foreign exchange deal would know the individual in the bank, he or she could go back to clarify matters. Would that be standard, or was it standard at the time?

A. It would generally be standard. If not, you could look up the personal account on the screen and see whose referral code, because with a large division of accounts in Dame Street, everybody has various sizes of portfolios and there is a referral code attached so they would see on that and know instantly who to go to, you know.

Q. They would know who would be handling that particular account?

A. That's right, they would, yeah.

Q. I see.

A. And that person might have an assistant either, so

Q. Thank you.

CHAIRMAN: If we can release Mr. O'Brien, have you matters

to raise Mr. Sheridan?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. SHERIDAN:

Q. Mr. Coughlan referred to the purpose of exchange control being to protect the Irish pound. If the draft is paid for in sterling, sterling for sterling, that wouldn't represent taking a position against the Irish pound, would it?

A. No, no.

Q. And just for the sake of completeness in terms of the answer to the Tribunal, it would be highly unusual you said for somebody to be referred from Dame Street to O'Connell Street?

A. Yes.

Q. I am not saying it happened in this case, but just for the sake of completeness, it could happen where somebody wanted to purchase a draft in Dame Street but was tendering effects drawn on O'Connell Street?

A. True.

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

Q. Sorry, I just want to clarify that because it is quite significant. In fact if an Irish resident received sterling, they were obliged to repatriate it, isn't that right?

A. True.

Q. They would be taking a position against the pound if they hadn't repatriated it?

A. Yes, but an Irish resident, as you can see there on the application form, you know, could receive funds from an external source, you know.

Q. There is no doubt about that and could conduct business but was not entitled as a matter of right to hold foreign currency, isn't that correct?

A. But if, if an Irish resident had a sterling draft and wanted, that they had received, you know, that they had received, and wanted to effect payment by way of sterling, they could you know, to some other third party, you know, they could come to the bank, you know, request, you know, that and the bank had, they had the authority to do a swap.

Q. For the purpose of a commercial transaction, they could do that, isn't that right, but if an Irish resident had £55,000 sterling and wished to put that in the Channel Islands in the period of exchange control, first of all, they couldn't come to your bank and lodge it as a foreign account in your bank, sure they couldn't?

A. No, they couldn't have.

Q. You would have, under the regulations, required them to repatriate the money. It had to be converted into Irish money, isn't that right?

A. Yes.

Q. And other than carrying out a commercial transaction, an

Irish resident had to convert the money into punts?

A. An Irish resident couldn't speculate.

Q. Couldn't speculate?

A. Couldn't speculate.

CHAIRMAN: Mr. Barniville, do you want to raise anything with the witness?

MR. BARNIVILLE: No, Sir.

CHAIRMAN: Very good. Thank you for your assistance, Mr. O'Brien.

THE WITNESS THEN WITHDREW.

CHAIRMAN: Ten past two.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AT 2.10PM:

CHAIRMAN: Good afternoon.

MR. COUGHLAN: Mr. Lowry please.

MICHAEL LOWRY, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

CHAIRMAN: Thank you very much, Mr. Lowry, you are still sworn from last week.

Q. MR. COUGHLAN: Thank you Mr. Lowry, in the first instance, Mr. Lowry, perhaps we could deal with the evidence given by

Mr. O'Neill. Do you have any recollection of ever meeting Mr. O'Neill or anyone from JC Investments Limited now that you have had the opportunity of listening to his evidence?

A. No, I haven't heard of JC before, as I stated previously and I do not recall meeting Mr. O'Neill on either occasion but obviously I will have to accept what he is saying but I have no recollection of it whatsoever.

Q. Right. Because he said that he went to visit you in the first instance in Thurles to try and sell insurance to your company. I presume it would not have been uncommon for people to call on the company to try and conduct various types of business, to try and sell insurance products and matters of that nature?

A. Yes, I would say in respect of insurances and pension funds, it's a common day occurrence, there are more people active in that area than I think any other area.

Q. Right. Now, he did say he was, or the introduction to you was effected by a friend of his, a Mr. John O' Dwyer, do you know Mr. O' Dwyer?

