

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 15TH JULY 1999

AT 10:30AM:

CHAIRMAN: Mr. Healy?

MR. HEALY: Just to give an indication, Sir, of the proposed witness sequence for the next two days is going to be organised. It's envisaged that this morning two witnesses at least will be taken, some of whom's evidence will be relevant to the matters opened by Mr. Coughlan yesterday in his opening statement. One of the witnesses, Mr. Paul Carty, will have some evidence to give relevant to a matter that was dealt with last week. At the end of that evidence, Sir, it is envisaged that the Tribunal will adjourn until tomorrow morning when it would take up, once again, evidence exclusively dealing with material mentioned in yesterday's opening statement. The reason that is being done is some further information has come to hand relevant or at least some further witness statements have come to hand relevant to the material mentioned in yesterday's opening statement and it would seem only appropriate that an effort would be made to lead that evidence in the proper time and witness sequence and it's hoped to dispose of that, three witnesses tomorrow morning dealing with most of that material.

CHAIRMAN: Yes. And am I correct in surmising that the emergence of this further material meant that considerable

work had to be done last night in preparing statements and that the procedures that we have devised and followed throughout the Tribunal's sittings makes it desirable that there be some mutual serving of those statements on other persons?

MR. HEALY: Precisely.

CHAIRMAN: Potentially interested.

MR. HEALY: And a number of witnesses who come today and a number of people have made themselves available today including Mr. Barnicle and Mr. Hogan and they have, at short, notice agreed to make themselves available again tomorrow and I think the Tribunal is grateful for the indulgence they have shown.

CHAIRMAN: I share that

MS. O'BRIEN: Mr. Paul Carty please.

MR. ALLEN: Chairman, I should just indicate as you are aware, I represent and you have granted limited representation some time ago.

CHAIRMAN: Of course, Mr. Allen.

MR. PAUL CARTY, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS
BY MS. O'BRIEN:

Q. MS. O'BRIEN: Mr. Carty, you are managing partner of Deloitte & Touche, chartered accountants?

A. That's correct.

Q. And in fact Deloitte & Touche is an amalgamation of a number of firms of chartered accountants including Haughey Boland & Company?

A. That's correct.

Q. And you gave evidence to the Tribunal in February last in relation to a bill paying service which was provided by Haughey Boland to Mr. Haughey?

A. That's correct.

Q. And I think in fact you had no role in the personal provision of that bill paying service which you gave your evidence as managing partner from the books and records of the firm and presumably from inquiries that you had made?

A. That's correct.

Q. And on that occasion the evidence you gave and indeed I think this forms part of the report of the Tribunal of Inquiry (Dunnes Payments) that Haughey Boland provided a bill paying service to Mr. Haughey which continued up to February of 1991?

A. January of 1991.

Q. January of 1991. I think the evidence you gave was that the manner in which that bill paying service was operated was that payments were made on behalf of Mr. Haughey on foot of bills that were submitted by his secretary and approved?

A. That's correct.

Q. And those payments, I think, were made out of what was then

the Haughey Boland No. 3 bank account?

A. Yes, which is a client account.

Q. Which was a client account and I think that account was held in the name of Haughey Boland in AIB, Dame Street and I think it had an account number 30065271, is that correct?

A. That's correct.

Q. And I think your evidence also was that payments were made to meet those expenditures in relation to Mr. Traynor?

A. That's correct.

Q. And they were received either by bank draft drawn on Guinness & Mahon or occasionally by cheque or by account transfer?

A. That's correct.

Q. And on the last occasion that you were called, you assisted the Tribunal in matching certain debits to accounts of Amiens Securities Limited in Guinness & Mahon, to credits which appeared on the bank statements of Haughey Boland and that's the No. 3 account in Dame Street?

A. That's correct.

Q. I think on that occasion you were able to match two debits which the Tribunal brought to your attention?

A. That's correct.

Q. And on this occasion the Tribunal has asked you to perform much the same exercise but in relation to, I think, thirteen debits?

A. That's correct.

Q. And what I am proposing to do, Mr. Carty, is you provided

the Tribunal with a Memorandum of Evidence and I think if I just take you initially through that Memorandum and then we can consider the debits and in fact we can put them in the context of the evidence which we have heard on the last number of days.

A. Fine.

Q. And your Memorandum of Evidence is dated 7th July, 1999 and you should have a copy of that before you?

A. I have.

Q. And I think you state in that Memorandum that you are Paul Carty of 29 Earlsfort Terrace, Dublin 2 and you refer to the letter of the 5th July, 1999 from the Tribunal to Mr. Maurice Curran of Messrs. Mason Hayes & Curran, Solicitors and the enclosed copy bank statements and I think in fact, Mr. Carty, that that was the letter whereby the Tribunal drew your attention initially to these debits which we are going to consider in your evidence?

