

THE HEARING RESUMED ON THE 6TH OF OCTOBER, 1999, AS

FOLLOWS:

CHAIRMAN: Good morning. Mr. Coughlan?

MR. COUGHLAN: May it please you, sir.

At these resumed public sittings of the Tribunal a number of areas will be examined in the context, mainly, of Terms of Reference A, B and C. Firstly, the Tribunal will re-visit some of the material already touched on at its adjourned sittings in July. This will cover a number of aspects of the Leader's Allowance Account, including lodgements to the account of payments made to defray the medical expenses of the late Mr. Brian Lenihan, but also cover other aspects of the overall operation of this account.

Thereafter the Tribunal will pass on to examine material accumulated in the course of its private investigatory work with a view to arriving at some figure for the quantum of, and to identifying to some extent the sources, of the monies used to fund the bill paying services operated on behalf of Mr. Haughey during the years 1985 to 1991. The Tribunal will examine also more extensively than it has hitherto done, the role of the late Mr. J Desmond Traynor in the finances of Mr. Haughey, and in particular the manner in which the Ansbacher Accounts operated in connection with payments made to Mr. Haughey, to which

reference has already been made in connection with payments made to Mr. Haughey.

Detailed opening statements will be made as soon as the Tribunal comes to deal with each of these areas.

At these resumed sittings it will be necessary to refer to the Terms of Reference for the purpose of revising and amplifying the Tribunal's interpretation given on the 24th of September, 1998. This is something I will refer to later on when I come to deal with the relevant material made available to the Tribunal.

Firstly, dealing with Irish Permanent Building Society Cheques.

At the Tribunal's adjourned sittings evidence was given that a number of cheques drawn on the account of the Irish Permanent Building Society were given to Mr. Charles Haughey in June of 1989. One of these cheques, dated the 7th of June, was for the sum of €20,000 and was given to Mr. Haughey in response to a request for contributions to help defray the medical expenses of the late Mr. Brian Lenihan. Evidence was given that another of these cheques, again dated the 7th of June, this time for the sum of €10,000, was intended as a contribution to Mr. Haughey's personal campaign for the June elections of that year.

These cheques appear to have been endorsed by Mr. Haughey and were then lodged to an account of Celtic Helicopters at

the Dublin Airport branch of the Bank of Ireland.

Subsequently, a single cheque for €30,000 was drawn on the account of Celtic Helicopters at that bank. This cheque was dated the 13th of June of 1989. It was made out to cash. Evidence has already been given by Mr. John Barnicle, a Director of Celtic Helicopters, (evidence with which the Tribunal was told Mr. Ciaran Haughey agreed), that the payment of €30,000 into the account of Celtic Helicopters and the subsequent payment of the same amount out of the account, could only have represented an intended prepayment by Mr. Haughey to the helicopter company for flying hours; that the payment out could only have represented a cancellation of that prepayment for flying hours.

Before any of this evidence was given at the Tribunal at its July sittings, the material and the available statements concerning the two Irish Permanent cheques amounting to €30,000, and the single Celtic Helicopters cheque in the sum of €30,000, were brought to the attention of Mr. Haughey's solicitors and he was invited to comment. (This, of course, is the case with all material adduced in evidence at the Tribunal's public sittings). Perhaps I should clarify; we have the payment out, we didn't have the actual cheque at that stage.

Mr. Haughey subsequently made a statement to the press on the 29th of July, 1999. By letter of the 30th of July,

1999, in response to a request from the Tribunal, Mr.

Haughey's solicitors confirmed this statement.

Mr. Haughey's statement is as follows:

"Widespread media reports that former Taoiseach, Charles Haughey, diverted for his own use money subscribed to a fund raised to meet the medical expenses of the late Mr. Brian Lenihan are untrue.

These reports relate to two cheques dated the 7th of June of 1989, payable to Charles Haughey issued by the Irish Permanent Building Society, one for €20,000 intended as a subscription to the Brian Lenihan Fund and the other for €10,000 intended as a political donation. A general election was held on the 15th of June 1989". The article goes on:

"These two cheques were inadvertently lodged to the account of Celtic Helicopters on the 13th of June, 1989. On the same day a cheque for €30,000 was drawn on the Celtic Helicopters account in Bank of Ireland, Dublin Airport. An examination of the available bank records indicate that this cheque for €30,000 was in fact lodged to the Party Leader's Account on the 20th of June of 1989 in Allied Irish Bank, Baggot Street. This was the same account to which the contributions to the Brian Lenihan Fund were lodged.

All of the above records are available to the Moriarty Tribunal" and it is dated the 29th of July, 1999.

Now, the statement issued by Mr. Haughey is referred to, and he correctly indicates in the statement that there were widespread media reports, that suggestion was not made at the Tribunal. The Tribunal's interest was in the cheque.

On receipt of confirmation of the contents of the statement from Mr. Haughey's solicitors, the Tribunal requested Mr. Haughey, through his solicitors, to identify the bank records available to the Tribunal which would have indicated what was stated in the statement; namely, that the cheque for €30,000 had in fact been lodged to the Party Leaders Account on the 20th of June, 1989, at Allied Irish Bank, Baggot Street. No response has yet been received from Mr. Haughey's solicitors. The Tribunal has however, examined the Leader's Allowance Account at the relevant time. It has also examined related accounts. In the light of the statement the further information made available to the Tribunal in the matter has once again been re-examined.

The Celtic Helicopters, Bank of Ireland, Dublin Airport Branch statement records a lodgement on the 13th of June of €30,000. That's on the overhead projector at the moment. Sorry, could you just - I wonder could you just leave that, the original statement up for the moment, please? The "13" is slightly obscure but it is in fact and it has been

confirmed, that it is in fact the 13th.

This corresponds, this lodgement corresponds to the two cheques drawn on the account of Irish Permanent Building Society, that is to say the €20,000 cheque and the €10,000 cheque. It would appear that a cheque was drawn on the same date in the sum of €30,000 on the account of Celtic Helicopters at Bank of Ireland, Dublin Airport Branch. On the 13th I wonder could we just show that on the overhead projector?

The cheque was the €30,000 cheque payable to cash. The reverse side of this cheque contains a bank stamp or brand. The brand indicates that the cheque was presented at Allied Irish Banks, 1 to 3 Baggot Street branch on the 20th of June of 1989. It doesn't come up very clearly, but that has in fact been confirmed, what it does state.

However, the Tribunal has been unable to identify any document or uncover any evidence suggesting that the €30,000 was actually lodged to the Leader's Allowance Account on that day or on any subsequent date.

There is no discrete lodgement of €30,000 to the Leader's Allowance Account on the 20th of June, 1989, the date of the presentation of the Celtic Helicopters cheque. There are, however, two separate lodgements recorded as having been credited to the account on that date. One is in the sum of €7,288.63, and the other in the sum of €36,000.

While the second of these lodgements could of course have incorporated a lodgement of €30,000 together with a lodgement of a further €6,000, an examination of the available material would seem to indicate that this was not the case.

This is because the Tribunal has learned that another cheque in the sum of €25,000 appears to have been lodged to the account on the same day, the 20th of June, 1989. This was a cheque drawn on the account of Goodman International and signed by Mr. Larry Goodman. It was dated the 13th of June, 1989, and drawn on an account of Allied Irish Banks, 73 Clanbrassil Street, Dundalk, County Louth. The cheque was made payable to "Fianna Fail Party Leadership Fund".

This was a cheque drawn by Mr. Goodman in favour of Fianna Fail at the request of the late; sorry Fianna Fail Party, at the request of the late Mr. Peter Hanley who had contacted Mr. Goodman to inquire whether Mr. Goodman would be prepared to make a contribution towards the medical expenses of the late Mr. Brian Lenihan. Mr. Goodman has informed the Tribunal that having agreed to make a contribution, he received a telephone call from the Taoiseach's office requesting that the cheque be made payable in the manner I have just described and as appears on the cheque on the overhead projector, "Fianna Fail Party Leadership Fund".

I should emphasise that Mr. Goodman made this payment for

the purpose requested and always intended that it should be used for that purpose. And he made it payable to the fund, or to the account, as he was indicated or directed to so do.

From the markings on the face of this cheque it would appear that the cheque was presented at AIB, Baggot Street on the 20th of June, 1989. While it would appear, therefore, that each of these cheques, that is the cheque for €25,000 and the cheque for €30,000, were presented at Baggot Street AIB on the 20th of June, the total of the lodgements to the account on that date might be in excess of €42,000 is less than the total of those two cheques.

The bank has provided assistance to the Tribunal in ascertaining the manner in which each of these cheques were presented, and I emphasise "presented to the bank" on the 29th of June, 1989, were processed. One of these cheques has a number called a "tracer number" printed on the front of it. If you turn it upside down, you can see, just under the cheque. This number is applied in the course of the bank's collection process and enables the bank to identify the transaction to which it relates. The tracer number on this cheque is "00816". The presence of this number indicates that the cheque went through the normal process of the clearing house system. The tracer number on the transaction comprising the lodgement of €36,000 on the same day, the 20th of June 1989, is "0812". The Bank has

informed the Tribunal that having regard to the proximity of one another of these two tracer numbers it would appear that the Goodman cheque for €25,000 formed part of the €36,000 lodgement.

Just for clarity I will go through the whole tracer number rather than the shorthand way of the banks, that the banks deal with it. The whole tracer number is 200689, that's the date. The 20th of June, 1989. It then, then 480 816 00 2157. But the second series of numbers ending in "816" is the tracer. Which identifies the transaction to which it may be related. I should just say when I say "00816", that was in error and I was using the shorthand code.

The Celtic Helicopters cheque for €30,000 bears no tracer number. This appears to indicate that the cheque did not go through the clearing-house system for collection in the ordinary way. This appears to be consistent with the information the Tribunal has received from the Bank that it does not seem to have formed part of the €36,000 lodgement to the account on that day, the 20th. Now, there is no tracer either on the face or on the reverse side of the cheque.

Furthermore, the Tribunal has been informed that the Goodman International cheque, in the sum of €25,000, was debited to the account on which it was drawn on the 22nd of June, and that this once again indicates that it went

through the normal clearing-house collection process. This is normally a two-day process. As the Celtic Helicopters cheque appears to have been debited to the account to which it was drawn on the 21st of June of 1989, this would appear to be consistent with the fact that it did not go through the normal clearing-house process. As there does not seem to be any other credit to the account on or after the 20th of June, 1989, which might represent the proceeds of that cheque, it appears that the cheque may not have been lodged to the account at all. And I emphasise that is the Leader's Allowance Account. The question which arises at this stage is as to whether, in the light of the information I have just canvassed, that the cheque for €30,000 was cashed there and then or whether it was lodged to some other account, or whether the proceeds of that cheque were applied in some other way. Mr. Haughey, through his solicitors, has been asked to comment further on this matter, in light of the new material available, but as yet the Tribunal has not received any response from him.

This evidence is material to the Tribunal's efforts to form a picture of the manner in which the Leader's Allowance Account was operated. The Tribunal has already indicated in an opening statement made on the 14th of July, 1999, that it wished to examine whether there were any other payments by the Irish Permanent Building Society or by any of its directors to Mr. Haughey; and whether the payments

mentioned, including the sum of €20,000 described as being for "B Lenihan" was used for the purpose envisaged, or for some other purpose. Although more information has now come to hand to enable the Tribunal to form a clearer picture of what may have happened to this €20,000 cheque the questions raised in the course of the Tribunal's last public sittings are still pertinent. The Tribunal will wish, therefore, to continue to examine the account and its connection with other accounts with which Mr. Haughey was associated; such as the Celtic Helicopters Account and the Amiens Account. The contents of the statement made by Mr. Charles Haughey were drawn to the attention of Mr. John Barnicle and Mr. Ciaran Haughey. Mr. Barnicle has indicated that he does not wish to revise or qualify or make any alteration to the evidence he has already given to the Tribunal that the €30,000 lodged to Celtic Helicopters and the subsequent payment of €30,000 by Celtic Helicopters to Charles Haughey could only have been the making of a prepayment for helicopter flying hours followed by a cancellation of that prepayment. Mr. Ciaran Haughey has said that he is still of the view that this is the only possible explanation for the movement. This evidence already given will nevertheless have to be re-examined in the light of the further material which has now come to hand.

The Tribunal's continued examination of the Leader's Allowance Account has resulted in a number of inquiries

being directed to Irish Life and Permanent concerning payments to the Irish Permanent Building Society during the period covered by the Tribunal's Terms of Reference. From information made available it would appear that at least three further payments by the Irish Permanent Building Society to Mr. Charles Haughey merit examination in the course of the Tribunal's public sittings. As My Friend points out, it would be more accurate to say three further cheques.

I now wish to deal with Further Payments By Irish Permanent Building Society.

The first two of these payments was made in 1986. In that year, cheques totalling €100,000 in all drawn on the Irish Permanent Building Society's bank account appear to have been lodged to the Leader's Allowance. The first of these payments was made by way of a cheque dated the 19th of March, 1986. This cheque, payable to "Fianna Fail", was for the sum of €50,000 and was signed by Dr. Edmund Farrell and Mr. JG Treacey, both Director's of the then Irish Permanent Building Society. The cheque was endorsed on the reverse side as follows:

"Fianna Fail, Charles Haughey".

The cheque stub describes the cheque as being "Fianna Fail sub €50,000". This cheque, from the brand stamped on the face of it, appears to have been presented at Allied Irish

Bank, Lower Baggot Street, on the 7th of April of 1986.

The bank statement shows that on that day a lodgement of €50,000 was credited to the account and this cheque payment, therefore, appears to correspond with the €50,000 lodgement. On the 7th of April there was a lodgement to the account which is, of course, in the name of Haughey Ahern McSharry, I keep referring to it as the Leader's Allowance Account. It was for €50,000.

The second payment in that year was made by way of a cheque payable to Fianna Fail in the sum of €50,000 and is dated the 17th of October of 1986. The cheque was signed by Dr. Edmund A Farrell and Mr. JG Treacey. From the stamp it would appear that the cheque was presented at Allied Irish Banks, Baggot Street on the 22nd of October, 1986, and the Leader's Allowance bank statement for that month indicates that a lodgement of that amount was credited to the account on that day and it would appear, once again, that this lodgement corresponds with the €50,000 from the Irish Permanent Building Society. And that shows a lodgement on the 22nd of October, 1986.

The Irish Permanent Building Society cheque was endorsed on the reverse side as follows:

"For Fianna Fail, CJ Haughey".

The notation on the cheque stub is as follows:

"Fianna Fail sub, 17th of October 1986, €50,000".