A. I know of Mr. John O' Dwyer, yes, and I, I have absolutely no recollection if John O'Dwyer asked me to meet him maybe I did.

Q. He said Mr. O'Dwyer accompanied him to the meeting in Thurles, could that have happened as far as you know?

A. I have no recollection of it and I have two administrators who have been with me since I started the company and as late as yesterday and today, I asked them had they any

recollection of such a meeting and neither of them had.

Q. Right. Now, it was your recollection when you gave evidence last week that you wished to send money offshore, I think you were

A. Yes.

Q. Fair and open about that and that you went to Dame Street where you conducted your banking business?

A. Yes.

Q. And that you were sent, it's your recollection that you were sent to O'Connell Street to conduct the business.

Now, now that Mr. O'Neill has given his evidence that he met you outside the branch in O'Connell Street, could that have happened?

A. Again, I have absolutely no recollection of that meeting and that's not my, whether I am mistaken as I said the last day, it is my view that I came from whatever, that I came from Dame Street, that's my recollection.

Q. Yes. When you went down to O'Connell Street, were you told, is it do you have any recollection of what you were told to ask for or to meet or anything down there?

A. No, I don't have.

Q. But you have no reason to disbelieve Mr. O'Neill that he met you outside and effected an introduction, do you, no reason to disbelieve him?

A. I can't say positively one way or the other because my recollection of it is that I went and met with whoever I met with in O'Connell Street on my own, that's my clear

view of it.

Q. Well, was it Mr. O'Connell you conducted the business with in O'Connell Street?

A. The I will have to say when I saw Mr. O'Connell, I certainly have seen him before.

Q. Right. Now, it would appear that the account in the Channel Islands can I ask you this, had you opened an account in the Channel Islands before you went to O'Connell Street?

A. I think that was my first, that was the first event, my accountant would have given the details to the Tribunal.

Q. Yes. And this was, is it your recollection that it was opened from O'Connell Street branch?

A. Yes.

Q. Now, Mr. O'Brien is the manager who gave evidence the Dame Street branch said that there is no record in Allied Irish Banks in Dame Street of either a withdrawal around that time from any account of yours of the STG €55,000, whether it was in sterling or Irish and there is no record of any transaction taking place between Dame Street and O'Connell Street to allow the transaction take place, opening the account and sending the sterling to Channel Islands. Can you recollect whereas you believe that money represents a portion of the proceeds of Dunnes Stores money coming from the north of Ireland, can you recollect where that money could have been in the intervening period?

A. I can confirm that it is my belief and it is the opinion of

my accountant that that 55 is made up of the Two to Seven within the McCracken Report, the Tenth Schedule.

Q. I understand that but if there is no record of the money coming out of Dame Street at this time, Dame Street was your branch, is that correct?

A. Yes.

Q. And it was your belief that it was somewhere in the Allied Irish Banks system?

A. Yes.

Q. In the Allied Irish Banks system?

A. Yes obviously we have been puzzled about this since the beginning.

Q. Yes.

A. And I gave my accountant and I have sat down on numerous occasions, we have forwarded what information we had available to us to the Tribunal, we have sought as much information as we could from the bank to assist us in positively identifying the source of it and like the Tribunal, we are puzzled to the extent that we simply do not know.

Q. I am just wondering, Mr. Lowry, in light of just hearing Mr. O'Neill give his evidence and the other witnesses today, whether it has jogged your memory in any way because as things stand at the moment, it does not look as if it came out of Dame Street, the €55,000, that is.

A. That was our view also on the basis of the information supplied well when I say, it didn't go out of Dame

Street, there is no trace of it in Dame Street.

Q. There is no trace of it there at all and according to Mr. O'Brien, there was no drawing down on either your current or deposit account in respect of that?

A. Correct.

Q. And there is no internal transaction occurring between Dame Street and O'Connell Street which would have allowed the STG €55,000 draft to be obtained. I think you accept, do you not, that you were not carrying those cheques around in your pocket for some time, some of them perhaps as long as eighteen months to two years, you couldn't have been doing that?