A. That's correct.

Q. You state you have compared the dates of the withdrawals highlighted by the Tribunal on those statements with the dates of lodgments to the Haughey Boland No. 3 account, is that correct?

A. That's correct.

Q. And you state that there would appear to be lodgments to the Haughey Boland No. 3 account in amounts which appear to correspond with the amounts of the withdrawals?

A. That's correct.

Q. And you say that on the dates which either correspond with the dates of the withdrawals or are within a few days of such dates?

A. That's correct.

Q. You go on to say in relation to document 3, this was a debit of €10,000 on the 1st March, 1985

A. Sorry, October, is it, 1st October?

Q. 1st October, 1985 to Amiens Securities Limited account 08880018 is likely to be included in the lodgment of

€17,500 lodged to Haughey Boland No. 3 account on the 2nd October 1985, is that correct. We will deal with that in

due course. You further stated there are no records

relating to these matters which arose between 1985 and 1989

other than the Haughey Boland No. 3 account bank statements which have been supplied to the Tribunal?

A. That's correct.

Q. Now, if we can go on, I think, Mr. Carty, just deal with each of those withdrawals which the Tribunal brought to

your attention in turn and I think you should have before

you a full set of the documents which have been put

together in relation to these transactions.

A. Yes.

Q. Now, the first two debits I think were, just to put the matter in context, were to an account of Amiens Securities Limited which was an account 08116008, isn't that correct?

A. That's correct.

Q. And, in fact, I think that is an account on which Ms.

Sandra Kells has given evidence I think on Friday last and it was an account into which a cheque drawn on an account of Dr. John O'Connell was paid and I think in the evidence also, it's been established or appears that a transfer was made from that account to an account of Haughey Boland or an account of Celtic Helicopters I should say.

A. Sorry, Miss O'Brien, I am looking at your letter of the 5th July.

Q. Yes.

A. Where you have the exhibits all listed down and the first one speaks about a debit on the 25th January, is that what we are speaking about?

Q. Exactly. The first two were to an Amiens account 08116008 and simply to put that query to you in context, I am simply indicating the circumstances in which these queries arise, in that Miss Sandra Kells gave evidence in relation to this particular account of Amiens Securities Limited on Friday last and in the course of her evidence, she identified these two debits to Haughey Boland & Company?

A. Fine.

Q. Now, the first of the debits was the 25th January, 1985 and if we can put that up on the screen there, you see the 25th January, 1985, there was a debit of €25,000 described as a payment to Haughey Boland & Company and this debit was mentioned in the evidence of Miss Kells on Friday last.

And I think you have been able to match that to a credit to your No. 3 account, is that correct?

A. That's correct.

Q. And if we just put the copy statement of your No. 3 account on the screen, that should assist you. And I think the debit was on the same date, is that correct, the

A. The 25th, that's correct.

Q. As the debit and that was to your No. 3 account?

A. Yes, the only point I just make, I don't in terms of Amiens Securities, I haven't seen any pay cheque or identification of the payee.

Q. No, indeed those pay cheques aren't available and the only source of information is the entry on the bank statement which is Haughey Boland & Company?

A. Yes.

Q. But all the Tribunal has asked you to do, Mr. Carty, is simply indicate whether there appears to be a corresponding credit to your No. 3 account?

A. That's correct, there is.

Q. Now, the second debit which was brought to your attention was to the same Amiens account 08116008 and that was on the 21st March, 1985 and that was in the sum of €10,000.

A. Yes.

Q. And have you been able to match that debit to any credit to your Haughey Boland account?

A. Yes, you identified the statement.

Q. On the 22nd March of 1985?

A. A day later.

Q. A day later on the debit and that shows a lodgment of

€10,000?

A. That's correct.

Q. So they were the two debits relating to the Amiens Securities account 08116008 and again, just to put the matter into context, Mr. Carty, the next four debits which the Tribunal brought to your attention were debits to another Amiens Securities account in Guinness & Mahon and this time it was to an account 08880018, is that correct?

A. That's correct.

Q. And just to put that into context, again, Mr. Carty, evidence was given by Miss Kells on Friday last in relation to credits to that account which were, the source of which was a No. 2 loan account of the late Mr. P.V. Doyle and in the course of her evidence on Friday last, Miss Kells also mentioned these debits which we are now going to deal with.

Now, the third debit then was on the 1st October, 1985 and it was a debit to that Amiens Security account 08880018 and the description on the bank statement is H. Boland & Company and again I think you have been able to match that to a credit to your number, to the Haughey Boland No. 3 account, is that correct?