Apart from the cheque stub and the company's cheque analysis book, there would appear to be no other records retained by the Irish Permanent Building Society of either of these payments.

The payments were brought to the attention of Dr. Farrell and Mr. Treacey, and the Society or Irish Life and Permanent as they are now. Dr. Farrell confirms his signature on the cheques. He has also informed the Tribunal that any information he has concerning the cheques is based on his memory and documents furnished to him by the Tribunal. And he has informed the Tribunal once again that his response is based on memory and on these documents, in the absence of the Irish Permanent Building Society file on political donations which he referred to previously in his evidence. He has, however, stated that he did not recall receiving a direct approach for either of these cheques as political donations for Fianna Fail, but believes that as was usual at the time, both cheques were paid as a result of an application from Fianna Fail for a political donation or political donations. Mr. Treacey, in his statement to the Tribunal, confirms his signature on the cheques but has indicated that he is not aware of the identity of the person from whom the request for the cheques came and has further stated that his only function was to countersign the cheques after Dr. Edmund Farrell had first signed them.

The Tribunal sought the assistance of the Fianna Fail Party concerning these cheque payments and has been informed by Party Head Office that the Fianna Fail Party did not issue any appeal for funds at the time of any of these payments; that it has no information in relation to the cheques; that there is no record of the Fianna Fail Head Office having received either of the cheques; and that Fianna Fail did not issue a receipt in respect of either of these cheques.

It may not be surprising that there was no appeal for funds from Fianna Fail in that there was no election in that year. These cheque payments, therefore, and the purposes to which funds in the Leader's Allowance Account in that year were applied are relevant to the Tribunal's terms of reference, Term of Reference B, and it is a question as to whether these funds were applied for the purposes for which, to judge from the cheque stubs they appear to have been given, or whether they were applied for some other purpose.

The third payment, or cheque, from Irish Permanent Building Society was one for €40,000, dated the 16th of August of 1991, and again made payable to Fianna Fail. The cheque is signed by Dr. Edmund Farrell and Mr. Roy Douglas. The cheque was endorsed on the reverse side as follows:

"CJ Haughey".

The cheque stub indicates that it was a "Fianna Fail sub"

in the sum of €40,000. Dr. Edmund Farrell has informed the Tribunal that he has no specific recollection of the cheque but confirms his signature on it, together with what he believes to be the signature of Mr. Douglas. He cannot recall receiving any direct approach in relation to the cheque but believes that it was made payable to Fianna Fail as a result of a letter of application from that party. He draws the attention of the Tribunal to the fact that in the long form report prepared in advance of the societies conversion to a PLC, the payment was described as having been made as "a contribution to local election funds". Dr. Farrell believes that it was correctly so described and the cheques analysis book of the Irish Permanent Building Society does record the payment, along with the payments of, along with payments to two other political parties for that year, and the two other political parties were the Progressive Democrats and the Labour Party, and the payments were made around the same time and that there were Local Government Elections at that time.

Mr. Sean Fleming, TD, on behalf of the Fianna Fail Party has informed the Tribunal that while there was an appeal by the Fianna Fail Party for funds in connection with the Local Government Elections in June of that year, there is no record of the Fianna Fail Party having received this cheque for €40,000. Nor did the party issue any receipt in respect of such a cheque to the Irish Permanent Building

Society, or to anybody else.

The cheque in question, that is the €40,000 cheque, is stamped as having been presented at Allied Irish Bank, Baggot Street branch on the 2nd of September, 1991. The bank statement of the Leader's Allowance Account for the relevant month records a lodgement on that date of €50,263.25. While this is in excess of the amount of the cheque, an examination of the statement for the relevant year shows that in or around that time regular installments of the Leader's Allowance payable out of central funds were credited to the account at regular intervals in uniform amounts of €10,263.25 and it would appear therefore that this lodgement of €50,263.25 comprised the €40,000 cheque payment together with a lodgement of an installment of the Leader's Allowance payable out of central funds.

From the Tribunal's point of view the same questions arise in relation to this €40,000 payment to the account as has already been canvassed in relation to the two €50,000 payments which I have already mentioned.

I now turn to Debits to the Leader's Allowance Account.

I now propose to pass on to a number of debits from the Leader's Allowance Account which have come to the attention of the Tribunal and which merit further examination in the context of the Tribunal's Terms of Reference, in particular Terms of Reference B and C. Attention has already been

drawn to the debits to the Leader's Allowance Account which appear to correspond to credits to the account under the control of, or with which Mr. Haughey was associated. I have mentioned this in the context of evidence already given of the lodgement of a cheque for €25,000 drawn on the Leader's Allowance Account to an account in Guinness & Mahon, in the name of Amiens Securities Limited, controlled by the late J Desmond Traynor. That is the cheque of which evidence was given on the previous sittings of the Tribunal. And in which, Mr. Ahern, the Taoiseach, gave evidence of signing in blank form. Evidence has already been given concerning debits to the Leader's Allowance Account which correspond to or match the credits to the bill paying service operated by Deloitte and Touche on behalf of Mr. Haughey. Further reference will be made to these transactions at a later stage in the Tribunal's resumed sittings. At this point I intend to refer to the debits to the account in connection with payments made to discharge the medical expenses of the late Mr. Brian Lenihan. This will be dealt with extensively in the course of the evidence in order to establish how much of the monies in the account attributable to sources other than the installments of the Leader's Allowance payable out of central funds were used to discharge these expenses.

This exercise is necessary, in view of the fact that there is very little apart from the bank statements, by way of records of the Leader's Allowance Account available to the

Tribunal. (And even where bank statements were available they were only available in limited form). Evidence has already been given by Miss Eileen Foy concerning the records, which although kept, and as far as the Tribunal and anybody associated with the account can judge, kept meticulously are not available. Nor does it appear that there are any accounts available of the amount of the monies contributed to defray the medical expenses of the late Mr. Brian Lenihan.

In endeavoring to ascertain the amount of monies contributed for this purpose the Tribunal has borne in mind that the discrepancy between the ordinary installments of the Leader's Allowance for the year 1989, and the total amount of the lodgements to the Leader's Allowance is in or around €220,000.

Dealing now with the Debits of the Leader's Allowance Account in Connection with Mr. Lenihan's, the Late Mr. Lenihan's Medical Expenses.

The Tribunal has been informed by Mr. Padraic MacKernan, Secretary General of the Department of Foreign Affairs, that in 1989 arrangements were made between the Department of Foreign Affairs, (of which the late Mr. Lenihan was then Minister), and the Taoiseach's office, for the transmission and payment of invoices from the Mayo Clinic through the Irish Embassy in Washington. Invoices were issued by the

Mayo Clinic addressed to Mr. MacKernan, who was then the Irish Ambassador to Washington, and were forwarded through the Department of Foreign Affairs to the Taoiseach's Office. US dollar cheques were provided by the Taoiseach's Office and were transmitted back through the Department of Foreign Affairs and the Embassy in Washington to the Mayo Clinic. The function of the Department appears to have been of facilitator in the reception and transmission of invoices and payments.

In total, it appears that a sum of \$82,376.70 was paid through the Department of Foreign Affairs to the Mayo Clinic in respect of the late Mr. Lenihan's treatment, and that these payments were made between June 1989 and June 1990. The payments were made by US dollar international cheques drawn on Allied Irish Banks, One Lower Baggot Street, Dublin 2. The details of the payments were as follows:

On the 22nd of June, 1989: US dollars \$7,840.80. It appears from an examination of the statement of the account number, 30208062 being the account held in the name of Mr. Haughey, Mr. Ahern and Mr. McSharry at the Lower Baggot Street branch of AIB, that there was a debit to the account on the 22nd of June, 1989, of €5,758.95 which appears to match the US dollar cheque.

On the 20th of July, 1989: \$65,923.29, a draft for that amount was issued or claimed from Allied Irish Bank at

Baggot Street, Dublin 2. And there appears to be a debit to the AIB account, that is the Leader's Allowance Account, on the same date of €47,090.56 and this also appears to match the US dollar draft or cheque.

On the 21st of September of 1989 there was a US dollar draft drawn or issued by Allied Irish Banks, Lower Baggot Street, Dublin 2 for the sum of \$1,409.60. There also appears to be a debit to the account on this date of €1,029.91 which appears to match the amount of the US dollar draft.

On the 7th of December 1989, there is another US dollar draft made payable to the Mayo Clinic and it is for \$324.01. There does not appear to be any debit to the Leader's Allowance Account on this date which matches the amount of this cheque, or this draft.

And on the 7th of March 1990. There is another US dollar draft purchased at Allied Irish Banks, Lower Baggot Street, and it is in the sum of \$6,810 and there is a debit to the Leader's Allowance Account on the same date of €5,727.23 which appears to match the amount for the purpose of that draft.

On the 29th of June, 1990, there is a US dollar draft purchased at that branch and it is in the sum of \$79 and there does not appear to be any debit to the Leader's Allowance Account on this date which matches the amount

which was used to purchase this draft.

From an examination of the accounts it would appear that the total withdrawals to the AIB Leader's Allowance Account which appears to have funded these US dollar drafts payable to the Mayo Clinic amounted to €59,606,65.

It appears that two further US dollar payments were made through the Department of Foreign Affairs in respect of travelling and accommodation costs incurred when Mr. Lenihan returned to the Mayo Clinic for review in early January 1990 and the details of these payments are as follows:

On the 7th of March, 1990: \$1,885.60.

And again on the 7th of March, 1990: \$235.75. There are no debits to the Leader's Allowance Account which appear to match the dates and amounts used to purchase these particular cheques.

The Tribunal has further been informed by Mr. Padraic MacKernan that three Irish pound payments were made to the Department between July 1989 and December 1989 as refunds of expenses incurred in connection with the late Mr. Lenihan's treatment. The details of these three payments are as follows:

(1) €2,489.90 which was lodged to the Department account on the 25th of July, 1989. The Department has not been able

to obtain a copy of the cheque provided from the Central Bank microfiche records and there does not appear to be any debit to the AIB Leader's Allowance Account corresponding to the date or the amount of this payment.

(2) €4,933.59. Which was lodged to the Department Account on the 27th of September, 1989. The Department has produced to the Tribunal from Central Bank microfiche records, a copy of this cheque, which was in the sum of €4,933.59 payable to the Department of Foreign Affairs and drawn on Allied Irish Bank, One Lower Baggot Street, Dublin 2, account of Haughey, Ahern and McSharry. This cheque is shown as a debit on the account statement on the 29th of September, 1989.

The third payment to the Department is in the sum of €5,073.53 which was lodged to the Department account on the 18th of December, 1989. The Department has also produced a copy of this cheque which was dated the 14th of September, 1989, in the sum of €5,073.53 payable to the Department of Finance, which was also drawn on Allied Irish Bank, One Lower Baggot Street, account of Haughey, Ahern and McSharry. This cheque is shown as debited to the account on the 28th of December, 1989.

The Tribunal has been informed that when the late Mr. Lenihan returned to the Mayo Clinic in January of 1990, his travelling expenses, amounting to €12,914.50 were paid by

the Department of Defence. The late Mr. Lenihan was then Minister for Defence. This sum was reimbursed to the Department of Defence by the Taoiseach's office in February 1991 and is shown as a credit in the Department of Defence's Receivable Order Book on the 15th of February 1991. This payment appears to match a debit to the AIB Leader's Allowance Account on the 13th of February of 1991. This debit represents the proceeds of a cheque dated the 12th of February, 1991, payable to Allied Irish Banks which was referred to in the evidence of Miss Eileen Foy given in the course of the Tribunal's public sittings last July. It appears from information provided by Allied Irish Bank that the proceeds of this cheque may have been applied to fund the bank draft in that sum.

It appears therefore, that the total funds withdrawn from the AIB Leader's Allowance Account and applied to defray expenses incurred in connection by the late Mr. Lenihan's treatment, were €82,528.27 made up of the following withdrawals:

1. €59,606.65 to fund the US dollar international cheque payable to the Mayo Clinic.
2. €4,933.59 paid to the Department of Foreign Affairs on the 27th of September, 1989.
3. €5,073.53 paid to the Department of Foreign Affairs on the 18th of December, 1989.
4. €12,914.50 paid to the Department of Defence on the

15th of February, 1991.

As mentioned already, the discrepancy between the ordinary installments of the Leader's Allowance paid out of central funds and the lodgements to the account in 1989 was in or around €220,000. As the total sum which appears to have been debited to the account for the benefit of the late Mr. Lenihan was €82,528.27 of which €12,914.50 was not debited until February, 1991. The Tribunal will wish to inquire into the extent of the monies raised and lodged to the account which were intended to benefit the late Mr. Lenihan, and if these were in excess of the sum actually expended, the purpose or purposes for which the additional funds, if any, were applied?

In this regard, it will be recalled that the Tribunal has already heard evidence in relation to a cheque drawn on the account for €25,000 dated the 16th of June, 1989, which have appeared, which appears to have been lodged to the Amiens Securities Limited account in Guinness & Mahon, an account under the control of the late Mr. J Desmond Traynor, which I have already mentioned.

Apart from the US dollar payments to the Mayo Clinic referred to above, and which were made by cheques provided by the Taoiseach's office to the Department of Foreign Affairs, the Tribunal has also been informed by the Department of Foreign Affairs, that a further invoice was raised by the Mayo Clinic, but that the Department's

records do not include any reference to the payment of this invoice.

The invoice was dated the 6th of July, 1989, and was in the sum of \$81,602.74. The Tribunal has been informed by the Voluntary Health Insurance Board that this invoice was discharged by the VHI on foot of a special claims appeal on behalf of the late Mr. Lenihan. It appears from the bank records available to the Board that the payment to the Mayo Clinic by VHI was made by bank draft and it appears that the funds to meet this payment, which were €57,247.49 were debited to the VHI account on the 1st of August, 1989.

The Board has been unable to locate the file relating to the late Mr. Lenihan's special claims appeal. The Board has identified from its microfiche record copies of the claims files for Mr. Lenihan for the years 1989 and 1990, but these do not include documents relating to the special grant paid by the VHI in respect of Mr. Lenihan's treatment in the Mayo Clinic. This suggests that the claim for a special grant was properly made in the instance to the general manager of the Board rather than through the claims section.

The Tribunal has been informed that special claims appeals are cases which involve an element of ex gratia payment and therefore must receive the approval of the board of the VHI. In the case of the late Mr. Lenihan, the ex gratia

element was caused by the fact that the operation took place outside Ireland and the appeal was to meet the costs of his treatment in the Mayo Clinic. The VHI has produced copies of the minutes of the meeting of the board of the 18th of May of 1989. It appears from the minutes that the directors present were Mr. D Cashell, Chairman. Dr. B Alton, Mr. HB Dennis, Mr. N Fox, and Mr. Brendan Hayes. Mr. TR Ryan and Mr. AF Mitchell were also in attendance. The minutes were signed by the Chairman on the 28th of July of 1989.