A. No, I would have carried cheques from time to time and I think there's ample evidence supplied to the Tribunal that unfortunately, with the, I suppose you could call it, the fact that I hadn't proper accounts kept at that particular stage but it is obvious that I had cheques for a considerable time before I cashed them but in this instance, I certainly hadn't those for that length of time.

Q. Not for that length of time because they would have been out of date and would have to be reissued or renewed?

A. It wasn't possible, yes.

Q. You see, I was just wondering, are you sure that there wasn't money anywhere else?

A. Absolutely. To the best we have, as I stated at the outset, I gave an instruction to my accountants, I gave them all of the information that was available to me, I

gave them full access to the banking systems and they went to the bank with my approval and

Q. I understand that.

A. And sought as much information as was available within the system.

Q. I understand that, Mr. Lowry. But you said that you went to O'Connell Street with nothing.

A. That's my yes, that's my recollection and that's my view.

Q. The only place, if it was in Allied Irish Banks the money could have been was in Dame Street; isn't that correct?

A. It's my own view is that it had to be for that length of time within the banking system.

Q. What do you mean by that, Mr. Lowry?

A. I just don't know, Mr. Coughlan. I simply do not know but what I do know is that I couldn't possibly have had on my possession for that length of time, I have no recollection whatever of bringing anything with me so the only place it could be, in my view, is within the system. Now, where, I don't know.

Q. Well, I want to ask you now the distinction between your recollection and what actually happened or what you knew.

There's no doubt about it that sterling bank draft for œ55,000 was purchased.

A. Yes.

Q. In O'Connell Street branch.

A. That's correct.

Q. And that that went to the Channel Islands, there can be no doubt about that.

A. Correct.

Q. To purchase the STG œ55,000, the bank had to get the same amount of money.

A. Value, yes.

Q. Now, if it didn't come from your account in Dame Street, and there was no transfer from any bank account, bank's own account in Dame Street and you took nothing with you, do you not have any recollection at all of what transpired in O'Connell Street to allow the sterling draft to be purchased?

A. I simply do not know. That is the problem that we have had. I have simply not been able to identify it, even in asking the assistance of the bank to do it, they have been unable to do so for us.

Q. I understand the bank have been unable, but I am asking you to search your memory now, what something must have happened in O'Connell Street to allow a bank draft for œ55,000 to be bought. Something had to happen. Would you agree?

A. Absolutely.

Q. And a form was filled out, an application for a sterling draft, which would be I presume standard procedure.

A. Yes.

Q. Did you fill out any form?

A. No, I have no recollection of filling out any

Q. I want you now to be very careful. Are you saying no, or you have no recollection?

A. I am saying to the best of my knowledge that I did not fill out any form on that particular day.

Q. Well, perhaps you can see the form and I will ask you can you describe on the form is any of the writing on that yours. (Document handed to witness.) I only have a photocopy.

A. No, there's definitely none of this writing is mine. Not even a there's no figure, there's no writing of any description which is mine.

Q. So we can take it that you didn't fill out that form at all?

A. Absolutely.

Q. Yourself. The form is filled out and it's in respect of Account M. Lowry; isn't that correct?

A. That's correct.

Q. So can we take it that the bank could only have filled out the form on your instructions or on the instructions of a servant or agent acting for you?

A. I would accept that, yes.

Q. Can we take it when you were at the bank, you did or do you remember, issue instructions for the purchase of a sterling draft and for the opening of an account in the Channel Islands?

A. Yes, it was my intention the reason I went to the bank was to open this Channel Islands account.

Q. To open a Channel Islands and account and to transfer to it
€55,000?

A. Obviously.

Q. How do you know that you could open a Channel Islands
account?

A. How did I know? How did I know I could open one? I
presume I was informed by the bank that I could do it.

Q. Which branch would that have been now? Do you think at
Dame Street or O'Connell Street?

A. It would be my view, yes, that it was Dame Street.

Q. Because that's where you went first?

A. That was my bank.

Q. Yes. Did you by any chance accept that it wouldn't have
been possible to walk around with cheques that were nearly
two years old, were you by any chance in possession of any
cash?