A. Yes, that's well in that case, there's a lodgment on the 2nd October but it's for €17,500.

Q. Yes.

A. So it is likely that the €10,000 would be included in that lodgment.

Q. Would have been included in the lodgment of €17,500 so it would have been an amalgamated lodgment?

A. Yes.

Q. The next of the debits brought to your attention, Mr. Carty, was a debit to the same Amiens account and it was on the 20th December, 1985 and this time the description on the account statement, the Guinness & Mahon account statement is Haughey Boland & Company No. 3 account?

A. Yes.

Q. And again that's a debit of €10,000 and I think you have also been able to match that to a credit to the Haughey Boland No. 3 account, is that correct?

A. That's correct.

Q. And I think if we can put that on the screen and I think in fact that's on the same date although it's not altogether clear on the copy on the overhead screen, I think the lodgment to the No. 3 account was on the same date as the debit to the Amiens account, is that correct?

A. That's correct.

Q. Now, the next of these debits that was brought to your attention was on the 13th February of 1986 and that's document number 5 and it's also in the sum of €10,000 and again the legend on the bank statement is the same, it's Haughey Boland & Company.

A. Yes.

Q. And have you been able to match that to a corresponding credit?

A. Yes, on the 14th February.

Q. If we can put that on the screen, on the 14th February, it is on the screen, there's a lodgment of €10,000 to the No.

3 account.

A. Yes.

Q. Then on the 24th March, 1986, there was a further debit to the Amiens account 08880018 and it's slightly out of focus, we are having some difficulty getting that into focus but I think you have a hard copy of that document before you.

A. I do, yes.

Q. And you will see

A. Just bear with me.

CHAIRMAN: Certainly, take your time.

Q. MS. O'BRIEN: It's document number 6, Mr. Carty. It's been numbered in the documents before you. Oh that's better now.

A. Sorry, I don't have

Q. It seems to have a life of its own today.

A. My eye sight isn't too good, 24th March, yes.

Q. It's not just Haughey Boland but there's the qualification that it's the No. 3 account?

A. Yes.

Q. I think you have also been able to assist the Tribunal in matching that to a lodgment of the No. 3 account and I think that's on the 24th March?

A. That's correct.

Q. Of 1986. Now, the next debit I want to pass on for the moment and I will come back to because it's not to an Amiens account, I want to deal with all of the Amiens Accounts debit initially and then I'll come back to the debit on the 29th April and also the one on the 29th October so if I could just pass on for the moment to the debit on the 14th July of 1986 and that's the final of the debits that have been brought to your attention to this Amiens account 08880018 and this time the debit is in the sum of œ50,000 and the legend reads "Haughey Boland & Company, No. 3 account".

A. That's correct.

Q. And I think you have also been able to match that to a lodgment in the same amount on proximate date to your No. 3 account?

A. 16th July.

Q. So it was two days later?

A. Yes.

Q. And that then, those were the five debits to that Amiens account 08880018 that the Tribunal brought to your attention?

A. That's correct.

Q. If I can just move on then to the final set of debits to the Amiens accounts that the Tribunal brought to your attention and that's number 10, 11, 12 and 13 in the legend that was forwarded to you by the Tribunal, to your solicitor by the Tribunal on the 5th July last. Now this

account again, just to simply put it in context, Mr. Carty, was an account on which Miss Sandra Kells gave evidence during the course of the sittings of the Tribunal yesterday and it appears that there was a lodgment to that account in June of 1989 of a cheque drawn on an account in Allied Irish Banks, Baggot Street which was an account in the name of Mr. Haughey, Mr. Ahern and Mr. MacSharry and through which it appears the Party Leader's Allowance was operated and that's simply to put the query to you in context and as I said, there were four debits in all to that account that the Tribunal brought to your attention and I should of course say in this instance, they are not identified on the account statements as Haughey Boland payments. They are simply identified as cheque numbers.

A. Can I just clarify, Ms. O'Brien, one point? This is Amiens Investments we are speaking about as distinct from Amiens Securities.

Q. Yes. I mean the evidence has been from Miss Kells that there were accounts operated in Guinness & Mahon by Mr. Traynor in the name of both Amiens Securities Limited and Amiens Investments Limited. Now, the first of these as I should say, these debits in fact jump forward two to three years and they all date in the period from April, 1989 to September, 1989. And the first of these debits was on the 24th April, 1989 and was in the sum of €20,000 and you see on the screen the description is a cheque number 17213 and unfortunately a copy of that paid cheque is not

available but the Tribunal has asked you to indicate whether that appears simply, from a visual inspection of the Haughey Boland No. 3 account, to match any credit to the No. 3 account?

A. I have a lodgment for a similar amount of €20,000 on the 21st April.

Q. On the 21st April.

A. Yes, the payment there is 24th April.

Q. And the lodgment is the 21st April of 1989.

A. That's correct.

Q. Of €20,000. Now, the second of these debits to the Amiens Investments account was on the 9th May of 1989 and on that occasion, the debit was in the sum of €30,000 and again, it's described as a cheque payment and the number is 172138 and the Tribunal has asked whether you are in a position to indicate whether there was any credit to your No. 3 account of an amount equivalent to that on a date proximate to it?