Paragraph 3.4 of the minutes record as follows: "The following special claims appeals were agreed: Mr. B Lenihan (and membership number given), taking into account the circumstances of the case and previous grants to other subscribers in similar circumstances, it was agreed in principle that a significant contribution should be made".

There does not appear to be any reference in the minutes to the quantum of the payment approved by the board.

Mr. Noel Fox, who has provided a statement, has informed the Tribunal that he has a vague recollection that a figure of €50,000 was mentioned at a board meeting and that in his experience special claims would not be approved by the board without discussing the quantum.

Mr. Brian Denis who has provided a memorandum of evidence has informed the Tribunal that he is certain that the quantum of the payment was discussed at the board but he

can not recall the amount or amounts discussed.

Mr. Des Cashell who has also provided a memorandum of evidence, has informed the Tribunal that the board had a short discussion of the appeal and agreed that as the treatment of the late Mr. Lenihan was not available in Ireland, the cost of the actual operation at the Mayo Clinic would be borne, which the board - and he believes that the board were advised that this would be in the region of €50,000.

I now wish to deal with some Additional Material Debits.

I turn to deal with these debits to the account which appear to be material to the Tribunal's inquiries. These debits are of two kinds. Firstly, there are two debits in connection with the purchase of international cheques; sorry, I beg your pardon, there are two other debits in connection with the purpose of international cheques and secondly, two debits in connection with payments made to a member of the Fianna Fail Parliamentary Party in connection with certain financial difficulties in which that party member found himself.

The first two debits are the result of two cheques drawn in 1991. The first of these cheques is dated the fourth of February of 1991 drawn on the Leader's Allowance Account in the sum of €8,332.32. This cheque was payable to AIB.

Evidence has already been given at the Tribunal's public

sittings by Miss Eileen Foy in relation to this cheque.

Although Miss Foy was unable to recall the precise purpose for which this cheque was drawn, she did nevertheless speculate, as it now transpires correctly, that this cheque, being payable to Allied Irish bank was probably drawn in order to purchase a bank draft.

In fact, it would appear that the cheque drawn on the fourth of February of 1991, was used to purchase an international cheque, (which is a form of bank draft), dated the same day and issued by the same branch, drawn on Credit Commercial of France, in Paris, in favour of Charvet, Paris, in the sum of, French Francs 61,605. It appears that Charvet is a firm of Paris shirt makers.

A second cheque dated the 18th of September of 1991 was drawn on the account in the sum of œ7,500 payable to cash. It would appear that this was used to purchase a second international cheque, this time dated the 18th of December of 1991, drawn once again on Credit Commercial De France, Paris, and once again in favour of Charvet. This time in the sum of French Francs 63,000.

The Tribunal has been unable to obtain any explanation as to why the Leader's Allowance Account would have been used, in the normal way to purchase items amounting to in or about œ12,000 in value, from a firm such as this.

The second type of payment I mentioned above relates to two

debits to the account in December, 1989 and in March, 1990, respectively. These debits appear to have been connected with financial difficulties in which Mr. John Ellis TD, found himself at that time. Mr. Ellis TD for Sligo Leitrim has informed the Tribunal that in 1989 he was in considerable financial difficulty as a result of a failed business venture. He had incurred substantial liabilities with a number of Marts including Manorhamilton Mart. Bankruptcy proceedings were threatened by Manorhamilton Mart. Mr. Ellis has stated to the Tribunal that in December of 1989 he was approached by Mr. Haughey who had become aware of the threatened bankruptcy proceedings and was informed by Mr. Haughey that the Fianna Fail Party would try to rescue him from bankruptcy and that this was important having regard to the size of the government majority in the Dail at that time.

Sorry, I should just say there, when I said that Mr.

Haughey had informed Mr. Ellis that they had tried to rescue him - I should have said that "they would try to rescue him".

The Tribunal has been informed that sometime around the 13th of December of 1989, Mr. Haughey invited Mr. Ellis to his office. That he paid Mr. Ellis a sum of €12,400. That this payment was in cash. That the payment was brought by Mr. Ellis to his solicitors and that his solicitors forwarded the €12,000, either by his own cheque or by draft

to the solicitors acting on behalf of Manorhamilton mart.

Unfortunately, this payment did not bring Mr. Ellis' difficulties to an end and by March of 1990 he was again threatened with bankruptcy by another creditor, Swinford Mart. Mr. Haughey once again volunteered to him that the party would provide him with assistance and sometime around the 22nd of March, 1990, he collected from Mr. Haughey, in Mr. Haughey's own office, cash in the sum of €13,600 and he brought this to his solicitor and he understands that his solicitor then forwarded this cheque to the solicitors.

Sorry, I beg your pardon; that he brought the money to his solicitors and that his solicitors then wrote their own cheque to the solicitors acting on behalf of Swinford Mart.

Mr. Ellis has stated to the Tribunal that at all times it was made clear to him by Mr. Haughey that both payments were made from the Fianna Fail funds and for the benefit of the Fianna Fail Party.

It would appear that each of these payments is reflected by a debit to the Leader's Allowance Account. It seems that on the 12th of December, 1989, a sum of €12,500 was debited to the account. This debit, it is on the overhead projector and the €12,500, it may not be clear, the one may not be clear but it is there. This debit appears to have been by way of cheque number 500017 and it would appear

that the cheque may have been drawn very close to, if not on that day, when it was presented. While the sum of œ12,500 debited to the account on that day does not coincide precisely with the sum of œ12,400 paid to Mr. Ellis, nevertheless having regard to the date of the payment to Mr. Ellis, the two transactions seem to be related, notwithstanding the slight discrepancy in the amount.

There was another debit to the account on the 22nd of March of 1990. This debit is in the amount of œ13,600 which coincides exactly with the amount of the cash payment made to Mr. Ellis. From the Leader's Allowance bank statement it would appear that cheque number 500050 was drawn on this, for this amount. While this cannot be ascertained with absolute certainty, it would appear that the cheque may have been drawn for each of these amounts and that each of these cheques were cashed on the day they were drawn and that in each case, were for the purpose of providing cash funds for Mr. Ellis.

Mr. Ellis has made it clear to the Tribunal that he was not aware at the time of any possible connection between the funds paid to him and the Leader's Allowance Account. Nor was he aware that at that time the Leader's Allowance Account included funds paid out of the Exchequer to the leaders, to that account, together with other funds, including sums of money contributed to defray the medical

expenses of the late Mr. Brian Lenihan.

These payments, that is the payments to Mr. Ellis and those to Charvet warrant a re-examination of all cheque payments out of the Leader's Allowance Account. Each of the payments warrants a re-examination of the procedures adopted during Mr. Haughey's tenure as Taoiseach and leader of the opposition where the operation of the Leader's Allowance Account is concerned. Specifically, the Tribunal will need to examine how the signature of a co-signatory was obtained on any one of the four cheques mentioned above without the purpose for which the cheque was being drawn being brought to his attention; and in the case of the Charvet cheques, without the invoices in respect of which the cheques were written being drawn to his attention.

This will also necessarily involve a re-examination of all of the round sum debits to the Leader's Allowance Account.

In view of the fact that there is a very, there is very limited documentation available in relation to the operation of this account, one of the questions which now arises is whether the other round sum debits to the account are represented by payments to cash, and whether in fact those payments resulted in cash withdrawals from the account at Allied Irish Banks.

A further feature of the payments to Mr. John Ellis TD, is that they would appear to come within Terms of Reference C of the Terms of Reference, if Mr. Ellis were to be regarded

as a person who holds or has held public office. I should say the Term of Reference C, of course, deals with payments out of accounts referred to in Term of Reference B, to the holders of public office.

And this brings me to the Tribunal's view that it may be necessary to expand or revise its interpretation of the Terms of Reference.

At the hearings on the 24th of September, 1998 the Tribunal gave an indication of its then current interpretation of the Terms of Reference. The Tribunal indicated that that interpretation of its Terms of Reference might not be final. In the light of a much greater volume of material which has now come to hand and in view of the Tribunal's continuing obligation to keep the interpretation of its Terms of Reference under review. It seems appropriate that the expression "public office" in Terms of Reference C, should be considered in more detail.

The Tribunal has already indicated that the expression "public office" in relation to Mr. Charles Haughey in Term of Reference A applies to the ministerial offices held by him. In the context of Term of Reference E; the Tribunal has indicated that the reference to the time when Mr. Lowry held public office refers to the time when he held ministerial office. Term of reference C, has arisen so far only in the context of a payment made to Dr. John O'Connell

who is a person who held ministerial office. A question which arises in the context of payments to Mr. Ellis is whether they come within Term of Reference C, as a payment made to a person who holds or has held public office as a member of Dail Eireann, but who has not held ministerial office.

At this point I think it sufficient merely to indicate, subject to any submissions made by any person properly entitled to make them, that the expression "public office" in Term of Reference C should embrace a payment made to a person who has held public office as a TD. I am aware, sir, that you do not intend to give any definitive indication of your view until sometime early next week so that any person entitled to make a submission should have an opportunity of doing so.

CHAIRMAN: Thank you. Thank you Mr. Coughlan for those detailed opening remarks and I note in particular the last matter that you alluded to in relation to some, at this juncture, potentially limited degree of further construction of the Terms of Reference in relation to the phrase "public office".

I note Mr. Clarke, on behalf of the Public Interest is in attendance and it seems to me that perhaps any person who may be interested in being heard in relation to this aspect might please communicate either with the Tribunal legal team or with Miss O'Connell, the Registrar, so that we may

be in a position to deal with and finalise this limited further aspect of construction, certainly before the conclusion of next weeks sittings. Will that be feasible perhaps, Mr. Clarke?

MR. CLARKE: Yes, sir. I think I would like to take instructions on that particular issue and it is likely that I would wish to address you on it. Perhaps I might discuss with your legal team some appropriate date next week?

CHAIRMAN: Certainly.

MR. CLARKE: When submissions are to be heard.

CHAIRMAN: Yes. Very good. Before we proceed to evidence are there any other matters that anyone wishes to raise at this stage by way of representation or any other matters?

CHAIRMAN: Very good.

MS. McNALLY: In relation to representation for Mr. John Ellis, TD, I am instructed by Kevin Kilrane and Company from Mohill in County Leitrim, I am instructed to seek limited representation.

CHAIRMAN: Very good. I will make an Order for such limited representation on the usual basis; that is to say that as limited implies, it will be limited to those possible sittings that will relate to Mr. Ellis' interest in the matter only, and that having acceded to the

application is not in any sense to be interpreted as any guarantee of any eventual adjudication on costs. Thank you.

MR. HEALY: Dr. Edmund Farrell. Folder No. 1.

MR. TARRANT: Kirby Tarrant from O'Grady's Solicitors, representing Dr. Farrell. I don't know whether I require to renew my application?

CHAIRMAN: Indeed Mr. Tarrant, you are in attendance, of course I will note that you are in a position to deal with any aspects that may arise on behalf of your client.

CHAIRMAN: Thank you very much. Dr. Farrell you are already sworn from your evidence earlier, in earlier sittings.

A. Thank you, Chairman.

EDMUND FARRELL, HAVING BEEN PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS BY MR. HEALY:

Q. MR. HEALY: Thanks Dr. Farrell. You have provided the Tribunal with two further statements dealing with some of the additional material referred to by Mr. Coughlan in his opening statement, and as I did when you last gave evidence; what I suggest is that I go through the statements, and then if there are any other matters requiring amplification we will deal with that after we have gone through the routine of the documents that you

provided.

Now, do you have copies of the two statements yourself?

A. I only have a copy with me of my last statement.

Q. That's your third statement, is it?

A. Yes.

Q. Well, I will let you have a copy of your second statement now.

A. Thank you. (Document handed to witness).

Q. Now, you start off by referring to the statement you made to the Tribunal dated the 15th of July, 1999, and if necessary we can come back to that later if there is any aspect of it that you want to draw to the attention of the Tribunal. You also refer to a letter dated the 23rd of July of 1999, addressed to your solicitors and you are making the statement in response to requests contained in the letter. If it becomes necessary to refer to the letter I will put it on the overhead projector in a moment.

You say as of your first statement your response is based on memory and on the documents with which have been furnished by the Tribunal. You say that you have not had an opportunity of reading the file for political donations which was maintained by Irish Permanent Building Society, and you understand that the Tribunal has continued with its efforts to obtain the file of the political donations from the Society?

A. Yes; and could I

Q. I think that is a general qualification to all of your

evidence; is that right?

A. Yes. Could I just add that the file, or files were, to the best of my knowledge, extant when I left the Society in 1993.

Q. Well, perhaps if you just explain what you mean by "file or files were extant" when you left the Society? How do you know that? Did you, you weren't the person who kept them, it was presumably your secretary; is that right?

A. That's right. Well, I said to the best of my knowledge.

Q. Yes.

A. I have no reason to suppose that my secretary would have disposed of them.

Q. I am not suggesting that at all.

A. I know, but I mean that is the only method I think by which they could have disappeared, as it were.

Q. Why do you think there may have been more than one file?

A. Because I recall when I was first appointed as executive in 1975 that one of the things that I was wondering about was who should deal with political subscriptions. So in an informal discussion with people who are, the majority of whom are now deceased, I was instructed to deal with it myself, as my father had done previously. And just in my mind I have a vision of an old blue file and a fairly well worn Manila code file.

Q. So two files, a blue file and a Manila code file?

A. Yes.

Q. Can you remember when you last might have had recourse to

those files to check up on anything or to examine any document?

A. No, because that's something that I have been thinking about and the only time, strangely enough, that I had recourse to those files was when some other document was missing and I just had to search everything and just in case something, that particular item had been misfiled.

Q. And can you remember when that was?

A. It wasn't, it wasn't recent; if I can go back to '93 and speak as if I was there then.

Q. It wasn't recent to the period prior to your leaving the Society?

A. Correct.

Q. Is there anything else you want to say about that, Dr. Farrell?

A. No, just that to the best of my knowledge they were extant in '93.

Q. Do I understand you to be saying that when you qualify your statement by referring to the file and when you say that your statement is based on memory and the documents that the Tribunal has brought to your attention, do I understand you to say that if you had the file you might be able to be of more assistance? Is that the point you are making?