A. No, definitely not, I would remember if I had, obviously if
I had €55,000 cash I would remember it.

Q. Yes. But isn't it's an extraordinary mystery, isn't it,
that a bank draft was purchased for €55,000 and in those
days, even today, a lot of money, and there's no record of
it, of the movement in respect of that sum of money to
allow it to be brought into existence in the bank and you
don't remember?

A. I do not remember the detail of the transaction. What I
have told you is what I remember about it and the rest of
it, as I say, with the assistance of the banks, we have

tried to identify it and we have been unable to do so.

Q. Well, we take it and I am sorry to be tedious about this but we really we do have to explore it, you can be definite you didn't have cash?

A. I would

Q. You'd remember cash?

A. I think anybody who had €55,000 cash they would remember it.

Q. Can you definitely exclude the fact that you were walking around with cheques?

A. Yes, because from

Q. For that length of time?

A. From a logical point of view, it's not possible to have them for that length of time. As I said previously, I had cheques which I did have for four months.

Q. A couple of weeks or couple of months or something like that?

A. Yes.

Q. So we can exclude cash and exclude that you were walking around with the cheques?

A. Yes.

Q. And can we take it as a matter of probability that the money had to be in an account somewhere?

A. Yes, that's one explanation, yes.

Q. What is the other explanation?

A. The only other explanation for it, it was in an account in Allied Irish Banks.

Q. I will come to that but that's what I am saying, we will take it that in the first instance, it had to be in an account somewhere, the money?

A. I would think, yes, other than that

Q. It wasn't in your deposit or your current account in Dame Street; isn't that correct?

A. Correct.

Q. And we know there were no withdrawals to fund the purchase of the bank draft from either of those accounts?

A. Yes.

Q. What other if you lodged the money, do you ever remember lodging money other than to your own account, either current or deposit?

A. Not to my knowledge, certainly not.

Q. We have seen many a deposit slip signed by you.

A. Yes.

Q. In the course of this inquiry; isn't that correct?

A. That's correct.

Q. Can we take it that you would have conducted your own banking in the Dame Street branch?

A. Personally myself?

Q. Personally.

A. Yes.

Q. So that if you took this money to the Dame Street branch of Allied Irish Banks, you either had to lodge it as far as you know to your current or your deposit account; isn't that correct?

A. That's correct, whatever accounts that I had there.

Q. And have you been able to see this sum of money and I am talking about, the sum of money now made up of Items Two to Seven in the Tenth Schedule to the McCracken Report, have you been able to see that money going into any account as far as you can

A. No. We have tried to ascertain but because of the period of time, it hasn't been possible to get, if we could get it hasn't been possible to get from the bank the information we require to do that.

Q. And you haven't been able to

A. We have tried on numerous occasions to do that.

Q. And as far as you know, you never issued instructions to the bank to take those sums of money out of either your current or deposit account prior to the day that the sterling draft was purchased?

A. No, I have no recollection whatsoever of any such instruction.

Q. You gave no instruction it was to go into an account of the bank itself?

A. No.

Q. And as these were sterling amounts, can I take it that when you lodged them to the account in Allied Irish Banks in Dame Street, that they would have been converted into punts at the time?

A. I can't say for definite but obviously there's a possibility of that, yes.

Q. Now the bank, again, in looking in any event, and I will come back to it in a moment, the €55,000 eventually matured and it was reinvested although there was a gap of two or three months; isn't that correct?

A. Yes.

Q. Do you know where the money was in that period, the gap?

A. I don't. From the time it returned in maturity, I do not.

Q. Yes. And it was reinvested in the September of that year?

A. That's correct.

Q. Together with the STG €34,100 again a payment from Dunnes Stores; isn't that correct?

A. Correct, as identified in the McCracken.

Q. As identified as the Ninth, I think, item of the Schedule in the McCracken Tribunal report.

A. That's correct.

Q. Together with a draft for €7,500, 7,600 odd thousand pounds sterling purchased at Allied Irish Banks in Dame Street?

A. That's correct.

Q. And all of that was relodged or was sorry, the matured sum was re-invested together with these two sums making up €100,000?