A. I have an amount equivalent to that 30,000 of a lodgment on the 8th May 1989.

Q. One day prior to the debit shown on the Amiens account, the 8th May 1989, €30,000.

A. Yes.

Q. Now, the third of these debits dating from mid 1989 to the Amiens Investments account was on the 6th June, 1989. That was in the sum of €50,000. Again, it's described as a cheque payment.

A. Just one other point, Miss O'Brien, on that statement, no

bank is mentioned. What bank is that?

Q. That's Guinness & Mahon.

A. Yes, okay. Yes.

Q. It's a copy statement, it's an office copy statement.

A. But it's Guinness & Mahon.

Q. Just to clarify that, yes, yes, it's a Guinness & Mahon

account and in fact the address, the address is 42

Fitzwilliam Square, Dublin 2 was the address at which the

account of Amiens Investments Limited was registered but it

is a Guinness & Mahon account.

A. I see.

Q. So the third of these debits was on the 6th June of 1989

and was in the sum of €50,000.

A. Yes.

Q. And again, I think you have been able to identify a credit

to your No. 3 account of the same amount on a proximate

date

A. 2nd June.

Q. 2nd June?

A. I think the gap is explained. The cheque is the 6th June

and the lodgment is the 2nd. That's a Friday.

Q. It was a Friday. So that explains?

A. I think so.

Q. It explains the gap in the days and then the final of these

debits to the Amiens Accounts which I wanted to bring to

your attention, Mr. Carty, was on the 11th September, 1989

and this time the debit was in the sum of €40,000 and again

it's described as a debit in respect of a cheque and I think you have also been able to match that up to a corresponding credit to the Haughey Boland No. 3 account.

I think on this occasion the credit was on the 8th September of 1989?

A. That's correct.

Q. We can see it there on the screen. The 8th September, 1989, lodgment and €40,000.

A. That's correct.

Q. Now, they are the debits to the Amiens Accounts which, as I say, have arisen in the course of Miss Kells' evidence over the last number of days and there were two other debits, Mr. Carty, which we just passed by and I want to return now to, because both of those debits were to an account other than Amiens and otherwise than Guinness & Mahon and the first of those debits, both of them were in 1986. The first was on the 29th April of 1986, and the second was on the 29th October, 1986 and if I can take the first of them in time on the 29th April, 1986. Now, that is a debit to an account in Allied Irish Banks, Baggot Street, although as I said, this is office copy so the name of the bank doesn't appear on the copy account. You see the account number was in the middle of the page of the top, 30208062 in the account in the name of Haughey Ahern and MacSharry, which was Charles Haughey, Bertie Ahern and Ray MacSharry and you see the transaction on the screen was a debit on the 29th April, 1986 and the debit was of €10,000. And the

Tribunal has asked you to assist as to whether this appears to match a corresponding credit to the Haughey Boland No. 3 account, and I think if we can put the corresponding account statement up, am I correct in thinking there appears to be a credit on the 25th April, a lodgment also of €10,000?

A. Yes, it appears to be. I cannot say categorically it's the same €10,000.

Q. Of course you can't.

A. It matches, around the same time.

Q. There's a matching credit?

A. Around the same time, yes.

Q. But in the absence of documents obviously you are not in a position to state categorically that the source of that credit was the debit to the AIB account?

A. I am not able to say.

Q. But they do appear to match in time?

A. The amounts match, yes.

Q. And then the second of those debits to the same account which the Tribunal brought to your attention was some months later on the 29th October, 1986 and this time the debit was in the sum of €25,000 and I think you can match, it appears to correspond to a credit to the No. 3 account on the previous date, the 28th October, 1986 of €25,000.

A. I have a lodgment of a similar sum on the 28th October.

Q. Of 1986?

A. Of 1986, although again I haven't seen any pay cheques.

Q. No, pay cheques unfortunately aren't available so the only exercise we can do is simply examine on a visual examination as to whether there was a corresponding credit or a credit of an equivalent amount on a proximate date?

A. That's correct.

Q. Just one other matter, Mr. Carty, that I wanted to deal with and that arises out of evidence given by Miss Sandra Kells on Thursday last and I think the Tribunal has brought this matter to your attention and Miss Kells, in the course of giving evidence in relation to the source of credits to an account in the name of Mr. Haughey in Guinness & Mahon referred to a credit on the 26th October, 1979 of €10,000 and she also referred to copies of interoffice memoranda that were within the files of Guinness & Mahon and maybe we can just put those memorandum, first of all, if we can put an extract if we could possibly put those memoranda up on screen 26th October, 1979, there was an interoffice memorandum from the late Mr. Traynor to Mr. O' Dwyer, re C.J. Haughey. "I enclose herewith cheque for €10,000 which I should be grateful if you would lodge to the account of Mr. C.J. Haughey."