A. Absolutely, yes.

Q. You go on to say: "With regard to the Irish Permanent Building Society cheque, dated the 16th of August, 1991, in the sum of œ40,000 payable to Fianna Fail; I have no

specific recollection of the same". It is on the overhead projector, if you want a hard copy I will give it to you.

You can see that it has what I think I can now, I have come to recognise as your signature, and you have confirmed that that is your signature, and underneath that I think you identify or recognise the signature of Mr. Douglas; is that correct?

A. Correct, yes.

Q. You say that you set out in your first statement the only incidents which you can recall involving direct approaches to you for political donations, apart from the request for a contribution toward Brian Lenihan's operation, and your personal contribution towards a presentation for Mr. Haughey upon his retirement from office. Do I take it that what you are referring to when you mention a "direct approach", is somebody such as Mr. Haughey coming to you and asking you face-to-face or over the telephone for assistance; is that right?

A. Sorry?

Q. What do you mean by "direct approach"?

A. I think that means personal approach.

Q. Yes.

A. And I think this omits the other approach to which I averted when I gave evidence in, was it June or July, where Mr. Haughey approached me in a hotel.

Q. That is what I meant, face-to-face?

A. Yes.

Q. You are describing the face-to-face approach in the hotel as a direct approach?

A. Yes. I am sorry, the interpretation wasn't clear.

Q. Well, that is what understood you to be referring to in your statement. When you are talking about direct approaches I took you to include the approach to you in the hotel at the launch of the IFSC, when Mr. Haughey asked you for a contribution towards his personal campaign?

A. Yes. That was my intention, that should be direct personal approach I think.

Q. Well, lest there be any doubt about it, you recall no direct personal approach in relation to that cheque?

A. No, I do not.

Q. And do you recall any approach in the form of a letter from Fianna Fail or from Mr. Haughey or any other person?

A. To the best of my recollection every other political subscription was prompted by a written application from the particular party, or in the case of Fianna Fail, it may have been a letter from the Taoiseach, if Mr. Haughey happened to be Taoiseach at the time. That is something which has occurred to me since we last spoke which, lest there be any confusion, was when I gave evidence.

Q. Yes. We can come back to expand on some of these details in a moment. I think it might make more sense if I went through the rest of the statement and we can go back over the individual cheques. You say that you believe therefore that the cheque dated the 16th of August. 1991 in the sum

of €40,000 payable to Fianna Fail was as a result of a letter of application from Fianna Fail. You say furthermore, "I do not believe that there was any other form of approach made to me for that donation". You say "I note that the cheque is referred to in the long form report which was prepared in advance of the Society's conversion to a PLC and that is described as having been paid as a contribution to local election funds". You say you have not been furnished with a copy of this report, or an extract referring to the cheque contained in the long form report I am not sure that I made that clear. I think what you say in your statement, and I have misread it, is that you have not been furnished with a copy of this document or an extract referring to the cheque contained in the long form report.

You go on to say: "I also note that I have not been furnished with a copy of the cheque stub for this particular cheque. However, I believe that the cheque was properly described as having been paid as a contribution to local election funds as the long form report being a pre flotation document was prepared and verified by the reporting accountants, KPMG Stokes Kennedy Crowley and then directors of the Society, based on their then current information".

You say that you have no recollection of the person to whom the cheque was provided. You go on to say, that Mr. Roy

Douglas' signature appears to be the second signatory on the cheque. And you say: "I recall that from shortly after Mr. Douglas joined the Society in circa June 1990, we adopted the practice of meeting as often as possible on Fridays, which very often took up a full day. At these meetings we discussed the Society business and plans from personnel to financial matters and it is likely, although I have no clear recollection, that political donations would have been discussed along with these other matters. I do not ever recall a difference of opinion between myself and Mr. Douglas on the question the payment of a political donation".

Now I think I will pass on to your third payment in which you refer to two other cheques. And once again you are, I think anxious, to point out that this statement is based on memory and on the documents which have been furnished by the Tribunal. And that you have not had the opportunity of reading the file you mentioned a moment ago.

You go on to refer to a cheque dated the 19th of March of 1986 in the sum of €50,000. And you say as regard to that cheque and the Society cheque dated the 17th of October, 1986 in the sum of €50,000, both payable to Fianna Fail, "I have no specific recollection of same". You say that you confirm that it is your signature on the cheques, together with, you believe, the signature of Mr. - is that "DG"?

A. "T".

Q. "T"?

A. "T" for Thomas.

Q. TG Treacey, I think in opening it may have been referred to as DG, it is "TG" who was secretary to the Society at the time. "I do not recall receiving a direct approach" you say, to yourself for either of these cheques as political donations for Fianna Fail. I believe, therefore, that as was usual at the time both cheques were paid as a result of a letter of application from Fianna Fail for a political donation.

You go on to say that you have again attempted to obtain information from the Society in relation to any details which it might have in relation to the cheques which might be of assistance, and in particular which might explain why it was that two payments for €50,000 each were made to the Fianna Fail Party by the Society in the space of one year.

You say that the Society has been unable to provide any information in this regard that can assist your recollection.

Now, if we could just go back to the payment of €40,000 the cheque for €40,000 dated the 16th of August of 1991. Now, you believe that that cheque was written in response to what you assume was a letter of application or what you assume must have been an application by way of letter from Fianna Fail coincident with the June local elections of that year.

A. Yes.

Q. And I can assist you to some degree in case you are in anyway confused by the fact that the cheque is dated August, whereas the elections were in June; the cheque analysis records of the Society do show other payments made in August to other political parties and one assumes again that these were all made in connection with the local elections. I also want to just put on the overhead projector, to draw to your attention, a copy of what looks like a standard sort of flier type letter which would, which Mr. Fleming has informed the Tribunal would have been set out by Fianna Fail in June of 1989 in advance of the local elections.

(Document handed to witness) I think I am giving you a hard copy.

A. I think I have it. Thank you.

Q. Yes. I am not sure whether you have had an opportunity of reading that letter before, but what I am going to ask you now and I appreciate that you may wish to come back at a later time with your answer, if you haven't seen it before, is whether you have any recollection of receiving that letter or a similar type letter?

A. All I can say, Chairman, is that it looks familiar.

Q. It looks familiar?

A. Yes.

Q. Now, if you can recall some of the evidence you gave to the Tribunal?

A. If I just elaborate slightly.

Q. Of course.

A. That from memory the Fianna Fail letters tended to identify objectives. They weren't just planned "please subscribe to our general election or whatever campaign", they tended to be more specific and this would be a typical type of application.

Q. Yes?

A. In my view.

Q. Do you mean that it is typical because it does refer to objectives?

A. Yes.

Q. Yes?

A. And the requirement for confidence in government, for example, political stability and so on.

Q. Yes. If you can recall some of the evidence you gave at the Tribunal's last sittings in relation to, I think if my recollection serves me correctly, a similar letter in connection with general elections; you were asked to comment on a letter seeking the support of the Society and presumably anybody else to whom the letter was sent; I don't have a copy of it, I am just asking you whether you recall it, and in response to which you sent a political donation to the Fianna Fail Party but you transmitted it to Mr. Haughey directly. Do you recall that evidence?

A. Was this the €65,000?

Q. Yes?

A. I recall looking at it last night.

Q. That would have been May of 1989?

A. I am sure I have it with me.

Q. And I am looking at a copy of the transcript. I can give you a copy as well, and I will read out your response. I am not suggesting for one moment that you want to alter it. But I am simply trying to recall and to assist you in recalling the evidence you gave. (Document handed to witness)?

A. It is not the 29th of May '89?

Q. Yes?

A. I have that.

Q. Yes. If you look at page, pages 19, 20 and 21 of the extract you have in front of you. You will see that a reference is made to that particular letter and to that contribution of €65,000?

A. Which paragraph?

Q. If you look at page 19, query number 37. Perhaps I will just go over it. You are being referred to a passage in your statement you then go on to say that your recollection - I am quoting from query number 37 on page 19. You go on to say that your recollection of the identity of the persons that made the requests for the cheques - and this is in response to a request from the Tribunal - that you believe that Charles Haughey as President of Fianna Fail, signed the letter of application; and I take it that that is for the €65,000 cheque; and your response - Are you

following it on the transcript?

A. Yes.

Q. Was "yes. That's correct". The next question, question 38, is as follows: "Now I think the Tribunal has brought to your attention a letter on Fianna Fail note paper signed by Mr. Haughey, dated the 29th of May 1989, the one that you have just referred to". To which your response is "yes".

The next question you are asked is "referring to that letter, the Tribunal pointed out that it believed that the type, this was the type of letter that Fianna Fail would have sent out at that time, seeking contributions"? And you were asked "is that the kind of letter that you think, or a copy of the exact letter, that you would have received at the time" and you said "yes"?

A. Yes.

Q. The next question when it says, what it says is: "As you would be aware, a general election has been called to take place on the 15th of June, 1989, to coincide with the European Election. Fianna Fail is seeking an overall majority in government to enable it to complete successfully their work of national recovery, that progress being made in improving the public finances and general economy to... To enable Ireland to compete successfully, accelerated by maintaining financing, confidence in political stability" I am jumping to the end of the letter?

A. Right.

Q. It goes on to seek a contribution and you go on to say that

you recognise the letter?

A. I do.

Q. And then you go on to a letter from you in response to the request from Fianna Fail signed by the Taoiseach and that letter is described both at the end of question number 39 and at the end of question number 40 and in question number 41.

A. Yes.

Q. Question number 41 is as follows: It says "personal, strictly private. It is addressed to Taoiseach Charles Haughey, you will note that it is addressed to the Taoiseach at Department of the Taoiseach, at Dublin 2, not to Fianna Fail Headquarters. Now, I don't think anything significant turns on this because the money, as far as we understand was received by Fianna Fail in June of 1989, but can you think of any reason why you would have addressed it to the Taoiseach". That is the end of the quote. You say "Well, I wouldn't have addressed it, in fact I would have written my letter of reply and handed it to my secretary to go with the letter itself, the letter of application and she would have typed the address".

A. Yes, I am not sure if that is one hundred percent accurate because I tended to put in the address of the addressee, so I would have to accept that if it went to the Department of the Taoiseach that I had written that.

Q. I see.

A. I tended to write in it on foolscap paper.

Q. Yes. You did mention that to us.

A. So Miss McCoy would have not taken it upon herself.

Q. To send it to the Department of the Taoiseach?

A. My secretary would not have taken it upon herself to decide where it should go.

Q. In any case, the only reason I am drawing the matter to your attention is that in relation to that €65,000 contribution, you were able to point to a letter of request from Fianna Fail, a sort of a fairly general type letter, you were able to point to a response by way of letter from the Society signed by you and that letter was sent to Mr. Haughey, not at 13 Upper Mount Street, Dublin 2, but at his office in the Department of the Taoiseach; but the fact remains and you will recall that you were informed of this, that the €65,000 was credited to Fianna Fail?

A. Yes.

Q. So it was received by them and they acknowledged in the Tribunal, in any case, of having received that amount of money. Now, the payment that we are now talking about, the €40,000 payment, was you say once again one which must have been made as a result of a request or an appeal, and you point and I think correctly, to the local elections as the likely thing that would have prompted an appeal for funds. Do I take it that if such a payment was made to Fianna Fail at or around election time it would have been accompanied by a letter like the one that we saw a moment ago?

A. Yes.

Q. Or that we referred to a moment ago, in connection that there be a €5,000 payment?

A. The only other thought that occurs to me. Yes, the only other thought that occurs to me is that the, if this was included in the preflotation documentation of the long form report, there is a very onerous - there is a very strong burden on the reporting accountants, as you will be aware, to verify the information that they include; and I am not sure if a cheque stub would be sufficient for them to describe it as a local election subscription.

Q. I see.

A. Unless there was some form by some director who happened to know that I was not questioned about it.

Q. Is there any possibility that you might have handed that cheque to anyone in Fianna Fail or anyone associated with Fianna Fail?

A. No.

Q. You think it certainly would have gone by way of letter?

A. Yes.

Q. You did give evidence, I think, that the payment that you made toward the Brian Lenihan, or the fund being operated for Brian Lenihan's medical expenses was personally handed to Mr. Haughey; isn't that right?

A. Not by me. I think what I said, and of course we can check it, was that I regarded it as an urgent matter and that my driver, I believe, took it down to the offices of the Taoiseach as soon as it was ready.

Q. But was it accompanied by a letter?

A. Oh absolutely, yes.

Q. It was?

A. Yes.

Q. I see.

A. I can remember the tenor of the letter too. It was praising Mr. Lenihan and almost indicating that it would be a dereliction of my duty to the members of the Society if I did not acquiesce to

Q. And the €10,000 contribution to Mr. Haughey's personal campaign which I think was made by a cheque dated the same date, do you recall was that also accompanied by a letter?

A. Yes, it was. I think that one may have gone, I was thinking about this again last night, may have gone to Abbeville, Kinsealy as it was a local constituency matter.

When I say "think" I think it is more probable than not.

Q. I see. And in arriving at a figure of €40,000 as a contribution toward Fianna Fail would you have, would I be right in thinking that you would have taken into account what would have been appropriate to pay or give to the party as a whole to enable it to fight the local elections, that you weren't thinking of a contribution to Mr. Haughey to enable him to take his part in the local elections as the leader?

A. No, I was not. In the case of the €40,000, no.

Q. That was for the party as a whole?

A. Absolutely, yes.

Q. And were you surprised to learn that the party in any case, the political party of itself, at its headquarters, does not appear to have received this money?

A. If we can rely on the integrity of those files, I would be surprised.

Q. And are you surprised to learn now that it would seem that that money went into the Leader's Allowance Account?

A. I am somewhat confused by all of the ins and outs, all the apparent ins and outs of monies that were supposed to go to one payee and ended up elsewhere.

Q. I am sure you are not the only person. Would I be right in saying that you intended the money to go to the political party in any case for the parties fighting fund?

A. You would be right, yes.

Q. And you weren't intending it for something for Mr. Haughey's personal campaign, for his personal political requirements as leader of the party?

A. No. I wouldn't even be aware of those.

Q. Yes.

A. With the one exception which were matters that cropped up, namely the €10,000.

Q. And I am not sure you may remember this, but in that year the party, or in that year the Society made a contribution to the Labour Party in the sum of €10,000, and a contribution to the Progressive Democrats in the sum of €7,500. Do you recall the amounts or those; do you recall the fact of the contributions?

A. I don't recall the fact, facts, as you describe them.

Q. Yes?

A. At all.

Q. But the amounts, in any case, would all appear to be in some way consistent with some of the earlier payments or the disparity between the earlier payments that had been made to the Society to other political parties reflecting, as I think you may have said and certainly another witness, the difference in size between the political parties?