A. That's correct.

Q. Now, the draft for €7,562 that we see there is the sterling draft which you purchased from Allied Irish Banks, Dame Street?

A. Yes.

Q. It's made out to you?

A. Yes.

Q. Can we take it you didn't have any backing documentation when you purchased that draft?

A. Sorry?

Q. Did you have any backing documentation, invoice or anything?

A. No.

Q. This was just a facility the bank were making available as far as you were concerned?

A. Yes, I had no documentation.

Q. And I will come to that in a moment. We have seen the request or the application for this and there are two references there, there's the foreign exchange dealer which is DEE and then there is the other reference, the person making the request, PT.

A. Yes.

Q. And that person has been identified by Mr. O'Brien the manager?

A. That's correct.

Q. Would you agree that that is the person you dealt with?

A. In all probability, Peter Tierney, yes.

Q. Is that the person you normally dealt with?

A. When he was available.

Q. Now, do you know what funds you used to purchase that, because it didn't come out of either your deposit or current account?

A. That's it is our view that the, that that cheque was

part or that that sterling bank draft was purchased as part of the unidentified amounts in the Schedule from Two to Seven in the Tenth Schedule of McCracken's report.

Q. Where was that money? I am really interested in where the money was, do you understand me? It wasn't in either your deposit or current account, where was it?

A. That's what we don't know.

Q. Well surely you must know.

A. I do not know. I mean, I tried it's I have tried time after time with my accountants to go through and see could we file and put it together and we have been unable to do that simply because the information isn't available to us from the bank because of the time.

Q. What I am trying to do is see if you can assist the Tribunal by jogging your memory, I appreciate the difficulties on the bank side of things but

A. I was saying, Mr. Coughlan, that I have tried, I have racked my brain in relation to this because it's the final piece we need to put together. We have been as fulsome as we possibly could with the information. We have been handicapped by virtue of my poor record keeping and other than that then, we went to the banks to see could we get the information needed and unfortunately we failed to do so.

Q. Now this draft for STG €7,500 draft, that had to be it was, we can see, purchased

A. In Allied Irish Banks.

Q. With 8,300 odd punts?

A. Yes.

Q. And that either had to be a cheque, a draft or cash. There doesn't seem to be any record of an internal movement of money in Allied Irish Banks in Dame Street in respect of that particular transaction.

A. Well, we haven't been able to find an internal record.

Q. No. And the other sum, which is the Ninth Schedule or the Ninth Item in the Tenth Schedule of the McCracken Tribunal report is the €34,100 which you believe again formed part of that €100,000 and you believe that a draft again was purchased in Allied Irish Banks in Dame Street in respect of that; is that right?

A. Well, that was one that was positively identified as again in the McCracken Report as work done in Northern Ireland.

Q. Yes. I am not concerned about that. And that is correct but it is also identified I think as going to the Channel Islands, isn't it?

A. That's correct, yes.

Q. How did that go to the Channel Islands?

A. I don't know whether it obviously it was a sterling cheque so it could have been part of could have been as a cheque form or obviously a draft, one or the other I presume.

Q. But I think it was an AIB Dame Street draft, was it not?

A. I am not quite sure.

Q. Well, I am not trying to tie you to anything you said

because as I say, we are trying to establish the facts if we can assist by jogging your memory, that's what I want to try and do. But it was your understanding when you gave evidence last week that the €34,100 sterling and the 7,600 odd sterling, that the transactions were negotiated in Dame Street?

A. That's correct, that's my understanding.

Q. That's your understanding. Well, if you came to Dame Street with 34,100, again just to clarify, can I take it that in respect of the €34,100, you didn't have any backing documents, you didn't have an invoice or anything like that, it wasn't for the conduct of business?

A. No.

Q. Well, take it the same in respect of the €55,000 in O'Connell Street, you didn't have backing documentation?

A. No.

Q. You didn't have approval for opening an account.

A. I left the matter obviously to the bank.

Q. That's what I just wanted to ask you and you hadn't sought sanction from the Central Bank to open a foreign deposit account or anything yourself.