A. I have seen that, yes.

Q. And there was then a second interoffice memorandum as well dated the 30th October, 1979 to the late Mr. Traynor from Mr. O'Dwyer, it's headed C.J. Haughey and it states "The above account was credited with the sum of €10,000 cheque H.B. & Company" and again I think you

have seen a copy of that memorandum, it's been brought to your attention?

A. That's correct.

Q. And arising out of that, you have provided the Tribunal also with a Memorandum of Evidence as to the existence of any records that are now held by Deloitte & Touche which might throw some light as to what the circumstances or purpose of what appears to have been a cheque payment was and I think you furnished the Tribunal with a memorandum of the 12th July, 1999?

A. That's correct.

Q. And if I take you through that and I think you produced also one document and we can put that on the overhead screen. Paragraph 1 you said that this Memorandum of Evidence relates to a lodgment to an account of Mr. C.J. Haughey at Guinness & Mahon on the 26th October, 1979 for €10,000.

A. Yes, that's correct.

Q. You stated a memorandum dated the 30th October, 1979 from Mr. P O'Dwyer in Guinness & Mahon to Mr. J.D. Traynor in Guinness & Mahon indicated that the account of Mr. C.J. Haughey "Was credited with a sum of €10,000 and again I think you have seen a copy of that memorandum, it's been brought to your attention?

A. That's correct.

Q. And arising out of that, you have provided Tribunal also with a Memorandum of Evidence as to the existence of any

records that are now held by Deloitte & Touche which might throw some light as to what the circumstances or purpose of what appears to have been a cheque payment was and I think you furnished the Tribunal with a memorandum of the 12th July, 1999?

A. That's correct.

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A. Yes, that's correct.

Q. You stated a memorandum dated the 30th October, 1979 from Mr. P. O'Dwyer in Guinness & Mahon to Mr. J.D. Traynor in Guinness & Mahon indicated that the account of Mr. C.J. Haughey "Was credited with a sum of €10,000 cheque H B & Company" and that's simply referring to the two memorandum that were on the screen. Paragraph 3 you stated you retrieved from Allied Irish Banks bank a copy of the bank account statement of the Haughey Boland & Company No. 3 account for October, 1979 indicating a cheque payment of €10,000 on the 31st October of 1979, the copy bank statement provided by AIB bank does not specify the payee and I think that's now on the screen and I think that shows the 31st October, 1979, it appears that there was a debit to that account of €10,000?

A. That's correct.

Q. Which may or may not be relevant?

A. That's correct.

Q. And then finally, you have said that, you have stated that Deloitte & Touche have no records relating to that period other than the copy bank statement referred to above.

A. That's correct.

Q. So from your inspection of all of the records that are now in the possession of Deloitte & Touche and from inquiries you have made, you are not in a position to assist the Tribunal as to what the purpose of that payment by Haughey Boland to Mr. Haughey might have been?

A. That's correct. Miss O'Brien, just one point for completeness, I have never seen the lodgment of €10,000 but presumably Miss Kells put that up on the screen.

Q. I think we can put that up on the screen again for completeness sake. Now, in fact, I will hand you up a copy of it and you will be able to see more clearly.

(Document handed to witness.)

And you will see on the 26th October, it refers to a cheque lodgment

A. Yes.

Q. And a credit of €10,000?

A. Yes, I am happy now.

Q. Good. Thank you, Mr. Carty.

A. Thank you.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. QUINN:

Q. MR. QUINN: Just one question, if I may, Mr. Carty, just on behalf of the Revenue, just ask you to confirm during this period up to 1991, Haughey Boland were the accountants to Mr. Haughey as well, isn't that right, in addition to providing this fee paying service?

A. When you say "accountants", that's a very broad term.

Q. They are a firm of accountants?

A. You have to ask what they did do.

Q. Did you provide services in addition to bill paying services during this period?

A. Yes.

Q. In your capacity as accountants?

A. Yes.

Q. Thank you.

CHAIRMAN: Anything, Mr. Allen?

MR. ALLEN: No, Chairman.

CHAIRMAN: Thanks indeed, Mr. Carty.

THE WITNESS THEN WITHDREW.

MR. HEALY: Peter Fitzpatrick.

MS. MARSHAL: I appear for Mr. Fitzpatrick, Sir.

CHAIRMAN: Thank you.

PETER FITZPATRICK, HAVING BEEN SWORN, WAS EXAMINED AS

FOLLOWS BY MR. HEALY:

CHAIRMAN: Please sit down, Mr. Fitzpatrick.