A. I think that is, I think that is a reasonable interpretation.

Q. You can see .

A. Except that one party didn't really get anything.

Q. I was just about to go to that, if you look at the jet (sic) analysis book for August of 1991, all non relevant material has been deleted from the photocopy, but you will see the reference to the Progressive Democrats, Fianna Fail and the Labour Party and there is quite obviously no reference to the Fianna Fail Party, or to the Fine Gael Party?

A. No.

Q. Could I now for a moment pass to the two cheque payments in 1986? Now, you yourself in your statement, you have drawn attention to the fact that there were two payments of €50,000 paid to Fianna Fail by the Society in the space of one year, a total contribution of €100,000 which is larger than any contribution we have heard of the Society making

to Fianna Fail in any of the years that have been mentioned in the course of the Tribunal's sittings to date. Is that correct?

A. Taking the two together, yes, to the best of my knowledge.

Q. Can I take it that just as with the other payment of €40,000 we mentioned a moment ago, that again this payment would have been accompanied by a letter from you?

A. Yes.

Q. To the person by whom the payment was requested?

A. Yes.

Q. And if the payments were not, as seems to be the case, received by Fianna Fail Headquarters would I be, would it be unreasonable of the Tribunal to conclude that you must have sent them somewhere else?

A. Well, I don't know where else I could have sent them.

Q. Well, you could have sent them to the Taoiseach as you did with the €65,000. You could have sent them to the leader of the opposition, to Mr. Haughey himself, personally?

A. I don't recall ever doing that.

Q. So can you recall payments that you would have made on behalf of the Society, to Fianna Fail, in the years when Mr. Haughey was in opposition; and do you recall where you would have sent those payments?

A. I believe they all would have gone to Manor Street.

Q. Addressed to Mr. Haughey personally?

A. No, I think, are we in a time period here?

Q. Yes?

A. Well, what time period is it?

Q. In the narrowest sense, we are talking about the time period '79 to '96, but if there is useful information that you can give the Tribunal about another time period it may be helpful to tell the Tribunal about it?

A. Well, Chairman, as I mentioned earlier, I became Managing Director in 1975 and took over the function of dealing with the political applications for subscriptions; and in the case of Fianna Fail, my recall is that another person dealt with fundraising for Fianna Fail for a period after 1975. Now, my problem is that I don't know when that changed, but when it did change I think it changed either to another person and then Mr. Haughey, or directly to Mr. Haughey, I cannot recall which; but the important thing is I don't recall when that happened.

Q. Do you recall that there was any difference in the address to which you sent the contributions between all those changes?

A. No, I don't recall, no. In fact, I think it was the same.

CHAIRMAN: I take it, Dr. Farrell, your recollection in all these instances are to the effect that it would have been a personal letter to Mr. Haughey, not just a generalised letter to the Fianna Fail Party?

A. Correct, Chairman, yes.

Q. MR. HEALY: Now, in 1986 Mr. Fleming or so has Mr. Fleming has informed?

A. I beg your pardon? Did I answer your last question?

Q. I think you did, yes. Mr. Fleming has informed the Tribunal that Fianna Fail made no appeal for funds in 1986, that in other words there was no appeal for funds of the kind exemplified by the kind of letters that we mentioned a moment ago, either the letter that you got which resulted in the €65,000 contribution or the letter which prompted contributions to Fianna Fail at the time of the June elections?

A. Yes.

Q. Do you recall receiving any other request or appeal for funds on behalf of Fianna Fail in 1986 that would have prompted these two payments?

A. I don't even recall these two payments. So the answer is no.

Q. Yes, but you say that you would have

A. Sorry?

Q. Sorry?

A. I should say, I do not recall receiving an application for these two payments.

Q. Yes; but if there was no general application by Fianna Fail or no general appeal for funds by Fianna Fail in that particular year, then if you made the payments on foot of some appeal for funds, it had to be some more specific or personal appeal from some person, wouldn't that be reasonable, a reasonable inference?

A. Well, an inference is a conclusion; isn't it?

Q. Yes?

A. No, I don't think so. It may be if you have a number of conclusions in relation to it.

Q. Sorry, I beg your pardon?

A. Sorry, I think I am too far away from this. If you can have a number of conclusions about the same matter, yes, it is a reasonable conclusion.

Q. What other - maybe you will be able to be of assistance - there any other inferences or conclusions that you think could be drawn?

A. Well, I have to accept what Mr. Fleming has stated to you. But as you pointed out earlier, my letters were addressed "Strictly Private and Personal" or "Strictly Personal and Private". That tended to be the legend on the top of the envelope. And the chain of custody I think comes into question here, so it might be reasonable to say that the addressee took possession of his correspondence and dealt with it.

Q. Yes. I am not sure if you were in attendance for Mr. Coughlan's opening, in which he put on the overhead, or which he referred to bank statements which were put on the overhead projector showing lodgements to the Leader's Allowance Fund which appear to correspond directly with these cheque payments; were you paying attention to that?

A. I did my best, yes.

Q. Perhaps, so you could be clear about it, we will put them on the overhead projector. That is a bank statement for

part of March and April of 1986 and the left-hand column there is a reference to the 7th of April of 1986 and a lodgement of €50,000.

A. Well, that does not describe the purpose for which the cheque was given.

Q. It does not?

A. No.

Q. That is the Leader's Allowance Account. The account operated under the name of Messrs. Haughey, Ahern and McSharry and all I am seeking to draw to your attention is that there was on the, it looks like the 7th of April, a lodgement to that account of €50,000. Now, if I could just have the cheque in question, the cheque of the 18th or the 19th of March of 1996, on the overhead projector, for a moment? I will draw something else to your attention, which would indicate a coincidence between these two things or those two pieces of material?

A. My only qualification would be that if that Leader's Allowance Account came within the overall ambit of the Fianna Fail Party, I mean, I had never heard of it, before I met you, as the song goes.

Q. I appreciate the point that you are making. I just want to draw your attention to the fact that the cheque contains a stamp "Irish Allied Bank". Do you see that?

A. Yes, I do.

Q. It is dated the 7th, you can faintly see April, certainly on a hard text photocopy, I can see April; if you want a

copy I will let you look at it; the 7th of April, 1986?

A. I will accept your interpretation.

Q. And that tallies with the day on which the lodgement was made to the account, the €50,000 lodgement I mentioned a moment ago. Just very briefly, if I just refer you to the 17th of October of 1986 cheque. And to what seems to be a coincidence or corresponding, at least, entry in the bank account. That cheque dated the 17th of October, if we could have the cheque please? Contains a stamp, and the stamp as far as I can see, is the 22nd of October, and it is stamped "Allied Irish Bank, Baggot Street branch". If we could have the Leader's Allowance Bank Account. You will see that on the bank account for that day there is a record of a lodgement once again of €50,000.

A. Yes. I mean it wasn't clear to me that the stamp was of the 22nd, it looked like the 23rd.

Q. I can assure you that it is the 22nd, it does look like the 23rd on the overhead projector, but I have a photocopy of it which is much clearer?

A. Right.

Q. And if we look at the reverse side of that, you will see that it is endorsed "for Fianna Fail, Charles J. Haughey".

Do you see to the left, a series of numbers?

A. Yes.

Q. Well, that's a complete version of a tracer number. The first part of the number shows the date on the document or on which the instant was processed, you can see the date is

the 22nd of October of 1986?

A. Yes.

Q. Now, in 1986 I am sure you will recall as somebody who had, I think an interest in politics, there were no elections?

A. I don't recall that, I recall things but I don't recall dates.

Q. Well, there were no elections in 1986?

A. I accept that.

Q. And there was, as I said, no appeal for, no general appeal for funds by the Fianna Fail Party in that year. Does it strike you as strange that there would, therefore, have been a request to the Society for assistance which resulted in a €100,000 in total contribution to the party?

A. In the absence of the letters of application it does.

Q. If somebody had made a request to you for funds in a year in which there was no significant political activity, no election looming or whatever; I take it that as a person, leaving aside your memory for dates, who would have been alive to the political situation, you might have found that strange; why would there be a request for funds without there being an election in the offing?

A. Yes. Well, I do when I got the data from the Solicitor to the Tribunal, I recall writing down some possibilities and later excluding most of them, including "was there an election"? But the one that, I think there was only one that made any real sense to me, and that was: Were Fianna Fail having, making an appeal in order to possibly rectify

a bank debt situation? Now, that obviously wouldn't account for two cheques, but that was the only I actually have to check, but think that was the only one that

Q. Are you saying in this case but are you saying that when you were asked to provide a response to the Tribunal's queries concerning these cheques, that you canvassed a number of possibilities and one of them was there might have been a need to buildup Fianna Fail funds, and the funds might have gone down and that the party might have had some financial crisis, independent of any election and that a request to you might have been made to assist?

A. That was one.

Q. With the funds?

A. That was one of the things I wrote, yes.

Q. Well, did you exclude that or are you saying that it was still a live possibility? I am only canvassing it with you. I am not trying to trap you?

A. Yes, I know. The truth, the whole truth and nothing but the truth; it occurs to me that I think it does not appear feasible if what Mr. Fleming says is correct.

Q. Yes, that is what I am coming to.

A. I was not aware at any time when a request was made that it was not a general one, other than of two cases; namely the Lenihan case and the Mr. Haughey personal constituency case.

Q. What I am suggesting is that if Fianna Fail made no general

request, if the Fianna Fail Party is satisfied that it made no general request, then these funds can't have been provided to Fianna Fail or to any person in Fianna Fail on foot of a general request, there must have been some more specific approach?

A. That is possible, but I don't think it is the only I am not as politically aware as you might think.

Q. Um hum?

A. Not that terribly interesting. The way a letter is phrased may have had the appearance of being a "flare" as you would describe it.

Q. Somebody may have, in other words, written a letter to you which left you with the impression that there was a need for funds?

A. Yes, I don't think there is any degree of selection of me as a target or an easy touch or whatever, however you would like to describe it.

Q. If the Society was persuaded, in the person of you as its Chief Executive Officer, I am using that term in sort of a general way, to make a contribution of €50,000 in April, it would have taken some, presumably some greater persuasion to persuade the Society to make a further contribution in October; isn't that right?

A. I think so.

Q. The Society would have had to be persuaded again in the person of its Chief Executive Officer, that the €50,000 wasn't enough and that a further substantial, equally

substantial contribution was required?

A. I don't know about the "enough" bit, I suppose that is self-evident, nothing is ever enough, but

Q. What I am, I am not driving at any particular potential or possible answer to these queries; what I am seeking to do is to in some way hope that your own memory might be revitalised in some way because of the unusual nature of these very large payments in a year in which there was no election. In other words, I am suggesting that is there, would you agree with me that to pay €100,000 to Fianna Fail in a non election year is something unusual and that you might remember that?

A. No, with due respect to your own position, mine was one where at this remove it is very difficult to recall signing two cheques; but in response to your, your previous question, I could envisage a situation where a party might adopt the stance of having an annual request, and then in one of those years having a request in relation to a bank debt situation.

Q. I see.

A. I am just trying to provide an alternative.

Q. But whichever way the request came, whether it came individually from one person on each occasion, whether it came by way of an annual request coupled with a subsequent request for special funds in a particular year; I take it your evidence is that your intention would have been to provide money for the Fianna Fail Party?

A. Yes.

Q. And you had no intention of providing funds for the Leader's Allowance alone?

A. I was unaware of the existence of such an item.

Q. The existence of an account?

A. I presumed that the Taoiseach had expense accounts or something of that kind.

Q. Yes. Did the Society always get a receipt, do you recall, for contributions to Fianna Fail?

A. Well, when I last gave evidence I thought they did, but on reflection in the interim, I know that we always got a letter of acknowledgment; sorry I know that we, Chairman, that we always got a letter of acknowledgment, but I am not certain that we got the little green, white and orange -.

Q. Receipt?

A. Receipt.

Q. But one way or the other you feel you would have got a letter of acknowledgment, at least recording that your money had gone to where you had intended it to go to?

A. Yes.

Q. And do you ever recall looking out for those or do you ever recall making a contribution which did not result in an acknowledgment?

A. No.

Q. Could you say, or would it be too much to ask you to say, can you recall any acknowledgments or not in these cases?

A. I certainly don't recall acknowledgments in '86, in respect

of those two.

Q. Yes?

A. Sorry, I don't recall, I don't recall acknowledgments.

Q. One last question; just if I could refer again, once again back to the €10,000 contribution you made to Mr. Haughey personally.

A. Yes.

Q. The one you think you may have sent to Abbeville, but leaving aside the place to which you sent it; can you recall whether you got an acknowledgment of that, or a receipt?

A. I believe that I did.

Q. And the contribution towards Mr. Lenihan's medical expenses, can you recall whether you got an acknowledgment for that?

A. Again, I believe so.

Q. And would the acknowledgment of the €10,000 contribution and the acknowledgment of the €20,000 contribution to Mr. Lenihan's expenses; would they have been put on the file or one of the two files you mentioned a moment ago?

A. I believe just remind me of the date of those two?

Q. 1989, 1989?

A. '89.

Q. Each of the cheques, I think, was written on the 7th of June of 1989.

A. I would like to think that they had been filed, but that's not necessarily the case, because my secretary; who is

excellent in all other respects; must have mentally thrown her hands up in despair when she saw the amount of paperwork generated in my office.

Q. Um hum.

A. That's well-known to certain other individuals in the room.

Q. Um hum.

A. And at our last review, that was the only item of, where we agreed that needed serious attention. That would have been at the end of '92.

MR. HEALY: Thanks very much.

CHAIRMAN: Do you wish to take up any matters in conclusion with Dr. Farrell?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. GALLAGHER:

Q. MR. GALLAGHER: Yes, one small matter; if you may Dr. Farrell, just to clarify something, if you would be kind enough; in your second statement, you mention - it is a minor matter but I would ask you to clarify it if you would; you say that you recall that Mr. Douglas joined the Society in circa June of 1990. I believe that should be June of 1991?

A. Correct.

MR. GALLAGHER: Thank you.

CHAIRMAN: Mr. Tarrant, anything?

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. TARRANT:

Q. MR. TARRANT: Yes. Dr. Farrell, I think you made it very clear that you have no specific recollection in relation to the two cheques. The two 1986 cheques and the 1991 cheque. However, I think it is correct that you received some documents yesterday which might be documents which you have had a short opportunity to consider?