A. I left the procedure should apply when I left it to the bank.

Q. And did anyone in the bank discuss with you as far as you can recollect, the question of exchange control for foreign deposit accounts?

A. No, I didn't hear about that.

Q. Nobody spoke to you about that?

A. No.

Q. And I think you did on a previous occasion say that you would have been aware in general terms perhaps that it was irregular?

A. To

Q. To tend money abroad other than for the conduct of business?

A. Well, yes

Q. You used you said you used it as a neutral term?

A. Yes, well I obviously became very much aware of it when my troubles broke and commentators started to look at things and then I became very much aware that it was irregular to do it that way but I would have felt that it was in every transaction, people would have their elements or procedures to follow and I would have put that down to the institution I was dealing with.

Q. Yes, and can I take it as far as you were concerned, nobody in the bank ever raised the issue of exchange control with you or the necessity of having Central Bank approval to open the deposit account abroad, nobody ever raised that with you?

A. I have no recollection of that whatsoever and it would have been.

Q. If somebody had said it to you, it would have been something you would definitely remember?

A. Yes.

Q. Well, I suppose would it be fair to say that from your understanding of the transaction now, that it would be a type of transaction that perhaps people conducting it might not want a large paper trail in respect of.

A. Well, I am not obviously not privy to what happens within the banking system so I can't really give any view on that.

Q. Right.

A. I didn't know or I still don't know whether or not the proper procedure was completed in respect of exchange control.

Q. Well, you do know that Mr. Lowry, you know it wasn't because you didn't furnish any invoices for the purchase of the foreign drafts for example so there was no commerciality in respect of the transaction, we know that now.

A. I didn't furnish invoices, I wasn't requested to furnish invoices.

Q. You didn't have exchange control permission from the Central Bank to have a deposit account abroad?

A. Personally I never sought one or felt the need to do so.

Q. Fine. So we can say with total certainty that the particulars were not complied with, isn't that right, we can look at it now

A. Yes, in view of what you said to me, if that's the procedure, that's correct.

Q. But what is still taxing the mind of the Tribunal is where this money could have been?

A. Yes.

Q. And if the records in the bank are correct that there is the only money of yours in the bank was in either the deposit or the current account, and there is no record of any movement out of those accounts for the purchase of the various drafts to enable the €100,000 to be placed in the Channel Islands, it must have been and it wasn't in one of the bank's own accounts, it must have been in some other account of yours, mustn't it, somewhere?

A. I didn't have any other well what accounts I have had, we have given them in respect of every transaction with Dunnes Stores, we have given them to the Tribunal and we have gone to the bank and we have done our own discovery with the banks.

Q. I know and I appreciate that but what I am just trying to ascertain, is there a chance there may have been another account?

A. Not that I have forgotten about, there may be an account in the Allied Irish Banks system that I don't know about or has been missed because records are nonexistent at this stage.

Q. Well we can put them up I think, the two drafts, the Dame Street drafts, the first one we have just been discussing the €7,500 one and we will hand you a hard copy, the €34,100 one. (Document handed to witness.) The €7,500 was purchased in 31st August 1991 and we heard from Mr. O'Brien that was a Friday because the stamp for the

application is done over the weekend. The €34,100 one was definitely purchased in Dame Street, we can see that.

A. Yes.

Q. And it's dated the 31st July of that year, of 1991 so there was a sterling draft, there's a sterling draft purchase in Dame Street, do you know how that was funded?

A. No, I do not. I take it that it was purchased as part of the monies involved in Schedule Two to Seven from Dunnes Stores Northern Ireland.

Q. Well, if that is so, do you think that you would have used the draft or sorry, the sterling cheque from Dunnes Stores (Northern Ireland) would you bear with me now for a moment that you would have used a sterling cheque to purchase the draft without it going through your account at all, do you think?

A. I don't know, Mr. Coughlan.

Q. Ah, Mr. Lowry, come on, you are a businessman and you were a Cabinet minister and you are a member of the Dail. Now you must know something about these transactions.