Q. MR. HEALY: Thank you, Mr. Fitzpatrick. The evidence that you are being asked to give relates to material that was mentioned by the Tribunal last week and concerns certain loans which appear to have been made to Mr. Haughey by Merchant Banking. Your only association with or connection with, I suppose, is the way I should put it, with Merchant Banking is as liquidator of the company?

A. That's correct.

Q. And it's in that capacity you are providing this information to the Tribunal?

A. Correct.

Q. You provided a statement to the Tribunal and much of what you have to say has already been touched on by Mr. Patrick Shortall who was originally the provisional liquidator of the company and who subsequently became, I think, the joint official liquidator with you, am I right on that?

A. That's right, after some seven years.

Q. He was the sole liquidator or you were?

A. He was the sole liquidator up until 1989 and when he retired from Coopers & Lybrand, I stepped into his shoes as the appointed liquidator.

Q. I see. What I propose to do is take you through your statement and then to refer you to one or two documents?

A. Right.

Q. You see, the petition for the winding-up of Merchant Bank was presented on the 30th April, 1982. Mr. Shortall was appointed liquidator on the 4th May, and the 24th May, the High Court ordered Merchant Banking be wound up and Mr. Shortall be appointed official liquidator. By order of the High Court, 30th March, 1989 you were appointed official liquidator jointly with Mr. Shortall. On May 1st, Mr. Shortall was discharged as official liquidator and you are now the official liquidator of Merchant Banking Limited. Has the company been dissolved yet? You describe yourself as now the official liquidator?

A. That's correct. I think technically the company is dissolved with the appointment of the liquidator but the liquidation is still ongoing and I have not yet been discharged as official liquidator.

Q. You say at the date of the appointment of Mr. Shortall as official liquidator, Charles Haughey and Larchfield Securities were, according to the books of Merchant Banking Limited, were indebted to MBL in respect of outstanding loans.

A. Correct.

Q. The amounts of those loans which have already been mentioned were in Mr. Haughey's name, œ6,671.33 and in the name of Larchfield Securities Limited, œ16,554.68?

A. Correct.

Q. In October of 1990, you say that you received two written requests from Mr. Haughey to confirm specific information

in relation to the liquidation of Merchant Banking Limited and the loans which had been advanced to himself and Larchfield Securities Limited. The books and records of Merchant Banking indicated that a loan of €2,500 was advanced to Mr. Haughey on the 22nd July of 1976, and that a loan of €6,000 was advanced to Larchfield Securities on the 11th May, 1976. That interest on the loans was to be charged at 18 percent per annum although erroneously recorded in the books of Merchant Banking at 12 percent. Both loans were supported by Promissory Notes. Both loans were recorded in the books and records of Merchant Banking and interest was dealt with on an annual basis. The total amounts due on foot of the loans were discharged in full in June of 1982?

A. That's correct.

Q. So, obviously you had nothing to do with that in June of 1982?

A. Yes.

Q. But the first indication you had that there was any query in relation to this matter was a letter from Mr. Haughey, is that correct, or a request from Mr. Haughey?

A. Yes.

Q. That you confirm certain facts with regard to the loans?

A. Yes.

Q. On the basis of information contained in the books and records of Merchant Banking, you wrote to John S. O'Connor & Company solicitors, 4-5 Upper Ormond Quay, Dublin 1 on

13th October 1990 and you confirmed the following points; that Merchant Banking had been placed into liquidation in 1982, that the amount due in respect of each loan was paid in full promptly upon demand and each loan was regarded as a normal commercial loan and was treated as such in the records of Merchant Banking Limited. You say that you believe a demand letter was sent to Mr. Haughey in or about May, 1982 but you were able to find a copy of it in Merchant Banking.

A. That's correct

CHAIRMAN: What was the date of that letter in 1990?

MR. HEALY: 23rd October 1990, Sir. I will, in due course, be referring to a copy of the letter. I will just refer to some of those letters on the overhead projector, Mr. Fitzpatrick, and if we could have the letter of the, of October of 1990 from Mr. Haughey to Mr. Peter Fitzpatrick. This is a letter from Abbeville, Kinsealy, County Dublin. It appears to be Mr. Haughey's own personal notepaper and if we can just put it up for the moment. It states that it's from and appears to be signed by Mr. Haughey at the bottom and certainly you took it to be a letter from Mr. Haughey?

A. That's correct.

Q. Mr. Haughey says "Dear Mr. Fitzpatrick, re Merchant Banking Limited in liquidation. I would be grateful if you would remit a letter to my legal advisers J.S. O'Connor & Company

along the lines set out below. Confirmation of the date of liquidation of Merchant Banking Limited, confirmation that the account in the name of Larchfield Securities Limited was settled in full on demand from the liquidator including accumulated interest and 3, confirmation that the liquidator's report indicates that this was a normal banking transaction and that there is no suggestion in the report of any impropriety of any kind. I greatly appreciate your kind cooperation in this matter."

Could I just ask you one thing about that letter, Mr. Fitzpatrick, was that preceded by any telephone request or any communication to you by Mr. Haughey or anyone on his behalf?

A. There was a telephone call from Mr. Haughey's solicitor, Mr. O'Conor, some days before I received this letter, just to ask me or to inform me that a letter was on its way requesting certain information about loan accounts operated in the name of Mr. Haughey and Larchfield Securities.

Q. What is the report that is mentioned in the letter from Mr. Haughey?

A. I have no idea which report that is. I mean, obviously the letter itself, you know, is a letter which you would expect to have from time to time from customers of Merchant Banking, requesting confirmation of loan account balances, of the fact that they have been settled or, in fact, on the other side, deposit account balances. The third paragraph

which sought confirmation about reference to the loan account in the liquidator's report, I couldn't find any reference in any liquidator's report to these loan accounts.

Q. And did you have any idea or did you take up with anyone what that reference was at the time?

A. I inquired off my colleagues in Coopers & Lybrand at that point in time, who would have been involved in Merchant Banking prior to that date, as to whether or not there was any specific reference to these loan accounts in a liquidator's report and the only reference which I could find which might refer to this item was in a sort of a statement of affairs type report which was lodged in court.

Q. Right.

A. But there was no specific reference or narrative about this amount at all.

Q. I think you have been given a copy of some of the documents referred to by Mr. Shortall in his evidence, is that right?

A. Well, I have a number of documents, I am not sure which documents you referred to.

Q. Well, the one I want to refer you to is the last of the documents appended to Mr. Shortall's Statement of Evidence, I can let you have a copy. It's a letter of the 17th June, 1982 from Mr. Shortall to Mr. Traynor.

(Document handed to witness.)

A. Yes, I have seen that, yes.

Q. Yes, and that letter

A. Thank you.

Q. Was, if you like, the culmination of a short correspondence between Mr. Shortall or one of his assistants in Coopers & Lybrand and Mr. Traynor, who was then dealing with the matter on Mr. Haughey's behalf, leading to the discharge of the loans?

A. That's correct.

Q. And the final paragraph of that letter says "I confirm that both loans have now been discharged in full and I thank you for your assistance in dealing with the matter." And I take it that that correspondence was readily accessible in your records?

A. It was, yes.

Q. Nobody asked you for copies of any of that correspondence which would have proved to some extent what it was was being sought in the letter of 1990, isn't that right?

A. Indeed.

Q. You received a letter of the 23rd October, 1990, from solicitors for Mr. Haughey. I don't know what the date of the personal letter from Mr. Haughey was because my copy and I think the only copy I have mentions the month but not the day, but assume in any case it must have been prior to the letter of the 23rd October?

A. It probably was.

Q. On the overhead projector, from John S. O'Connor, solicitors, addressed to you at Coopers & Lybrand re Mr.

Charles Haughey and Larchfield Securities and Merchant Banking. It says "Dear Mr. Fitzpatrick, we understand you have received due authorisation from Mr. Charles Haughey and Larchfield Securities to transmit direct to us the information requested in that authorisation in each case.

As the matter is most urgent, we should be obliged if you could please fax direct to us, by return, separate confirmation in respect of Mr. Charles Haughey and Larchfield Securities. We look forward to hearing from you". Did anyone tell you in any telephone conversation what the particular urgency was?

A. No, not at all.

Q. You then sent two letters which are in exactly the same terms dated 23rd October, 1990, to Messrs. John S. O'Connor, one with respect to Mr. Charles Haughey and one with respect to Larchfield Securities?

A. Correct.

Q. And if we can just put I omitted to mention one document. If we can take that document down for a minute, I omitted to put on the screen, on the overhead projector, the fax cover sheet which accompanied the letter you got from John S. O'Connor. There seems to be something wrong with the focusing?

A. Yes, I have got a hard copy here.

Q. That fax cover sheet is also marked "urgent" and underlined, it's over the words "Telefax message".

A. Yes.

Q. Can you remember what member of the firm of John S. O'Connor spoke to you?

A. From recollection, I think it was Mr. O'Connor himself.

Q. Mr. O'Connor senior?

A. Well, sorry, whether it was senior or junior, it was a voice on the other end of the phone.

Q. Would it have been Mr. Pat O'Connor?

A. It could have been, I have no precise recollection on the points. I can remember Mr. O'Connor, I am sorry if I can't remember the first name.

Q. In any case, the overhead projector shows it more clearly now, that this was again an urgent request and you responded to it, if I may say so, on the same day and if we can pass on to your response on the overhead projector.

The response is the same in each case, I think I am correct in saying that, and you said "Dear sirs, further to the letter of authorisation today received from your client Larchfield Securities, I can confirm the following... on the 24th May of 1982. The loan due by your client to Merchant Banking Limited was paid in full promptly upon demand by the official liquidator. The loan to your client was regarded as a normal commercial loan and was treated as such in the records of Merchant Banking Limited. " And that was the information you were asked to provide and that's the information you provided?

A. Well, with the possible exception in paragraph 3 of my response, I don't refer to any liquidator's report or any

aspects of impropriety in a liquidator's report because I couldn't find a reference to any such report. I might just say by way of clarification, Mr. Chairman, that there is a rather famous liquidator's report in Merchant Banking Limited which went to the DPP eventually and that was prepared by Mr. Shortall sometime after his appointment.

It goes into the manner in which Merchant Banking conducted its business and, in particular, the way in which the directors conducted the business of the company. It referred to a number of loans which were then in existence in Merchant Banking Limited but the loans to Larchfield Securities and to Mr. Haughey were not referred to in that report.

Q. I see.

CHAIRMAN: So the aspects of controversy in the liquidation don't relate to the Terms of Reference that this Tribunal has to

A. Indeed.

Q. MR. HEALY: I just want to ask you one other thing about this Mr. Fitzpatrick. You say that the loans were paid in full promptly upon demand by the official liquidator?

A. Correct.

Q. There had been no demand for any of the loans up to that time?

A. That's correct, and the loan documentation, in fact, is silent as to sort of repayment dates on it which is not an

unusual feature of Merchant Banking.

Q. But there was - in fact, nothing had been paid off the loan from the moment it was made?

A. No.

Q. Nor was there any request at any time for any payment off

A. There were no requests. Interest merely rolled up on annual rest periods.

CHAIRMAN: Because it was 18 percent for quite a long time, it ultimately became a reasonably expensive payment in the context of the original principal?

A. 18 percent would have been a commercial rate of interest in those days.

MR. HEALY: Anyone borrowing at 18 percent knew he was letting himself in for quite a substantial interest payment in due course if the loan wasn't serviced?

A. Indeed he would and the rate of interest is again referred to in the Promissory Note which was signed by Mr. Haughey for his own overdraft of €2,500 and again by Mr. Haughey and Maureen Haughey as directors of Larchfield Securities.

Q. Did you know anything about the purpose of these loans from your examination of the documents that came into your possession as liquidator?

A. I have no idea as to why they were made, other than the fact that the loan to Mr. Haughey personally is referred to as an overdraft facility.

Q. Yes. Are you aware of the evidence given by Mr. Patrick Gallagher to this Tribunal that he was the person who was asked for these loans?

A. No.

Q. In his evidence he stated that he was asked for these loans, that the money could be made available to purchase a house or to build a house in fact?

A. I see, I was unaware of that.

Q. There's no reference to that, I take it, in any of the loan documentation?

A. Not that I have seen.

Q. Nor of any title deeds of the lands on which the house were to be purchased lodged as security?

A. No.

Q. Mr. Gallagher confirmed no security was obtained?

A. Which might explain the 18 percent charge.

Q. Did you tell me that was the normal commercial rate at the time?

A. It would have been the commercial rate at that time for an unsecured overdraft or unsecured loan.

Q. Would it have been a feature of loans granted by Merchant Banking there would have been no servicing or any request by the bank to service the loans?

A. It was a regular feature of loans in Merchant Banking, yes.

Q. They were never followed up?

A. That they would have been somewhat open-ended in terms of perhaps being a bullet type loan that interest just

accumulates and is repaid upon demand or whenever the customer comes into funds.

Q. In this case we know there was no demand at all by the bank

A. Until the liquidator came in, yes.

Q. I am just asking you whether that was a common feature of loans in Merchant Banking, people got loans from the bank and were never ever asked to repay them?

A. From recollection, there would have been a few.

Q. Just a few?

A. Just a few.

Q. Would they have been loans made by Mr. Gallagher himself as opposed to ordinary bank officials attached to the bank?

A. Again, I'd be generalising if I said yes but, you know, from recollection, Mr. Gallagher and a number of his associates within Merchant Banking would have all been very active in giving these loans.

Q. Thank you very much.

CHAIRMAN: Nothing, Mr. Quinn? Miss Marshal? Very good.

Thank you very much, Mr. Fitzpatrick.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. HEALY: That's the end of the evidence intended to be given today, Sir.

CHAIRMAN: Well, in the context of the considerable work

that remains to be done with a view to tomorrow's sittings,
then it seems justified that we adjourn early on this
occasion. Half ten tomorrow.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
FRIDAY, 16TH JULY 1999 AT 10:30AM.