A. That is right.

Q. And you had hoped that, that that those documents were received after you had made your statement?

A. Oh absolutely, yes.

Q. And -.

A. I received the documents at 4:30 and in the case of the additional statement at 5:30.

Q. And arising out of further consideration of those documents or indeed anything you may hear today, you would like the opportunity of - if it could be of assistance to the Tribunal to perhaps come back in and give a further statement if anything did occur to you in the meantime?

A. If there is anything, obviously, that would be of help to the Chairman certainly, and it might, it may or may not be a matter of concern to the Chairman that this file of political subscriptions is missing, and whether there might be another avenue of approach to that through my secretary or through the auditors who, who are known, who are a well established firm. There is a possible line of approach.

There may be others, but if we could have that latitude

CHAIRMAN: I certainly understand and appreciate that.

Yes, of course.

A. Perhaps the best mechanism would be to write to the Tribunal in the first instance.

CHAIRMAN: Yes, I think so. Thanks for your evidence again Dr. Farrell. And I sat a little late to conclude this evidence. We will resume at two o'clock.

THE HEARING WAS THEN ADJOURNED FOR LUNCH.

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

MR. HEALY: Mr. Ciaran Haughey, sir. Folder No. 6.

CHAIRMAN: Mr. Haughey, you are already sworn.

CIARAN HAUGHEY, HAVING BEEN PREVIOUSLY SWORN, WAS EXAMINED BY MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Thank you Mr. Haughey.

Mr. Haughey, you didn't give evidence to the Tribunal at the July sittings concerning the €30,000 cheque drawn on the account of Celtic Helicopters at the Bank of Ireland, Dublin Airport branch, dated the 13th of June; isn't that correct?

A. That's correct, yeah.

Q. Your co-director, Mr. John Barnicle, did however give evidence concerning that cheque and certain related

transactions, and I am right in saying that he indicated to the Tribunal with your approval that your view of those transactions was the same as his; is that right?

A. Yes, at that time.

Q. Yes. Now, just so that we are certain that we are all talking about the same things, can I just put on the overhead projector a cheque for €30,000 of the 13th of June, 1989, drawn on your account with the Bank of Ireland, Dublin Airport branch, and I think you can confirm, it has been confirmed, it will be confirmed by Mr. Barnicle that that cheque is signed by you and by Mr. John Barnicle; is that right?

A. That's correct.

Q. Now, the cheque was not available to the Tribunal on the last time that these transactions were discussed, the transactions were known, it was known that there had been a payment out of your account, but I don't think the actual cheque was available, I think some searches were made and I think in fact you may have obtained that?

A. We actually obtained it.

Q. That's right. Now, if we can just go back for a minute to what Mr. Barnicle indicated to the Tribunal on the last occasion that he gave evidence. He was asked about the fact that on the bank account of Celtic Helicopters at the Dublin Airport branch of the Bank of Ireland, there were two entries concerning this, concerning €30,000 movements on the account, and again just so that your evidence will

be in context, if I can just have those, those entries on the bank statement on the overhead projector.

You can see, Mr. Haughey, I have ensured all other entries have been deleted. You will see that there is an entry on the overhead projector, on the copy of the relevant page of the statement shown on the overhead projector, a credit of €30,000, referable to a lodgement, and that lodgement I think is dated the 23rd of June sorry, the 13th of June, I beg your pardon. It is very hard to make that out on the overhead projector, but if you look to the bottom of the column on the left-hand side you will see the 20th of June and that, I think helps you to decipher the date of the 30,000 lodgement as the 13th of June; isn't that right?

A. Yes, it was the 30th, yes.

Q. Yes. Now, if we can have page, I think 224 of that account, you will see that there is a debit to the account referable to a cheque. The cheque number has been deleted except for the last two, I think last two I think that's the cheque number, last two numbers, 12. We can check that in a moment by reference to the cheque itself. And that cheque is referable to the credit which is dated the 21st of June; isn't that right?

A. Yes.

Q. Now, the evidence given by Mr. Barnicle when he was asked about these two transactions was, and when it was pointed out to him that the €30,000 lodgement consisted of two

cheques, one made out to your father, Mr. Haughey, for his personal political campaign and another made out for, by way of a contribution to the defraying of the medical expenses of Mr. Lenihan, that they were lodged to the account on that 13th of June, and when Mr. Barnicle was asked about that and the fact that there was a subsequent debit to the account, he indicated that he knew nothing about it, that he couldn't remember it, but he said that it, it could only be a prepayment for flying hours followed by a cancellation of that prepayment. Now, you are aware I think that that was his evidence?

A. I am aware that was his evidence. In saying that it could only be, he surmised that that's one of the only explanations that he would have for it.

Q. Absolutely. I want to make that clear, he was not saying he remembered it. He was simply saying the only explanation he could come up for it was it was a prepayment followed by a cancellation?

A. Correct.

Q. I think he indicated that was also your view?

A. That's correct.

Q. And I think he has since indicated and so have you, that that is still your view?

A. Yes.

Q. That's what it must have been, not that either of you remember it?

A. Exactly. Yes.

Q. Now, we just now go back to the cheque for 30,000. I think that cheque is payable to cash, and I think the cheque was written by you; is that right?

A. That seems to be my handwriting, yes.

Q. So the handwriting of the payee and of the amount looks to be your handwriting and seems to be similar to your handwriting underneath where you have signed your name, Ciaran Haughey?

A. Yes, yes, that is my handwriting.

Q. Now, do you remember writing the cheque?

A. No.

Q. Do you remember anything about making the payment, you may not remember physically writing the cheque, can you remember anything about making the payment?

A. I do not, no.

Q. Would you agree with me that, to, in the ordinary course of your business you wouldn't normally write cheques payable to cash for 30,000?

A. I agree, yes, yes.

Q. If any company such as yours or any other company was writing cheques on the company's accounts, those cheques would usually be related to invoices or else to wages and salaries and items like that?

A. Correct.

Q. You might have to pay a cheque for cash and sometimes you would write a cash cheque, that would be for petty cash to send one of your office assistants to get a hundred pounds

or £200 put in the petty cash box for day-to-day expenses of running coffee and tea and stamps and so on for the office?

A. Correct.

Q. So what I am trying to get at is whether the fact that this is something unusual wouldn't cause you to have some memory of it, the fact that writing a cheque for 30,000 payable to cash wouldn't be something that you would remember because it was unusual?

A. Yes, I, I don't recall at the time writing it or the circumstances.

Q. Now, Mr. Barnicle gave evidence that another cheque or another payment into the account of Celtic Helicopters, I think in the year 1991, I think?

A. '90 I think it was.

Q. '90, sorry you are right. Followed by a subsequent payment out of the account of the same amount was also, or must also have been a prepayment followed by a cancellation; isn't that right?

A. That was Mr. Barnicle's evidence.

Q. Yes?

A. Yes, correct.

Q. And again that is your view, it is not that you remember it, it is just that that's the only explanation you can come up with?

A. Correct.

Q. So would I be right in thinking that you can't remember, on

any occasion, not just on these two occasions, but you can't remember any other occasion when there would have been a prepayment of a sum of money like 30,000 followed by a cancellation?

A. Prepayment for flying hours was a common

Q. I am sure that's a common thing?

A. it was a common practice in business.

Q. Yes. Would there be many cancellations of prepayments?

A. From time to time, I would say accounts would be adjusted.

Q. Yes?

A. I would say, topping up of an account, but, cancellations, there wouldn't be many.

Q. Bearing in mind that this was, I take it, the only time apart from the 1990, £10,000 payment. That Mr. Haughey made a payment and subsequently cancelled it, does that in anyway help you to remember the payment and subsequent cancellation, if that's what it was?

A. Sorry. I don't have a recollection.

Q. Who normally wrote the cheques in the company?

A. Either Mr. Barnicle or myself, or sometimes one of the administration people.

Q. Right. So some of your staff might write them, but who would normally sign them then, would it have to be the directors who signed them?

A. Always joint signatures.

Q. Right, so that was the

A. Joint signatures by myself and Mr. Barnicle.

Q. Now, you are aware that your father, Mr. Haughey, Mr. Charles Haughey, has made a statement to the press and he has confirmed it to the Tribunal, concerning this lodgement?

A. Yes, I am aware.

Q. And you are familiar with the statement?

A. Yes, I saw it earlier.

Q. Yes. I am trying to get a copy to put on the overhead projector. I am getting a copy of it, but for the moment I will draw to your attention the relevant parts of the statement. In the statement your father says that, he refers to the two cheques, one is intended as a subscription to the Brian Lenihan Fund and the other intended as the political donation. And he says: "These two cheques were inadvertently lodged to the account of Celtic Helicopters on the 13th of June". He says that on the same day, a cheque for 30,000 was drawn on the Celtic Helicopters account.

Now, taking those sentences one by one. Were you aware, or have you become aware, sorry, since this matter was drawn to your attention, that there that your father seems to think that this was simply a mistaken lodgement to your account? Had you become aware prior to his public statement, sorry that your father was of the opinion that this was simply a mistaken lodgement to the account?

A. Not prior to the public statement.

Q. Not until you saw the public statement?

A. Yes.

Q. And up to that time

A. Well, that was on the 29th.

Q. 29th of July?

A. Yes, I think we, we made a statement to yourselves on the 22nd of July, I think.

Q. I think you are right, yes?

A. So at the time we were trying to trace this cheque and assist the Tribunal.

Q. Yes?

A. So I am not sure of the exact timing, of when I became aware, but it was in or around that time.

Q. I see. We will just go over that ground. As you correctly point out sometime, I think you are right it is the 22nd when you say you made a statement, I think you provided the Tribunal in any case with the cheque; isn't that right?

A. That's right.

Q. And you indicated that you had been in communication with the Bank of Ireland about the cheque?

A. Correct.

Q. And I think you indicated to the Tribunal that the Bank of Ireland had told you that the cheque had been presented, sorry that the cheque had been debited to your account and that the bank involved in debiting it appeared to you Allied Irish Banks, Baggot Street?

A. Correct.

Q. But the Bank of Ireland were unable to tell you what account was involved in the Bank of Ireland, Baggot Street; isn't that right?

A. That's right, correct.

Q. Now, at the time that you were providing that information to the Tribunal, did you have any idea or had anyone informed you, such as you are father or anyone else, that these cheques were lodged mistakenly or inadvertently?

A. Sorry, could you repeat that?

Q. At the time that you were providing this assistance to the Tribunal, by giving the Tribunal the cheque in question, a copy of the cheque in question and the information you obtained from the Bank of Ireland, at the time were you aware that your father was under the impression that these cheques had been inadvertently lodged to your account?

A. I don't really understand the

Q. We will come back to it, or we will approach it, come back to it from another route?

A. Okay, it was in or around that time, like, there was it was a busy time for us, for Galway Races, race week is a very busy week for us, so it was in that period, we were very busy with the operation of the company.

Q. Um hum.

A. And, and trying to help the Tribunal in tracing these.

Q. Yes. Well we can just pass on.

A. So the exact timing of when I became aware

Q. No, don't worry about when you became aware for a moment.

A. Sorry.

Q. One way or another, you are now aware that what your father has said is that the two cheques for 20,000 and 10,000 were inadvertently lodged to the account?

A. I am now aware, yes.

Q. Yes. He says on the same day a cheque was written for 30,000. Now, that would seem to suggest that somebody must have come to you, because you wrote the cheque, and somebody must have said to you "œ30,000 has been inadvertently lodged to the account, this is a mistake and I must have the 30,000 back"?

A. Yes.

Q. Now, what I am trying to get at is when you first became aware that that is what had happened, or you first became aware

A. I have no recollection of it at the time, but obviously it, since this has come up, I am aware of it now.

Q. Yes, but are you saying that what you are aware of now is that this is your father's explanation, or are you saying that you are aware of the facts contained in your father's statement? Do you follow me? . Your father has said that two cheques were inadvertently lodged to the account, that's his explanation for what happened?

A. Yes, I have I accept that.

Q. You accept that?

A. Yes.

Q. You accept, therefore, that he must have said to you at the relevant times "this is what happened"?

A. I would imagine it would be either himself or maybe someone in his office.

Q. I see. Somebody must have said to you "There is 30,000 in your account and it is gone in there due to some inadvertence, and can we have it back please"?

A. Yes.

Q. And that's what prompted you to write the cheque for 30,000?

A. I gather that's yes.

Q. But you don't remember any of that happening?

A. I do not.

Q. You are only assuming it must have happened?

A. I have tried my best to recollect the, but I have no recollection of it.

Q. Now, to take you back to July of this year, as you say and as I said a moment ago, you sent through your solicitors you sent the Tribunal a copy of the cheque and a copy of a letter from the bank indicating that the bank, that AIB Baggot Street were involved but that the bank didn't know what account in Baggot Street was involved. We'll just come back to that stage again. Now your father in his statement, and if you go to the bottom paragraph on that overhead projector there, just the paragraph that is visible at the bottom of the screen.

"These two cheques were inadvertently lodged to the account of Celtic Helicopters. On the same day a cheque for 30,000 was drawn on the Celtic Helicopters account in Bank of Ireland, Dublin Airport. An examination of the available bank records indicate that this cheque for 30,000 was in fact lodged to the Party Leaders Account on the 20th of June of 1989 in Allied Irish Banks". Do you see that?

Now, what that statement is saying is that the 30,000 was lodged not merely into Allied Irish Banks, Baggot Street, but into the Party Leaders Account, and that this was clear from an examination of bank records.

Now, what I want to ask you is, have you ever seen a bank record that shows that?

A. For the AIB?

Q. Have you seen any bank record that shows that?

A. Shows what account it went into?

Q. Yes?

A. No.

Q. And I, am I right in saying that the only information you had when you wrote to the Tribunal was that the cheque in question involved AIB Baggot Street but that the account involved wasn't known; isn't that right?

A. When we wrote to the Tribunal on the 22nd, I wasn't involved in preparation of that, I have since seen the document, it was signed by John Barnicle.

Q. Um hum.

A. In haste before, as I said to go to Galway Race Week.

Q. Yes.

A. So, I don't know where we became aware or when, that, that it went into the Party Leaders Account.

Q. I don't know what you mean by "we", when you say "I don't know where we", I don't understand you when you say "I don't know where or when we became aware that it had gone into the Party Leaders Account", I didn't understand that either yourself or Mr. Barnicle were saying that?

A. We did in the we had an understanding at the time and we said that in our letter.

Q. You had an understanding that it had gone into that account?

A. Yes, but I am we believe sorry, in looking at this previously we think we heard it in evidence.

Q. Yes. What you think you heard in evidence is that the 30,000 went into the Leaders Allowance Account?

A. Correct.

Q. Yes, but you know in fact from having spoken to the Tribunal and having seen the documentation here today, it doesn't look like it went into that account; isn't that right?

A. Well, I am still not it could, I am there is not a

Q. That may not be an easy question for you to answer. I am asking you a question concerning your father. Can I approach it another way and say this; as far as the

information you have is concerned, "you" meaning your firm has, your firm of Celtic Helicopters has no information suggesting that this money went into the Leaders Allowance Account?

A. We have no information.

Q. And you put an inquiry in place through Bank of Ireland, and they came back to you and said they couldn't say that either?

A. Correct.

Q. Right. You may think you heard it in evidence, but there was no evidence that it went into the Leaders Allowance Account, I quite understand you may think that?

A. Okay.

Q. When your father says, not you now, but when your father says in evidence, or says in his statement, that the records indicate that this sum was lodged to the Party Leaders Account, that bank records indicate that this sum was lodged to the Party Leaders Account, I am asking you, do you know of any bank record that indicates that, because that's what the Tribunal is trying to find out?

A. No, I don't.

Q. And you have never heard from your father or anyone else of a bank record that shows that?

A. Correct.

Q. Just to clarify one matter from the point of view of the, documents Mr. Haughey; I am not sure that the Tribunal indicated to you that you were going to be asked this

question today and if it presents any difficulty you can tell me, all I am seeking to establish is whether you may have signed the Celtic Helicopters cheque for 10,000 in connection with the other payment of 10,000 into your account and the payment out of your account of 10,000; can you remember whether you signed that cheque?

A. Well I would have signed, I would have to be a signatory on that

Q. Sorry, I beg your pardon, whether you wrote that cheque? I will give you a hard copy of that, it is not very clear to me, I should say it doesn't look like your writing, but I would still for the record like to know whether you have any view on it? (Document handed to witness).

A. Actually it appears to be my writing as well.

Q. Thank you very much, if you want to say anything else about that cheque you can come back to the Tribunal at a later point. It may not be dealt with until a later time in the course of this sitting?

A. Yes.

Q. Is that acceptable?

A. Yes.

MR. HEALY: Thank you very much.

MR. CONNOLLY: No questions, Chairman.

CHAIRMAN: Ms. Costello?

MS. COSTELLO: No questions.

CHAIRMAN: Thank you for your assistance, Mr. Haughey.

A. Thank you.

THE WITNESS THEN WITHDREW

MR. COUGHLAN: Mr. Ellis please.

JOHN ELLIS, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY

MR. COUGHLAN:

A. John Ellis.

CHAIRMAN: Please sit down Mr. Ellis. Thank you for making yourself available to the Tribunal.

Q. MR. COUGHLAN: I would like to thank you for your cooperation with the Tribunal and your prompt response. I think you are a member of Dail Eireann; is that correct?

A. That's correct.

Q. And how long have you been a member of Dail Eireann?

A. I have been a member of the Oireachtas since 1977.

Q. You have been a member of the Oireachtas?

A. Started off in the Senate in 1977.

Q. Yes, yes. I think in 1989 you had some financial difficulties; is that correct?

A. That's correct.

Q. And this resulted from a failed business venture as far as you were concerned?

A. Yes.

Q. I think at the time there was much media attention arising

from your failed business venture?

A. There was a continual media barrage which I had at the time
on my

Q. Now, I think, Mr. Ellis, you had a liability with
Manorhamilton Mart in 1989?

A. That's correct.

Q. Is that correct?

A. Yes.

Q. And I think, proceedings resulting in bankruptcy were
threatened against you; is that correct?

A. Proceedings that would have lead to bankruptcy were
threatened against me.

Q. Now, I think in December of 1989 were you spoken to by Mr.
C. J. Haughey?

A. That's correct.

Q. I should have said, Mr. Ellis, if you have the statements
you furnished to the Tribunal or Memorandum of Evidence you
can make use of them and have them in front of you?

A. Okay.

Q. You have some, you have them there with you, do you?

A. Yes, I have.

Q. And I think you say you were spoken to by Mr. Haughey, and
I think you have informed the Tribunal that he had become
aware of your difficulties and the threat of proceedings
which might lead to the bankruptcy against you; is that
right?

A. That's correct.

Q. Now, do you know or can you remember the conversation or how Mr. Haughey approached you?

A. He approached me in the Dail one day after the order of business, said he wanted to see me urgently in his office. He explained to me, something that I didn't actually know at the time, he said that "I believe that there is preparation of a proposed bankruptcy against you".

Q. Right?

A. And I hadn't been aware of it at the time.

Q. Right. You knew the significance, I suppose, of a proposed bankruptcy against a member of the Oireachtas?

A. Of course.

Q. Yes?

CHAIRMAN: I suppose you better say what that is.

Q. MR. COUGHLAN: Sorry, I think

A. I would be automatically disqualified from holding public office as a member of the Oireachtas.

Q. Yes. And I think you have informed the Tribunal that Mr. Haughey informed you on that occasion that Fianna Fail would help you out in those circumstances?

A. Yes, he asked me what, at that time what the potential liabilities were. I explained to him the two problems that were there, which were well-known in the public arena at the time.

Q. Yes.

A. And that was the discussion we had.

Q. Did you have any discussion or did he have any discussion

with you or discuss the importance of the position of the Government?

A. Yes, he did, he said "You know this would lead to the Government falling if you were to be declared bankrupt".

Q. Yes. Now, I think on the was that the end of the discussion, an indication that you would be helped out?

A. Yes, he said to me "We will, Fianna Fail will help you out". It wasn't that he would probably help me out, that the Fianna Fail Party would help me out.

Q. That was your clear understanding?

A. Yes, totally.

Q. Now, I think on or about the 13th of December of 1989 did Mr. Haughey invite you to his office again?

A. Yes, this would be the day after we had the previous discussion.

Q. Right. And did anything happen in his office?

A. Yes, he gave me the amount of money, €12,400, to satisfy the liability, and I then transported it to my solicitor who informed me to take it direct to his town agents.

Q. Yes.

A. Who in turn, I believe, transferred the amount to the suing people, who were Manorhamilton Mart.

Q. Through their solicitors I believe?

A. Yes.

Q. Now, the sum of €12,400 which Mr. Haughey gave you

A. That is correct, yes.

Q. how was that paid?

A. Cash.

Q. In cash. And I know it is hard to remember the denomination or anything like that

A. I don't.

Q. You don't?

A. No.

Q. Okay. Can we take it that it was passed to you in some discrete way, it was enclosed in an envelope?

A. It was passed to me in his office, in a folder.

Q. In a folder?

A. Yes.

Q. Which you then took to your solicitor you informed your solicitor that you had the money?

A. He in turn told me to take it to Peters.

Q. His town agents?

A. That's correct.

Q. And they were to, by whatever means, perhaps by their own

A. I don't know, that was the instruction I received.

Q. Was there anyone present?

A. Nobody was present on either occasion.

Q. Just yourself and Mr. Haughey?

A. Yes.

Q. When you took the money to your solicitor's town agents here in Dublin, did you take it in cash?

A. In cash. I took the exact money that I had been handed direct to the town agents.

Q. I see. And you don't know how they conveyed that to the solicitors for Manorhamilton Mart?

A. No I don't, no.

Q. Now, I think your difficulties didn't go away by reason of just that payment, you had a further difficulty with Swinford Mart?

A. That's right, in March of 1990, a similar situation arose.

Q. And was there public controversy about that at the time?

A. Yes there was, there had actually earlier been a case in the High Court.

Q. I see, involving yourself?

A. Yes.

Q. And Swinford Mart, is that it?

A. That's correct.

Q. And did Mr. Haughey do anything in March of 1990 that you can recollect?

A. Yes, when he was aware of the situation in March of 1990 he again gave me the necessary cash on behalf of Fianna Fail to satisfy the debt.

Q. Yes. Now, again did you approach Mr. Haughey or did Mr. Haughey approach you or how was contact made?

A. Mr. Haughey I still can't know how he knew as much about me as he did. But he could tell me actually earlier on when I said prior to the March date

Q. Yes?

A. that this was coming up again.

Q. Well, as far as what you have informed the Tribunal, is

that Mr. Haughey volunteered that the party would assist as this was the final threat being made in respect of bankruptcy?

A. That's correct.

Q. And that on the 22nd of March of 1990 you collected from Mr. Haughey, in his office, cash in the sum of €13,600 and you brought that to your solicitors?

A. That's correct.

Q. And you understand that your solicitors lodged this cash to the solicitor's own client account?

A. Yes.

Q. And that they forwarded to the solicitors, a cheque to the solicitors acting on behalf of Swinford Mart; is that correct?

A. That's correct.

Q. And you have informed the Tribunal that at all times it was made clear to you by Mr. Haughey that both payments were made from the Fianna Fail funds and for the benefit of the Fianna Fail Party?

A. That's correct.

Q. Now, I think you have informed the Tribunal that you are not aware at the time of any possible connection between the funds paid to you and the Leaders Allowance Account?

A. Absolutely.

Q. And I think you have informed the Tribunal that you were not aware that at the time the Leaders Allowance Account included funds paid out of the Exchequer or Central Funds

to the Leader, together with other funds, including the sum contributed to defray the medical expenses of Mr. Brian Lenihan?

A. That's correct.

Q. You knew nothing about the Leaders Account?

A. Nothing, as TD's you don't have dealings with regard to the financial running of the political party, unless those who are the trustees or treasurers.

Q. I think you very promptly when the Tribunal asked for your assistance furnished your Memorandum of Evidence; isn't that correct?

A. I felt it was my duty, having voted for the setting up of the Tribunal, once I was asked to give relevant information that might be of benefit I felt I had a duty to do that, and I responded as quickly as I could once I had checked the records to make sure I wasn't going to misinform the Tribunal.

Q. I think that's acknowledged, that you did respond very promptly, Mr. Ellis?

A. Thank you.

Q. Arising out of that the Tribunal have raised other queries with you to which you again responded fairly promptly; isn't that correct?

A. Yes.

Q. I think the first matter which the Tribunal asked you about was, asked you for details, this was addressed to your solicitor of course, and the response comes from your

solicitor, "Details of your client's knowledge of how Mr. Haughey became aware of the threatened bankruptcy proceedings, in particular whether or not you client had himself either directly or indirectly brought the matter or arranged to have the matter brought to his attention?"?

A. I still don't know how he knew so much, it was obvious as Taoiseach somebody would have informed him from outside, what was the situation.

Q. On your instructions I take it your solicitor responded to the Tribunal's inquiry, and your solicitor informed the Tribunal that; "Our client is unaware as to how Mr. Haughey became aware of the threatened bankruptcy proceedings against him. Our client did not directly or indirectly bring this matter or arrange to have this matter brought to his attention. However, Mr. Ellis' financial difficulties were very much in the public domain and it was not a surprise to Mr. Ellis that Mr. Haughey, or indeed anyone, was aware of his financial situation or threatened bankruptcy"?

A. That's correct.

Q. And I think the second question or query which was raised by the solicitor for the Tribunal with your solicitor was to ask for "Details of your client's knowledge of how Mr. Haughey came to be aware of the continued difficulties in March of 1990, and whether he directly or indirectly approached Mr. Haughey or arranged to have an approach made to him?" And your solicitor responded as he did to the

first query?

A. Yes.

Q. Isn't that correct?

A. Yes, the second was exactly the same as the first.

Q. Yes, and I think you were then, your solicitor was then asked for "Details of the identities of any other persons in Fianna Fail who were aware of Mr. Haughey's approach to your client or any approaches by your client to him, and of the payment by Mr. Haughey on behalf of the Fianna Fail party of €12,400 in December of 1989 and €13,600 in March of 1989". And your solicitor responded; "Our client is unaware of the identity of any other persons in Fianna Fail who are aware of Mr. Haughey's approach to him. Our client dealt with Mr. Haughey only"?

A. That's correct.

Q. Is that your understanding?

A. There never was anybody else involved except Mr. Haughey.

Q. You never heard any whispers, or nobody ever mentioned anything to you? As far as you were concerned this was completely discreet?

A. Yes.

Q. I think finally you were asked, your solicitor was asked for details of whether these payments were made by way of unrecoverable gift or grant, or whether they were made by way of a loan, and if by way of a loan what arrangements were made by repayment, and the reply was; "The status of the monies paid to Mr. Ellis is not clear. They were

simply handed over by Mr. Haughey to our client for the purposes of satisfying the immediate financial difficulty. No discussion took place between our client and Mr. Haughey as to whether the payment was by way of gift, grant, loan or otherwise"?

A. That's correct.

Q. And as far as you were concerned you were just told that the Fianna Fail Party would help out?

A. That's right, it was the difference between Fianna Fail being able to stay in government or probably going out of government.

Q. Yes, and you received cash and you didn't know where it came from, but believed it had come from the Fianna Fail Party?

A. I was told it had come from the Fianna Fail Party.

Q. Now, in respect of the first occasion, that is December of 1989, and your liability to Manorhamilton Mart, had proceedings been issued by Manorhamilton Mart at that stage?

A. Not to me, I am told they may have been in the course of being prepared.

Q. So, whilst there was some public controversy at the time about your financial situation, generally, was there any public controversy about the question of Manorhamilton Mart suing you or issuing proceedings against you?

A. It was probably knowledge that they had taken but it wasn't public knowledge that they were issuing proceedings

for bankruptcy and that's how I I hadn't been informed

until Mr. Haughey informed me that it was pending.

Q. So did it come as news to you that bankruptcy proceedings were going to be brought?

A. Yes, it came as shock to me. I knew the potential was there for it to happen but it came as shock when he told me it was actually potentially very close.

Q. I see. And you didn't know yourself?

A. No, nor my solicitors.

Q. And your solicitor didn't know?

A. No.

Q. And do you think how Mr. Haughey might have known how Manorhamilton Mart were going to issue bankruptcy proceedings against you?

A. I don't, I don't.

Q. And turning then to the question of the difficulty with Swinford Mart. There had been previous proceedings, had there, by Manorhamilton Mart?

A. Yes, there had, yes.

Q. Where an indebtedness had arisen?

A. Yes, that's correct.

Q. Again, with Swinford Mart there had been proceedings in which an indebtedness had arisen?

A. Yes.

Q. Yes. Again had any bankruptcy proceedings been threaten against you by Swinford Mart when Mr. Haughey spoke to you?

A. What happened was there was the potential again, and my

understanding is that he became aware from some source again that this was imminent, and the only thing that I can think is that somebody in the legal world had informed him.

Q. I see.

A. That's the only conclusion I can come to.

Q. I see. But, in any event, again as with the case of Manorhamilton Mart, did it come as news or surprise to you that Swinford Mart might be going to issue bankruptcy proceedings against you?

A. They had the grounds on which to do it.

Q. I appreciate

A. Saying they did hold judgement. It came as a shock.

Q. It came as a shock to you as well?

A. Yes, yes.

Q. And when you received the two payments in cash from Mr. Haughey, I take it there was never any discussion about any money being paid back?

A. Absolutely no discussion, it was handed to me, to satisfy the two debts that were due and the question was never raised.

Q. I suppose you would understand as a public representative yourself, Mr. Ellis, that I would have to ask you, did it ever come as a surprise to you that the payments were made to you by Mr. Haughey in cash?

A. I think that he felt it was a very sensitive issue at the time, he said "you know it is very sensitive", I said "yes I understand", he said "that's the reason I feel it should

be paid in cash rather than paid by cheque".

Q. Um hum. But from your point of view it didn't matter how it was being paid, you needed to satisfy the indebtedness which would avoid bankruptcy and avoid you losing your seat?

A. That's correct.

Q. So can we take it you didn't ask for cash?

A. No, I did not.

Q. And as far as you knew nobody else in Fianna Fail knew of this transaction; is that correct?

A. That is my understanding. Mr. Haughey did not say that he had discussed it with anybody else.

Q. And up to the time that you have been dealing with the Tribunal what is your view as to whether anyone else in Fianna Fail ever knew about this?

A. It had never been mentioned.

Q. It had never been mentioned?

A. It has never been mentioned.

MR. COUGHLAN: Thank you Mr. Ellis.

A. Thank you.

CHAIRMAN: Ms. McNally?

MS. McNALLY: No questions.

CHAIRMAN: I appreciate it hasn't been easy for you going through these matters again, and like Mr. Coughlan I appreciate your public spiritedness and assistance in the

matter.

A. Thank you Chairman.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mary O'Connor please.

MARY O'CONNOR, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS
BY MS. O'BRIEN:

A. Mary O'Connor.

Q. MS. O'BRIEN: Thank you, Ms. O'Connor. Ms. O'Connor, I
think you are an official with Allied Irish Banks?

A. That's right, yes.

Q. I think you have been requested to assist the Tribunal in
relation to two cheques which the Tribunal brought to your
attention?

A. Yes.

Q. Yes, and I think also a Memorandum of Evidence that you're
in a position to give has been prepared?

A. Yes.

Q. And I think you had a copy of that, you should have a copy
of that, if not we can hand you up a copy. I think the
two cheques on which your assistance was sought were
cheques of the, one in the sum of €30,000 and one in the
sum of €25,000, and I think if we put those up on the
overhead projector in turn.

I think the first one there on the overhead projector, I
think you can see it there on the monitor. We can give you

a hard copy, it might be easier for you. (Handed to witness). The first one was dated the 13th of June, again it is slightly obscured. The date it has been confirmed. It was dated 13th of June, 1989, payable to cash in the sum of €30,000 and drawn on Bank of Ireland, Dublin Airport branch, account Celtic Helicopters Limited?

A. Um hum.

Q. I think in fact this was the cheque which Mr. Ciaran Haughey has just been giving evidence in relation to.

Now, the second cheque which you have also referred in the memorandum is a cheque also coincidentally dated the 13th of June of 1989, in the sum of €25,000, payable to Fianna Fail Party Leadership Fund. (Handed to witness). And signed by Mr. Laurence Goodman. I think that's a cheque also drawn on Allied Irish Banks, at 73 Clanbrassil Street, Dundalk, County Louth. That cheque is for €25,000.

Now, I think it appears from the brands and stamps on these cheques that both of the cheques were collected through Allied Irish Banks, 1 Lower Baggot Street; is that right?

A. Yes.

Q. And I think firstly if we look at the one that's on the screen at the moment, that's the cheque for €20,000, I think on the lower left-hand side you can just see faintly "AIB, PLC, presented"?

A. Yes.

Q. I think also if we just turn that around and look at the

number there, I think a part of that number, and correct me if I am wrong, a part of that number sequence of numbers identifies the branch through which the cheque was collected; is that right?

A. Yes, it is.

Q. If you just indicate which portion it is and how it identifies Baggot Street, and at which it was collected?

A. The last three digits "157", each of the branches within AIB have their own numbers attached to the branches. This was the number we allocated Baggot Street.

Q. That identifies the cheque as having been collected through Baggot Street?

A. Yes.

Q. Yes. If we just move onto the other cheque, the cheque for €30,000 payable to cash, and I think if we look at the reverse side of that cheque, very faintly we can also see the Baggot Street brand on that. (Handed to witness)?

A. Yes.

Q. And I think also the 20th of June?

A. Yes.

Q. So it appears therefore I think, and I think it generally appears from these cheques that both of them were presented across the counter in Baggot Street on the 20th of June in 1989?

A. Yes.

Q. Now, the specific matters that the Tribunal has asked you to assist on is the manner which these cheques went through

the processing system in the bank. And I think your Memorandum of Evidence addresses that. If I can take you briefly through that, and as we do so we can pause and maybe tease out certain issues that arise?

A. Okay.

Q. I think in the first paragraph you have referred to a tracer number, I think the tracer number, we go back to the 25,000 cheque, I think the tracer number is clear from the face of that. Just so we know what we are talking about, I think the other way around if we turn it upside down, when you refer to "tracer number", I think you mean that sequence of numbers and series of numbers printed there?

A. Yes.

Q. I think you said there is, a tracer number is applied in the bank's computer system to a transaction and that helps to trace the various processes applied to the cheque or the instrument or transaction as it goes through the bank system?

A. That's correct.

Q. And I think you said the tracer numbers are sequential numbers and they are applied to all transactions and processes which pass through the bank waste system?

A. That's correct.

Q. Can you just briefly explain what the bank's waste system is or what it refers to?

A. In other words the data capture device we use within each branch for actually processing each item. Each piece of

debit or credit or cheque would have to process through this data capture device machine, basically, in order to get this tracer number.

Q. Right. I think you have said that each item is given a sequential number, so that related items will usually be in number sequence?

A. That's correct.

Q. You further stated in the case of a lodgement, a lodgement docket will be given a number and each item comprised in that lodgement will be given a sequential number?

A. Exactly, yes.

Q. So if, for example, and correct me if I am wrong, by way of illustration, if the lodgement docket for argument sake had the tracer No. 1, and if the lodgement was made up of four or five different instruments, can we take it the tracer numbers would be two, three, four and five?

A. Yes.

Q. Okay. I think you stated also the instruments or cheques which are cashed at the branch, if cleared through the branch's collection system, will also be given a tracer number and that will appear on the instrument and on the branch's waste sheets?

A. Correct.

Q. Now, you refer in the second paragraph of the memorandum to the cheque on the overhead projector at the moment. You say this is a tracer number printed on its face which signifies that it was cleared through the branch in the

ordinary way?

A. Correct, yes.

Q. And again if we can just go through that tracer number.

The first sequence of numbers I think, 200689, I think that indicates the date on which it went through the waste system?

A. That's right.

Q. This data identification system?

A. Yes.

Q. Yes. Then the second set of numbers there, I think we can just make it out, 4801?

A. 0816.

Q. That's the actual tracer number itself which identifies

A. The first two digit numbers on this is the operator number, each operator was given each person was given an operator number and, I suppose just for accountability, and so it would have been operator 48 and the tracer number 816 yeah.

Q. 816. Then the third set of numbers, 002?

A. This number meant that, after usually about every 150 items we took a total of these items, simply to make it easier for the processing, so this identifies this, this would have been in the second batch.

Q. So it is batch together?

A. Yes exactly.

Q. And then the final three numbers you already indicated identify it as being the Baggot Street Branch of AIB?

A. Yes.

Q. Now, when you continue on your memorandum you refer to the account statement, and maybe if we can just have that on the overhead projector there. The transaction on the 21st of June, 1989, we see the 20th of June, 1989, we can see a lodgement of €36,000, and I think the tracer number there on the left is 00812?

A. Yes. (Handed to witness).

Q. I think what you stated in your memorandum is, the tracer number on the cheque, which was 00816, is four numbers away from the tracer number shown for the lodgement of €36,000 on the account statement, that's because it is 00816 to 00812?

A. Yes.

Q. I think you have stated further that given the proximity of the tracer number, the bank is of the view, and you are of the view that the cheque was probably lodged to the account and formed part of a lodgement of €36,000?

A. Yes.

Q. And that's because of the proximity of the tracer numbers?

A. Yes.

Q. You stated further, as the cheque was debited to the account on which it was drawn, that's the €25,000 cheque drawn on the, signed by Mr. Goodman and drawn on the account in County Louth on the 22nd of June, that's within two days, this signifies it was cleared through the branch's ordinary collection system. I think we can see

that then on the AIB Louth statement of account, the 22nd of June, and it shows there the cheque being debited to the account for €25,000. I think the numbers on that match the number on the €25,000 cheque. 060514, that enables you to identify that debit as being the proceeds of the cheque which were cleared through the, presented in Baggot Street?

A. Correct.

Q. I think you go on to say, you then go on to consider the Celtic Helicopters cheque, this is the €30,000 cheque, from the badge on the reverse side of the cheque also appears to have been collected through the AIB Baggot Street Branch. I think you have informed the Tribunal that the cheque does not bear any tracer number?

A. Correct, correct, yes.

Q. And I think that this signifies that the probability is that this cheque was not cleared through the bank's order collection system; is that right?

A. Yes, it is.

Q. And could you explain why that is, the absence of the tracer number indicating that it wasn't collected through the standard collection system?

A. If we got a cheque over €20,000 the customer could ask or the, either the bank itself could actually opt to get same day clearance for a cheque over €20,000 and this it would indicate from looking at the photocopy of this cheque that it didn't go through the data capture device, so it

was sent to our walking officer down to Nassau House to be same day value cleared.

Q. If it was same day value cleared, you expect it to clear the account on which it is drawn within a day?

A. Yes, it is a day earlier than normal if went through this process.

Q. I think in fact that would ordinarily be called "walk-in clearance" of the cheque?

A. That's correct.

Q. I think we can see from the statement of the Celtic Helicopters account, that it was, appears to have been debited to the account on the following day, the 21st of June?

A. Yes.

Q. I think that confirms you in your view that this cheque was not cleared in the ordinary collection system, but that it was subject to a walk-in clearance?

A. Yes, yes.

Q. Now, I think you further stated in your Memorandum of Evidence, that the bank's own cash paid account does not show individual transactions?

A. That's correct, yes.

Q. So that if the €30,000 cheque payable to cash which appears to have been subject to walking clearance had been paid in, cash this isn't shown as a separate entry on the bank's cash paid account?

A. That's right, it is all of the days cash paid and

received are actually processed as two separate entries at the end of the day.

Q. A single debit entry and single credit entry at the end of the day?

A. Yes.

Q. Yes. So looking at that particular statement of the bank wouldn't assist as to the manner in which this €30,000 cheque was processed at the bank?

A. No.

Q. I think in paragraph five you said that you note that the account to which the lodgement for €36,000, that's the Leaders Allowance Account, in AIB, was made when it was made on the 20th of June, that it had a sizable balance in the region of €144,000 before the lodgement was made?

A. Yes.

Q. I think you have stated, therefore, that if the cheque had been lodged to the account it seems unlikely that the customer would have requested special clearance, because I think as you already explained special clearance will give you value within one day?

A. Yes.

Q. You say, as there was more than sufficient funds in the account to meet the funds drawn over the following two days, which is the time usually required to clear events in the account?

A. Yes.

Q. Well, I think would I be correct in saying that if an

account was overdrawn and a customer was lodging a large cheque to that account on which he wanted to make drawings the following day or within a short number of days, it might be that the customer himself would request same day clearance?

A. Yes.

Q. Or walking clearance as you referred to it?

A. Yes, because he needed the funds immediately.

Q. Because he wants to draw against the funds immediately, and if the account was overdrawn he wouldn't be allowed to draw against uncleared effects?

A. Yes.

Q. So if the account was overdrawn by 20,000 and there was a 30,000 cheque to go into it, and if the customer wanted to write a cheque for 10,000 the following day or two days later, the customer might request walking clearance?

A. Yes.

Q. In the ordinary course of a case such as this where there is a very substantial credit balance of £142,000 before the lodgement was made, and having regard to the debits in the days following the lodgement of the 20th of June, does there appear to have been any reason why a customer might have wanted walking clearance on a cheque for £30,000 lodged to that account on the 20th of June?

A. No.

Q. No. And I think having regard to all of the considerations that you have made, all of the

considerations as regards the balance on the account, the proximity of the tracer numbers and the fact that walking clearance appears to have been obtained for the €30,000 cheque, I think it is your view that it is more probable than not that the cheque for €30,000 was cashed over the counter; is that correct?

A. Yes.

MS. O'BRIEN: Thank you very much, Ms. O'Connor.

MR. CONNOLLY: No questions

CHAIRMAN: Any questions?

I think from one of your Allied Irish Banks colleagues, Mr. Alan Kelly gave evidence on an earlier occasion, he referred to certain other potential indicators of a cheque being cashed, such as the endorsement of "C" on the back of the cheque or the designation of what would be called by somebody being sent to the off counter teller, for reasons both of security and to avoid the embarrassment of queueing up in the regular public queue for small transactions; is there any particular difference between those practices and what you have just told us about?

A. I don't understand what

CHAIRMAN: No, merely when Mr. Kelly, another bank official was talking about some indications that a particular cheque or instrument may have been cashed, he said that on occasions you may have had a "C" put by the

bank official on the back or you may have had the stamp of the off counter teller as the person who was sent to do the cashing?

A. It would depend on whoever the cashier was; each cashier would have their own way of doing things. You could have a C, you could just have a branch.

CHAIRMAN: Yes, but these indicators you have described are practices from your own knowledge and experience which induce you to draw the conclusion you offered as a probable

A. Yes, yes.

CHAIRMAN: Thank you.

MR. COUGHLAN: Thank you.

CHAIRMAN: Thank you very much indeed.

MR. COUGHLAN: We have gone through witnesses a little quicker than we anticipated today, sir. That's all the witnesses available for today, sir.

CHAIRMAN: I think there is some factor tomorrow.

MR. COUGHLAN: Yes, we are in the Supreme Court tomorrow, sir, on behalf of the Tribunal on a question of costs and the action Mr. Haughey brought against the Tribunal and the State, so I would

CHAIRMAN: In those circumstances, Friday at half past

ten. Thank you very much.

THE HEARING WAS THEN ADJOURNED UNTIL FRIDAY, THE 8TH OF
OCTOBER, 1999 AT 10:30 AM.