A. To the best of my this is 1991 and I'd like to be of more assistance and obviously it would be better for me if I could be of more assistance but I simply do not have a recollection of it.

Q. The view expressed in the I better hand you a copy of the McCracken Tribunal Report and I am referring to page 25 (Document handed to witness.) And if we go to the second paragraph on that page, Mr. Justice McCracken starts

off, under the heading 'Cheques to Streamline Enterprises',
these are the Northern Ireland cheques.

A. I see it, yes.

Q. He says, "That the payment of €6,000 in Irish currency on the 14th November 1998 was lodged by Mr. Michael Lowry to his personal account in Bank of Ireland, Thurles, County Tipperary." That's clearly identifiable and I think it can be seen even to this day.

A. Yes.

Q. "The next six payments between the 13th September 1988 and the 14th September 1990 and varying between STG €5,000 and STG €19,730 were cashed by Mr. Michael Lowry." That's because it couldn't be identified where they had gone at that time.

A. That's correct, yes.

Q. "The payment of STG €34,100 on the 3rd September 1991 was lodged by Mr. Michael Lowry to an account which he held in a subsidiary branch of Allied Irish Bank in the Channel Islands. This account was in the name of Mr. Michael Lowry and his three children and appears to have been opened on the 3rd September 1991 by a deposit of STG €100,000 which presumably included the sum of STG €34,100. Finally the payment on the 15th March 1993 of STG €55,314 was lodged by Mr. Michael Lowry to his personal account of the Dame Street Dublin branch of Allied Irish Banks."

So those are the statements in the Tenth Schedule, isn't that correct?

A. Yes, I presume so.

Q. Now, in fact at that time when that Tribunal was conducting its business, the reference to the account being opened on the 3rd September of 1991 in the sum of £100,000 was in fact a reinvestment of the previous £55,000 which had been opened in January of that year, isn't that correct?

A. I am confused at this stage. I presume it was, if you say so, I will say it

Q. Because I will take your time and do take your time please, Mr. Lowry. The original the account in the Channel Islands was opened in January of 1991; isn't that correct?

A. Yes.

Q. With a lodgement of £55,000, as we can see there?

A. Yes.

Q. And then interest was added to it and a cheque was issued on the 17th July 1991 for £58,337.28, isn't that correct?

A. Which was the money matured, yes.

Q. The matured investment. Now, between July, the 17th July of that year and the 3rd September of 1991, as far as you know well first of all, did you receive that cheque for STG £58,000 yourself?

A. My understanding is that came back to the bank.

Q. Yes you physically did not receive the cheque?

A. I have no recollection of receiving the cheque.

Q. Well, you have no recollection or can you just assist the Tribunal a little bit more, did you receive the cheque?

A. I don't have any recollection of receiving the cheque. As far as I am concerned, I didn't. I don't ever recall getting a cheque and from what I have been told, it came back, it was requisitioned back by Bank of Ireland on O'Connell Street.

Q. AIB?

A. AIB I should say, yes, in O'Connell Street.

Q. Yes. I am sorry, Sir, it's just as a result of some information that we have just had, I have to apply to you for a short adjournment so we can just look at it and if we need to serve anybody, we will do, we will apply for a further adjournment and do so.

CHAIRMAN: So be it, how many minutes?

MR. COUGHLAN: If you gave us fifteen minutes to begin with, Sir, we will have a look at this.

CHAIRMAN: Very good, we will sit again at ten past.

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS FOLLOWS:

MR. COUGHLAN: Sir, as a result of some information which has just become available to the Tribunal and to enable the Tribunal to digest it and also to enable Mr. Lowry and for us to serve it on Mr. Lowry and the bank, to enable them to deal with the matter, I would ask you to adjourn the sittings until 10:30 in the morning.

CHAIRMAN: In the context of what has been conveyed to me
Mr. Coughlan, whilst obviously I am reluctant to lose time,
I think the interests of fairness make it preferable and I
accede to that, half ten in the morning.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
WEDNESDAY, 30TH JUNE 1999 AT 10.30AM: