

THE HEARING RESUMED ON THE 22ND OF NOVEMBER, 1999, AS
FOLLOWS:

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CHAIRMAN: Good morning everyone. When you are ready?

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MR. O'NEILL: Good morning Sir.

The next witness who it is intended to be called before the Tribunal is Mrs. Caroline Bailey, and you will be aware Sir, that Mrs. Bailey, as with other potential witnesses to the Tribunal, was invited to provide a written narrative to the Tribunal of the evidence that she would give. This arose because she was a person who was named by Mr. Michael Bailey as being a person who had an involvement in the keeping of the financial records of Bovale Developments Limited.

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By letter of the 27th of July of 1999, her solicitors advised the Tribunal and I quote: "That it is clear from the High Court decision in Lawlor versus Mr. Justice Flood, delivered on the 2nd of July, 1999, that the Tribunal did not have power to order the submission of such a narrative statement, and further, that such a narrative statement does not attract privileges provided for under Section 5 of the Tribunals of Inquiry (Evidence) Act 1979"; reference was also made to the Supreme Court decision in the matter of National Irish Banks Limited, which indicated that information tendered voluntarily may be admissible in subsequent proceedings.

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And in those circumstances Caroline Bailey instructed her solicitors that while, of course she would provide evidence on oath before the Sole Member, she was not in a position

to furnish a narrative statement.

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She was duly served, Sir, with a witness summons and she appears now on foot of that summons. You had outlined the procedure to be followed by the Tribunal in adducing evidence at public hearings in your statement of the 12th of January, 1999, where you provided at page 6, that: "The Tribunal has requested witnesses to provide statements of their intended evidence in advance of the hearing so that the Tribunal is aware of the nature of the evidence sought to be adduced and to ensure that notice of that evidence is given to interested parties".

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Now, the absence of a written statement in this case means that the procedure can no longer be followed. In other words, the established procedure of the Tribunal will have to be amended to take account of the change in circumstances which arises from the fact that the Tribunal has, at this point in time, no statement of what the evidence of Mrs. Bailey would be.

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CHAIRMAN: Thank you. Well, in the circumstances, first of all I note the letter of July 27th and it's contents.

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The rationale of the original procedure was to ensure reasonable expedition in the work of the Tribunal, and where possible to ensure that matters adverse to interests, to the interests of third parties were not aired publicly prior to such persons having had notice of the intended evidence before the Tribunal.

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In order to maintain the efficacy of the Tribunal and

protect the interests of such persons who may be affected by such evidence, the procedure of the Tribunal, in dealing with the witnesses who have not provided prior statements will be as follows: The witness will be questioned by counsel on behalf of the Tribunal on matters that appear at this point in time to merit questioning of the witness.

The witness' responses will be considered by the Tribunal legal team, analysed and cross-checked against information which the Tribunal has been provided with from other sources.

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Following upon such, following on this review the evidence of the witness, it may be necessary to put further questions to the witness in question. It may also be necessary to call the witness at a later time to circulate the evidence already taken to additional parties.

Examination of the witness by parties other than Counsel for the Tribunal shall then take place after the evidence of the witness has been considered by the Tribunal and after such further questioning by the Tribunal legal team has taken place.

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If, in the course of the evidence of the witness, it appears that parties may be named who do not have representation before the Tribunal and against whom potentially adverse conclusions may be drawn, the witness shall not publicly name such person, but shall write out the name and address of the such person and hand it to the Registrar for transmission to the Sole Member. If so directed by the Sole Member the witness thereafter shall refer to such person by initial only, or by such other description and shall ensure that the identity of such

person is protected.

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That is how I intend to proceed.

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MR. O'NEILL: Mrs. Caroline Bailey, please.

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MR. ALLEN: As you know, I represent Mrs. Bailey. You have already granted her limited representation.

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CHAIRMAN: I appreciate that.

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MR. ALLEN: Thank you Sir.

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MR. O'NEILL: Mrs. Bailey please.

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CAROLINE BAILEY HAVING BEEN SWORN WAS EXAMINED BY MR. O'NEILL AS FOLLOWS:

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CHAIRMAN: Good morning Mrs. Bailey. Would you sit down and make yourself comfortable. When you are ready.

1 Q. MR. O'NEILL: Good morning Mrs. Bailey. You are married to Mr. Tom Bailey; isn't that so?

A. That's correct.

2 Q. And he is a director of Bovale Developments Limited; is that correct?

A. Yes.

3 Q. And can you indicate when it was that you married?

A. 1982.

4 Q. I see. And what was your maiden name before you married?

A. Fahey.

5 Q. Fahey. I see. And what are you; what is your full name, as it would appear on your birth certificate?

A. Caroline Margaret Fahey.

6 Q. Caroline Margaret Fahey, now Caroline Bailey?

A. Yes.

7 Q. And were you employed after you left school?

A. Yes. I worked in the Bank of Ireland.

8 Q. I see. And in what department of the bank did you work, was it in a branch or at Head Office?

A. Several branches.

9 Q. I see. How long were you employed by the bank?

A. I think for about five years.

10 Q. I see. And at what branches were you employed, can you recollect?

A. Newbridge, Castlebar, 34 College Green and then College Green.

11 Q. Yes. Before you became employed in the bank had you gone through some office training or bookkeeping qualifications or training?

A. No, I just did a typing course, a secretarial course.

12 Q. I see. Once you came into the bank, did they train you in bookkeeping methods?

A. No.

13 Q. You obviously must have learn something though about balancing books and financial record-keeping whilst working in the bank?

A. No, no.

14 Q. I see. Were you ever a cashier in the bank?

A. Yes.

15 Q. And did that not involve you learning the procedures whereby you recorded your receipt of monies in, and you recorded the disbursements and you balanced your books at the end of the day to see that your cash in hand was in accordance with your records?

A. Yes. But in a much simpler fashion, you know, just --

16 Q. Much simpler?

A. As a cashier you are a very individual person, you are responsible just to balance your cash.

17 Q. Yes; but to balance your cash you obviously learnt what the appropriate procedures were; isn't that right?

A. Yes.

18 Q. Yes. You also became aware and familiar with the procedures for writing cheques and for dealing with cheques?

A. Yes.

19 Q. Isn't that so?

A. Yes.

20 Q. Yes. You were in that position for about five years; is that correct?

A. No, not as cashier. I was only cashier for about nine months before I left.

21 Q. Nine months before you left?

A. Yes.

22 Q. Prior to that, for the first four years, what had you been doing?

A. Just dealing with customers across the counter and typing, just general office administration.

23 Q. I see. Would you say that by the time you had left the bank you were adept in the financial record-keeping that would be necessary to balance books and to keep financial records?

A. No.

24 Q. You weren't so adept?

A. No.

25 Q. I see. Did you meet your husband whilst you were working in the bank?

A. No, no. Years previous.

26 Q. I see. Was he ever a customer in the branches you were working in?

A. No.

27 Q. And what year again was it that you married?

A. 1982.

28 Q. 1982. I see. Now, at some stage after 1982 did you involve yourself in the financial record-keeping of Bovale Developments Limited?

A. I did. Yes.

29 Q. And can you say what year that was?

A. I think it was 1983 when it started.

30 Q. I see. Now, the company had been in existence before that time; isn't that so?

A. It was.

31 Q. Yes; and trading before that time?

A. I am not one hundred percent sure.

32 Q. Right.

A. You know, of that time.

33 Q. Well, when you came into the company, did you come in as an employee?

A. No.

34 Q. I see. What was your status?

A. I just helped Tom, you know, write up the invoices and, you know the sort of general, general day-to-day accounting for the company.

35 Q. Right. And prior to your taking up that position, had that function been performed by somebody else?

A. I don't think so, perhaps our accountants were doing it. We had an accountant that used to help us.

36 Q. I see; and who was that accountant?

A. I don't recall his name.

37 Q. Well, what can you recall of him?

A. He just worked with our accountant's firm, they were O'Toole McMahon in Celbridge, and it was just one of their Junior's.

38 Q. Yes?

A. And he came up and showed us how to write up the invoices and how to claim the VAT.

39 Q. I see. And when you say that he showed us how to do that, who in addition to yourself, was given this instruction or assistance by this accountant?

A. Just Tom and I, in our own home.

40 Q. I see. And that was in 1982?

A. Whenever the company, '82, '83 whenever it first started.

41 Q. Now, I take it you learned then the methods of keeping the VAT returns for a start; is that right?

A. Yes.

42 Q. And were there also employees of the company?

A. There were.

43 Q. And were there PRSI records that had to be kept in relation to them?

A. Yes.

44 Q. What other documents were there that had to be kept?

A. There would have been the cheque payments record.

45 Q. Yes?

A. And then the record of sales, how sales --

46 Q. Is the cheque payment record like a cheque payments journal where individual cheques would be written into the book to record what cheques had been written?

A. Yes.

47 Q. Then there was a sales book, cash sales; is that right?

A. A book that recorded the sales of the individual houses.

48 Q. Yes; and what about invoices to the company, how were they

recorded?

A. I called that the "VAT ledger" and they were recorded in that.

49 Q. They were recorded in the VAT ledger?

A. Um.

50 Q. I see. And was there quite an amount of documentation that would be generated in preparing these accounts?

A. Yes, a lot of invoices.

51 Q. Right. And presumably you would file them?

A. Yes.

52 Q. Presumably by the VAT periods in question; is that right?

A. That's right.

53 Q. Right. And you would make your VAT returns every two months?

A. Yes.

54 Q. Yes; and how much of your time was spent initially doing this type of bookkeeping work?

A. I just did it part-time, you know, in the evenings and at nighttime, maybe two or three nights a week.

55 Q. Did you do that at home then?

A. Yes.

56 Q. So that the accounts, or the financial records, would be brought home by Tom or by somebody else to your home; is that right?

A. Well, they would come by post and I would deal with them.

57 Q. I see. So the office of the company, from the point of view of your suppliers, was your home; is that right?

A. Home address, yes.

58 Q. And they sent invoices to your home; is that right?

A. Yes.

59 Q. And what was the system of payment out to meet these invoices?

A. At that stage Tom would pay them. He would meet with the sales representatives and he would pay them on-site.

60 Q. So whilst the invoices went to your office at home he would pay them on-site?

A. Yes.

61 Q. And what record would be kept of that payment having been paid by Tom?

A. He would - it would be written on the cheque stub and we would record it in the, you know, against the creditor and in the cheque journal.

62 Q. Right. So he would come back to you with a cheque book or an individual cheque stub, which would it be?

A. Which ever, or he would let me know, you know.

63 Q. Right.

A. I don't know how, he would just tell me what he had paid out that day.

64 Q. Yes; and of course, this would have to be done so as to keep your VAT up-to-date; isn't that right? To reclaim the necessary expenditure against the income; isn't that correct?

A. No, all I needed to claim the VAT was the invoices.

65 Q. You claimed the VAT off the invoices, it was on an invoice basis rather than on a receipts basis; is that right?

A. An invoice basis.

66 Q. I see. Now, when the cheque or the cheque stub came back to you, you say that entered on the cheque stub would be the name of the payee of the cheque; is that right?

A. Yes.

67 Q. I see. And you would then transfer that name into the cheque journal?

A. That's right.

68 Q. Now, did this work become more intensive as the years went

by?

A. It did.

69 Q. And your commitment to doing this work then increased obviously over that period; is that right?

A. It did, yes.

70 Q. And at a certain point in time were others brought in to do the bookkeeping in addition to yourself?

A. There were, yes.

71 Q. Yes; and when did that start?

A. In 1986, late '86.

72 Q. Right. Now, I will ask you just to note, for the purpose of the Tribunal, the name and address of the person who was taken on to do the accounts in 1986 please, and we can hand that in to the Registrar.

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(Registrar hands paper to witness. Witness writes name and address and returns it to Registrar. Registrar then hands paper to Sole Member)

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CHAIRMAN: Mr. Registrar, would you show that to Mr. O'Neill and then retain it on your file? Mr. O'Neill will, I take it, Mr. O'Neill, one possible way of dealing with this would be by Christian name only or do you feel that would be unnecessary identifiable?

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MR. O'NEILL: I think it might be simpler if we worked on the basis of two initials. It may be that there might be more than one person with the name, christian name, which would cause complications.

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CHAIRMAN: Well, just two initials.

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MR. O'NEILL: Yes, very good. The individual whose name you have noted on the paper there, Mrs. Bailey, will be referred to as MR for the balance of the questioning?

A. Okay.

73 Q. Do you understand that. So in 1986 MR was taken on to be a bookkeeper; is that right?

A. Yes.

74 Q. Now, was she taken on as a full-time employee or a part-time employee, or what was her employment status?

A. A full-time employee.

75 Q. A full-time employee. And she was then on the wages payroll; is that right?

A. Yes.

76 Q. Yes; and all necessary deductions were made for PRSI and for income tax and everything else from her salary; is that correct?

A. Yes. Yes.

77 Q. And is that lady still employed with the firm?

A. No.

78 Q. No. When did she cease to be employed?

A. Last year.

79 Q. Last year. I see. Was anybody else taken on after her, either to do part-time or to assist her or otherwise?

A. There were, she had girls helping her.

80 Q. She had girls helping her?

A. Yes.

81 Q. And I would ask you to note, if you wouldn't mind, please, the names of those ladies in the sequence in which they came to work for Bovale Developments Limited.

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(Registrar hands paper to witness. Witness notes names and hands paper to Registrar).

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A. Do you need addresses?

82 Q. And their addresses, please.

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(Registrar hands paper to Sole member)

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CHAIRMAN: And retain the original.

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(Registrar hands paper to Mr. O'Neill)

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83 Q. MR. O'NEILL: Now Mrs. Bailey, the first of the persons
named here with the initials MF?

A. Yes.

84 Q. Yes. Can you say when it was that that person came to work
for Bovale Developments Limited?

A. I couldn't be sure. I would have to look up the record to
be absolutely certain.

85 Q. Right. Well, you know that Margaret started in 19 - or MR
started in 1986, was it two or three years later, or was
it?

A. Yes, I think '88, '89, but yeah.

86 Q. I am not going to hold you to a specific date?

A. I would have to look it up.

87 Q. And how long was that person, MF, with the company?

A. Approximately a year.

88 Q. Approximately a year. Did that person do the same type of
work as you had done or you were doing and MR was doing?

A. She --

89 Q. -- or otherwise?

A. MR was in charge of the invoices and cheques and recording
everything. And that girl helped her with that then.

90 Q. Right. Were either of those persons in charge of payments

other than by cheque?

A. There were no other payments.

91 Q. Fine. Were either of those girls responsible for the recording of the wages or the deductions of PRSI?

A. Yes.

92 Q. I see. Well, were there any tasks that you performed of an accounting or bookkeeping or financial record-keeping nature over and above what they were involved in?

A. We all worked as a team, so you know, some days I would input invoices into the computer and some days I would do the cheque payments and bank reconciliations. We sort of worked with each other.

93 Q. I see. Well, was there any aspect of the financial record-keeping that was exclusive to you and was not performed by them or did they do everything that you did?

A. No, I did the bank reconciliations and the, you know, the house sales, the closing statements.

94 Q. Just to move down through the list of persons who provided bookkeeping services. "SM" is the next person who is mentioned here?

A. Yes.

95 Q. When did that person commence to work?

A. Approximately three years ago.

96 Q. Yes, and is that person still in the employment of Bovale Developments?

A. Yes.

97 Q. Very good. And the next person is DF?

A. Yes.

98 Q. When did that person commence?

A. About a year ago also.

99 Q. About a year ago?

A. Yes.

100 Q. And is that person still employed?

A. Yes.

101 Q. Yes. Fine. And the next person "OF", is that person also employed?

A. Yes.

102 Q. I see. Now, in relation to all of those four persons they are all full-time employees or were full-time employees when they were working for you; is that right?

A. All except OF.

103 Q. Expect "OF" she is the most recent employee?

A. That's right.

104 Q. And she employed on a part-time basis?

A. That's right.

105 Q. Other than being on a part-time basis, did all of these persons perform, essentially, the same functions with regard to the bookkeeping and record-keeping of Bovale Developments Limited?

A. Yes, they are all involved in it.

106 Q. They are all involved. And again, the areas that were exclusive to you, you say, are the bank reconciliations and the house sales?

A. Yes.

107 Q. Is that right?

A. Yes.

108 Q. I see. Now, the physical documentation that would be kept is, firstly, the cheque journal or cheque payments book; isn't that right?

A. Yes.

109 Q. Secondly, there are the various invoices which would be sent to you by the suppliers of products to you; isn't that right?

A. Yes.

110 Q. Thirdly, there would be the records which you yourself would keep in relation to your employees and the appropriate deductions for income tax from their wages etc.; isn't that right?

A. Yes.

111 Q. And what other documentation is there then, the bank reconciliation documentation? What does it comprise?

A. It goes hand-in-hand with the bank statements and it is just, it is just like a balance sheet of, you know, cheques that have been written out and just to reconcile the proper balance on the bank account.

112 Q. Would there also be a bank deposit book where you would fill out a slip showing the amount that was going to be lodged into the account?

A. No.

113 Q. Lodgement slips?

A. No.

114 Q. No? Well, how would that money find itself in the bank?

A. The money for the house sales goes directly from the solicitors straight to the bank.

115 Q. Yes. The money for house sales goes directly to the solicitors?

A. Yes.

116 Q. And from their account into the bank account?

A. And the booking deposits are handled by our auctioneers.

117 Q. Right. What about other cash payments that might be made, where are they recorded?

A. There are no cash payments made.

118 Q. There are no cash payments made. I see. You refer to, I just want to know if there are any other financial records now other than those financial records. Do you prepare annual accounts for the auditors?

A. No. We just, in the office we just record, you know, keep the day-to-day books and there are eventually at the end of the year they are sent into the accountants who work off them.

119 Q. Do I understand your financial year for the company ends on the 30th of June of each year; is that right?

A. Yes.

120 Q. And would you then provide all the original correspondence or original invoices or original books?

A. Yes.

121 Q. To the accountant; is that right?

A. Yes.

122 Q. And you then start a new set of books, would you, or would you wait until the others came back from the accountant?

A. No, we would - generally we would start new books.

123 Q. Right. Now, in addition to having this, in a written form, did the company also have a computer system?

A. Yes.

124 Q. Can you say when that computer system was installed?

A. Again, it is approximately 1984, '85.

125 Q. Right; and where was that computer located?

A. In our office, on our site office.

126 Q. I see. Do you know what type of computer it is?

A. No, not really. No.

127 Q. Right. Presumably it has an accounting software package in it?

A. Oh, it has, yes.

128 Q. That you use?

A. Yes.

129 Q. Do you know what system of software?

A. It is called "Pascal".

130 Q. "Pascal". And what records are kept then on the "Pascal"

system?

A. The invoices, just the invoices and creditors ledger.

131 Q. Okay. Well, in relation to the invoices, presumably the person who is in front of the computer types in the name of the supplier, the amount of the invoice, the amount of VAT chargeable on that invoice?

A. Yes.

132 Q. Is that right?

A. Yes.

133 Q. What other information?

A. The product.

134 Q. The product, yes, and?

A. Yes. The creditor, the product, the VAT and the amounts, yes.

135 Q. Right.

A. That's it.

136 Q. Is that then attributed to any particular job? Presumably there are a number of individual contracts going on at any one time?

A. No, we just would attribute it to whatever site was detailed on the invoice.

137 Q. Right.

A. And that is used to produce our VAT record.

138 Q. I see. So presumably then this is capable of printing off a summary of the information that is entered in on the computer; is that right?

A. Yes.

139 Q. Is that how the VAT return is prepared, that one prints out a copy of the invoices, and it presumably has done the necessary additions or subtractions as the case may be; is that right?

A. Yes.

140 Q. And did you, yourself, then complete the VAT returns?

A. I would put the VAT from the house sales against the invoice VAT and complete the return and send it off.

141 Q. Yes; that is something you did now, as opposed to the other persons who are named as the bookkeeping staff?

A. I did it, mostly, you know, if I was away somebody else would do it.

142 Q. Right. What other information was kept on computer?

A. The payroll.

143 Q. Yes?

A. That's it.

144 Q. And that would record all the payments to every employee; is that correct?

A. Yes.

145 Q. What about subcontractors, would they be entered in on the computer?

A. We treat them as creditors, you know, we block them all --

146 Q. I see. So what creditor records were kept?

A. The VAT ledger and the creditor statements and then just lists of aged analysis of balances for the creditors, and that is it.

147 Q. And where would these lists appear? In what book would they be?

A. We would just have a Creditor's Ledger, that is what we call it.

148 Q. I see. And was that information also inputted on the computer?

A. Well, the computer produced that information.

149 Q. Oh, I see. So somebody put in the initial information and it then gave a print-out; is that right?

A. A print-out, yes.

150 Q. And these print-outs were then bound for a particular year;

is that right?

A. That's right.

151 Q. But before the matter was put in to the computer in the first instance, was it also entered in a handwritten ledger?

A. No.

152 Q. I see. So there is no Creditor's Ledger, as such, rather than what is contained within the computer; is that right?

A. That's correct.

153 Q. I see. And has that computer system been in operation until now?

A. Yes.

154 Q. It is the same computer hardware; is that right?

A. Yes.

155 Q. Right. And the Pascal system is still being used; is that right?

A. We just changed it last month to another accounting package.

156 Q. I see; and what has become of the original package?

A. Oh, it is there.

157 Q. It is there?

A. Yes.

158 Q. And would be available for production to the Tribunal if so required?

A. Yes.

159 Q. Is that correct?

A. Yes.

160 Q. And if necessary it could print out the Creditor's Ledger all the way back to whenever the information was initially inputted; isn't that so?

A. I am sure it could, I am sure it could, yes.

161 Q. Yes. Have you ever been asked to produce a Creditor's

Ledger reprint from the computer in the recent past, since this Tribunal has been convened?

A. We didn't have to reprint it. We had it. And I think --

162 Q. You had it?

A. -- I think whatever documents we had went in to the Tribunal.

163 Q. I see. Now, the physical documents as opposed to the information which is stored on the computer, comprised an annual cheque journal; isn't that right?

A. Yes.

164 Q. That information wasn't inputted into the computer?

A. No.

165 Q. No. But at the end of the year, obviously that cheque journal formed an essential part of the accounts keeping process with your auditors; isn't that right?

A. Yes.

166 Q. And when the auditors considered that, would they have occasion to come to you and to ask you specific information about particular cheques or the absence of particular cheques perhaps, from time to time?

A. Yes, they would.

167 Q. Yes. Would you be the person who would furnish them with this information? The answers, in other words, to their accountancy queries?

A. Not all the time, but in general I would help them.

168 Q. Right. Who, other than yourself, would give this information to the accountants?

A. MR or --

169 Q. I see. MR or the others, MF?

A. Well, literally whoever would get the phone call would deal with it.

170 Q. Right. What sort of queries would be raised in general by

the accountants and auditors?

A. They mightn't know, you know, if a person was a subcontractor or registered or non registered subcontractor or things like that, you know, just simple queries.

171 Q. Yes. They would look at an individual entry in the cheque journal and they would ask you to explain to whom this sum was paid for instance?

A. Who it would be attributed to, yes.

172 Q. Yes; and whether it would be attributed to a supplier of goods or a supplier of labour or whatever it might be?

A. Yes.

173 Q. Yes; and with regard to subcontractors, there are certain tax provisions for them; isn't that right? There has to be a deduction from their gross payment; isn't that so?

A. On non registered subcontractors?

174 Q. On non registered subcontractors. I see. So that information would have to be kept as well as who was registered and who wasn't registered; is that right?

A. Yes.

175 Q. Right. Is it the case that there would be, on some occasions, a number of cheque books in circulation; in other words that Michael might have a cheque book, Tom might have cheque book or either of them may have two cheque books; one about to run out and the other about to commence?

A. Yes, that happened.

176 Q. And there would be occasions when the cheque numbers would not necessarily be in sequence if one was to look at the cheques returned through the Bank of Ireland Account; isn't that so?

A. Yes, that would be correct.

177 Q. How frequently would it be the case that the stubs of these

cheques would not have been completed?

A. Frequent, yes, quite frequent.

178 Q. Yes; and what difficulties would that present for the accounting staff and the record keepers?

A. We would look for photocopies of the cheques from the banks.

179 Q. Right.

A. And work off that.

180 Q. I see. Would you ask either Tom or Michael for an explanation as to what a particular cheque was for, before you made an entry against that cheque in the cheque journal?

A. If I didn't know the payee, I would do that.

181 Q. Right. Now, I take it you would have regular suppliers who would be paid and there would be others who there might be only - they would be once-off transactions; is that right?

A. Yes.

182 Q. And it wouldn't necessarily appear from the name on a cheque what the nature of that transaction was; isn't that so? For example, if one had a cheque made out to an individual by name, "John Smith"?

A. Yes.

183 Q. You wouldn't know whether that was for a subcontractor or whether it was a registered subcontractor, whether it was for goods supplied or whether it was for a personal liability that might have been incurred?

A. No, I wouldn't, no.

184 Q. So that the information that you learn by getting a cheque or a photocopy back from the bank wouldn't be enough to allow you to complete the cheque journal; isn't that right?

A. No, I would have to clarify it.

185 Q. Yes, and would you clarify that with the signatory of the

cheque?

A. Which ever of them happened to be in the office, I would.

I would clarify it.

186 Q. Some cheques would be signed by Tom alone, some cheques would be signed by Michael alone and some would be signed by both; isn't that correct?

A. Well, they were signed by both up until maybe two or three years ago and then they were able to sign them individually.

187 Q. I see. Are you saying that before that time there were no cheques which were signed by only one of them?

A. Not that I know.

188 Q. I am sorry?

A. Up until a certain point both of them had to sign the cheques.

189 Q. Yes. When did the point arrive that either of them could sign the cheques?

A. I don't know that. I would have to check that.

190 Q. But in any event, if a cheque came that required explanation, you would ask the signatory, or a signatory of the cheque for an explanation as to what it was for; is that right?

A. I would.

191 Q. Right. Were there occasions when, any occasions when you yourself would write out the cheque? I am not saying that you would sign it, but you would write it out in preparation for the signatories to pay a particular bill?

A. Yes.

192 Q. Or send off a particular cheque?

A. Yes.

193 Q. How frequently would that arise?

A. We always wrote out the cheques for them. We would have a

list of creditors looking for payments and we would get the balances and check the balances and prepare the cheques and then it was up to them to sign them.

194 Q. So more often than not it would be your writing, would it, that would appear on the cheque other than the signature?

A. And MR's.

195 Q. And MR's. I see. And you are clearly familiar, I take it, with her writing?

A. Yes.

196 Q. I see. Can you say how frequently it was that cheque stubs would not be completed in respect of cheque books?

A. Out of 50 there would be maybe ten that wouldn't be completed.

197 Q. Right.

A. It was fairly regular.

198 Q. I see; and whilst we know that each individual cheque book contained 50 cheques, how frequently would it be that only a proportion of those cheques would actually go through the account? In other words, that there would be cheques which either were never written or were never presented?

A. I don't know. I can't really - I would only be estimating or surmising, I don't know.

199 Q. It was a common occurrence that there might be one or two cheques that would never ever be presented out of a particular cheque book?

A. If we just cancelled them ourselves in the office maybe, or - no, it wouldn't be that very common.

200 Q. Not frequent as far as you are concerned, that there would be cheques that would not complete a cheque book?

A. It wouldn't be frequent, no.

201 Q. No. If there were cheques which had been written and had been recorded in the cheque payment journal and had not

been presented, they are matters which would be raised by the accountants at the end of the year, so that they could reconcile the bank accounts; isn't that right?

A. That's correct.

202 Q. In respect of those cheques in which there were no cheque stubs completed, there could be no entries in the cheque journal, and consequently those cheques would never require to be explained to the accountants; isn't that so?

A. They would have to be explained and we would get photocopies of them for the accountants.

203 Q. But if these were cheques which the cheque stub had not been completed?

A. Right.

204 Q. The cheque had not been entered in the cheque journal?

A. Well then there was no, that cheque would have been cancelled by us.

205 Q. It would have been cancelled, but how would you know how to cancel it if you didn't know who it was payable to?

A. I am getting confused with your --

206 Q. Very good. I will rewind somewhat.

A. If --

207 Q. There are circumstances in which, in a cheque book, there would be a cheque stub left incomplete; isn't that right?

A. Blank, yes.

208 Q. And one of the consequences of that is that you then can't enter into the cheque journal where that cheque went or what it was for?

A. Okay.

209 Q. Now, that cheque may or may not ever be presented in the bank; isn't that right?

A. But from the bank reconciliation I would know if I needed to get the details for that to enter it into the cheque

journal.

210 Q. Yes, you could do that if the cheque was presented?

A. If it was presented.

211 Q. And if it was not presented you would find that there was a cheque which was missing, it was out there, you would not know what it was for, who it was payable to, or what the amount on that cheque would be?

A. That's right.

212 Q. Yes; and naturally you couldn't cancel it because you wouldn't know who it was for or to; isn't that right?

A. Yes, that's right.

213 Q. Right. And from time to time, I take it that there would be cheques like that; isn't that so?

A. Occasionally, yes, just from time to time.

214 Q. For which an explanation was not given or could not be given to you because people did not know what happened a particular cheque; isn't that right?

A. Yes.

215 Q. Yes. In relation to the other type of cheque, where there was an incomplete cheque stub, but the cheque ultimately came through the bank, you would then get a photocopy of that cheque. You would take that information and if it was a customer or a supplier you knew, you would enter it in the cheque journal?

A. Yes.

216 Q. With a particular description. But if it was somebody you didn't know you would try and ascertain the purpose for which that particular cheque was written; is that right?

A. Yes.

217 Q. And you would then enter that in?

A. Yes.

218 Q. I see. Now, the cheque books themselves, would they be

carried on the person of the signatories or would they be retained in the office or would they be retained at home or where would the cheques be, the cheque books?

A. They would be carried by the signatories.

219 Q. And did you have a procedure whereby at the end of a week or at some fixed period in time they would either come in and account for what they had written or provide you with the cheque books to allow you to take the information off it and then return the cheque books to them; or what was the procedure?

A. We would generally get the cheque books on a Thursday for payroll and writing out creditor cheques.

220 Q. Right. And this took place regularly, every Thursday?

A. Every Thursday, yeah.

221 Q. You got both cheques, cheque books in from both signatories; is that right?

A. It was just generally one cheque book we worked off.

222 Q. I see. Well, how is that system devised? Which of the two signatories had the cheque book which would generally be worked on?

A. Tom.

223 Q. I see. And on the occasions when a joint signature was required, would he then make the arrangement to go to Michael to have him sign it, or would he give the cheques signed by him to you and you would go to Michael; what was the procedure?

A. It would be left in the office.

224 Q. It would be left in the office.

A. Whenever it was convenient then for Michael to come in, he would do it.

225 Q. I see. In the office, we know that initially you started doing this work at home, and obviously it bought busier and

you got staff in to do the work, presumably they did this work on the various site offices; is that right?

A. Yes.

226 Q. And would there be more than one site operating at any one particular time?

A. They would overlap more so, than two running concurrently.

227 Q. Well, would there be two site offices with accounting staff in them, or would the accounting records be kept in the major of the two sites?

A. In the major of the two sites.

228 Q. I see. And that was left there on site; is that right?

A. Yes.

229 Q. Now, was there a safe in the site or otherwise?

A. No.

230 Q. Was there ever cash kept in the office?

A. No, just our petty cash.

231 Q. I see. What was your petty cash limit?

A. It was about £150 at the moment.

232 Q. I see. And presumably there or thereabouts throughout the period from the 1980's onwards?

A. Oh, it wouldn't have been that much in the 80's.

233 Q. It would have been less than that.

A. Yes.

234 Q. I see. So there was no need to keep a lot of money in the office; is that right?

A. No.

235 Q. I see. Now, what happened the documents which had been returned to you by the accountants once they had prepared their working papers for a particular year and they had gone on to prepare the accounts? What happened the original documents which were compiled by you or by the named members of your staff that are set out?

A. We just stored them in the containers on the site.

236 Q. Yes. Now, what sort of containers, is the office in a container?

A. It is. It is a portacabin, but they were stored in containers, you know, that the builders use for, you know, products and things, we just had a container we stored them in.

237 Q. Yes; and in those containers of records, you would have kept I presume, the bank statements?

A. No, the bank statements we kept in the office itself. In our own office.

238 Q. Where is your own office?

A. In the portacabin.

239 Q. So the portacabin is distinct from the container; is that right?

A. Yes.

240 Q. Okay. So how many years financial records would you keep in the portacabin?

A. Well, the bank statements I have going back since the start of the company.

241 Q. Yes?

A. And then the current year's books are just there. What we are working on at the moment.

242 Q. Yes. Are you aware that you have to keep the accounts and records of the company for a certain period of time?

A. Yes.

243 Q. And what period of time is that?

A. I think it is six to seven years.

244 Q. Yes' and have you been doing that?

A. Yes.

245 Q. And where were the records for 1989 kept?

A. They would have been kept in the container.

246 Q. Yes. Well, presumably the container wouldn't remain in the same place for six or seven years, would it?

A. No, it would move with the site office.

247 Q. Yes. So there is a container in which financial records of the type that we have discussed, were being kept?

A. Yes.

248 Q. Is that right, and is that still the system?

A. It is.

249 Q. Yes. So that if one was to go to that container today, one should see there the last seven years financial records?

A. No, because they got destroyed by fire.

250 Q. I see. When was this fire?

A. I think it was July of '97.

251 Q. July, 1997. And what records were there and where were they when they were destroyed by fire?

A. It was in Finglas, on our site in Finglas, and there were invoices, delivery dockets, cheque payment books, house sales, documentation, you know? The conveyancing forms, all that type of stuff.

252 Q. Yes, was this a malicious occurrence?

A. Yes.

253 Q. And was it reported to the Gardai?

A. Yes.

254 Q. Yes; and do you know what date it was, exactly, that this took place?

A. No, I think it was over a weekend, again I would have to check.

255 Q. I see. Was anybody found amenable for this offence of having burnt these documents? Do you know if the Gardai --

A. Amenable?

256 Q. Did the Gardai arrest anybody or charge anybody with having caused this damage?

A. Not that I know of.

257 Q. Was the entire portacabin destroyed in this fire?

A. It was a container.

258 Q. Sorry?

A. Yeah.

259 Q. Container. I beg your pardon.

A. I didn't, I don't know if it was possible to reuse it.

When I saw it, it was a complete mess.

260 Q. Yes.

A. Containers are made of metal.

261 Q. Where in Finglas was this?

A. It is called Mygan Park.

262 Q. Mygan?

A. Mygan.

263 Q. Mygan. I see would you mind spelling that?

A. M Y G A N.

264 Q. I see. Mygan Park?

A. Yes.

265 Q. And that was a site which was being developed by the company at the time; is that right?

A. Yes.

266 Q. And this occurred over a weekend is that the position?

A. I am not one hundred percent sure, I think so.

267 Q. Were there any other valuables destroyed in that fire?

A. The contents of the container, you know, there was timber and --

268 Q. I see.

A. Whatever. I think some tools belonging to --

269 Q. Do you know whether that was the subject of an insurance claim?

A. Yes, it was.

270 Q. And who were your insurers at the time?

A. McMahon and Galvin.

271 Q. They are the brokers, do you know what company carried the insurance?

A. No.

272 Q. No. Do you know whether any insurance investigator or claims assessor or other person, loss adjuster came to inspect the damage?

A. I think they did, yes.

273 Q. You don't know who that was, do you?

A. No.

274 Q. I see. In any event, prior to that date you say all of those records were there and intact?

A. And intact, yes.

275 Q. Had you ever had recourse to examining those records before 1990. I am talking now about the 1989 records or the 1990 to 1991 records?

A. No, I would never have recourse to go back into them.

276 Q. I see. Was there ever any occasion in which there was any audit carried out for Revenue purposes or VAT purposes during the period 1989 to 1990 or thereafter?

A. I am not sure. I know we had audits, but I am not sure what periods they covered.

277 Q. Yes. On those occasions were there records available for the auditors to consider?

A. Oh, there were.

278 Q. There were?

A. There were. Whatever they asked for, they could have seen.

279 Q. Yes. I am talking about now for Revenue audits for VAT and Revenue purposes?

A. Yes.

280 Q. Do you think there was more than one of these audits or just one?

A. I think there were several of them.

281 Q. Several, I see. Do you know if they were VAT audits or corporation tax audits or did they distinguish between one and the other?

A. We had a lot of VAT audits and a lot of C35 audits, you know, for the subcontractors.

282 Q. Yes?

A. And I think that was it.

283 Q. Right. Were you the person who would be dealing with these auditors, or was it something that was done by your own accountants rather than yourselves?

A. Our own accountants dealt with them.

284 Q. Right. But obviously they would have to come to you, would they, to get the documents from you so as to show them to the Revenue, or did the Revenue conduct this audit on-site? In particular, in the container where the documents were stored?

A. No, the Revenue and the auditors or the Revenue and the accountants would come to the portacabins.

285 Q. I see. And would they take the documents away or would they look at them there?

A. No, they would examine them there.

286 Q. I see. Right. Now, in the records of payments which were made by Bovale Developments Limited, can you say whether there were payments recorded to individual members of the Bailey family or, for instance, to yourself, to Tom or to Michael?

A. There were, yes.

287 Q. Yes, I take it that you yourself were not an employee?

A. I was an employee. I am.

288 Q. You became an employee?

A. Yes.

289 Q. Not initially, but you said you were helping out, I think, initially?

A. I think so, yeah, I don't - quite possibly when I left the bank, I went on the payroll then.

290 Q. Yes, I see. And you were being paid a wage presumably; is that right?

A. Yes.

291 Q. Yes, and you were never ever a director of the company?

A. No.

292 Q. So you weren't in receipt of any directors salary or emoluments of any type?

A. No.

293 Q. Michael and Tom, however, were directors and received their money as directors; is that so?

A. Yes.

294 Q. Did they also receive money by way of wages or was it all --

A. They would get --

295 Q. By way of Directors?

A. They got a weekly wage.

296 Q. They got a weekly wage. I see. And was that a taxable sum, in other words, did it go in through the PAYE system?

A. Yes.

297 Q. Yes, and that would appear in the wages role, on an annual basis?

A. Yes.

298 Q. Now, in addition, did they have a salary as directors?

A. They got their weekly wages just. No, they had no salary as directors.

299 Q. Yes. Was there not a sum voted to them by the company and recorded as "directors emoluments", "bonus" or anything of that nature at the end of the year?

A. I don't know anything about that.

300 Q. But if that was coming by cheque, for instance, you would know about it; isn't that right? Because it would have to come through the bank accounts and it would have to be accounted for in the companies accounts; isn't that so?

A. Well, I think our accountants would deal with that.

301 Q. Well, they could only deal with what you had entered and when I say "you" I mean either you or the other bookkeeping staff would have to enter something in, firstly, in the cheque journal for the accountant to know about it; isn't that right?

A. Well, any queries of that nature, the accountant would deal directly with both Tom and Michael about it.

302 Q. But again, I am suggesting to you that a query could only arise if there was an entry somewhere which addressed a particular payment as being a payment to the directors; isn't that so?

A. I don't know anything about that.

303 Q. Well, you know that there were cheque books, you know that there were cheques written on the cheque books, you saw the cheques going through the account, insofar as they were recorded as payments out of the account, you reconciled those payments out of the account with the cheque stubs and the cheque books which you had in your possession; isn't that right?

A. Yes.

304 Q. Now, in the course of that did you observe whether or not there were cheques being paid to either yourself and Tom or to Michael Bailey?

A. Yes, I would have known that there were cheques being paid.

305 Q. Okay were these cheques often sizable cheques?

A. Yes.

306 Q. Yes. Figures of between 20,000 and £50,000 on occasion?

A. On a rare occasion, yes.

307 Q. Yes; and what would those cheques be for?

A. It would just - whatever Michael needed them for, or Tom, I don't know.

308 Q. But what service, or what would they have provided to the company which obliged the company to write a cheque in that amount for them?

A. Well, that was their decision as directors. I never queried or argued, you know, why they paid a cheque to anybody.

309 Q. So there are cheques which were written by the directors made payable to themselves?

A. Yes.

310 Q. And how did you reconcile or record those payments in the accounts that you were keeping and which were being furnished to the accountants?

A. I would record them, whoever the payee was, who they were made payable to.

311 Q. And would you describe them?

A. I wouldn't describe them, that would be up to the directors and the accountant when they met at the end of the year. My primary function was to deal with the creditors and subcontractors and employees and keep them one hundred percent okay.

312 Q. Right. So these sums would not appear in the accounts, for instance, as "directors salary" or in your accounts, I am not talking --

A. I would record the cheque to, we will say Tom and Caroline Bailey, and I would leave it then for the accountants to handle.

313 Q. Um hum.

A. Because I wouldn't be trained, I wouldn't have knowledge of how to deal with those things.

314 Q. Well, they would have to be attributed to some particular payment, they are payments coming out of the company; isn't that right?

A. They are, but I was just the bookkeeper, so I couldn't, what is the word "designate" a cheque to a certain column. I would leave it for the directors and the accountants to deal with.

315 Q. Right; and you would expect, then at the end of the year, that the accountant, in going through the figures, would be apportioning the various cheques or attributing the various cheques to particular headings, "suppliers" or whatever?

A. Yes.

316 Q. Then he would meet these particular cheques, and were you ever asked to explain cheques made payable to cash or to yourselves? That is either Michael Bailey, Tom Bailey or yourself?

A. No.

317 Q. You were never asked to explain those cheques?

A. No.

318 Q. Well, do you know what these cheques - or what these sums were? Do you know what these payments were for?

A. I would have to see maybe an individual cheque and then I might remember. If it was made payable to myself and Tom I might remember what it was for.

319 Q. Yes. Well, there is one cheque of the 7th of September of 1990 which we can put up on screen for you. We will hand you a copy of that cheque. (Handed to witness) You will see this cheque on screen, Mrs. Bailey, is a photocopy. I am afraid we can't improve on the quality of it, but the cheque number at the bottom is 3380. You see that?

A. Yes.

320 Q. Right. Is that your handwriting?

A. Yes.

321 Q. Yes; and you can confirm that it is a cheque of the 7th of September, drawn on the account of Bovale Developments Limited at the Montrose Branch of Bank of Ireland; is that right?

A. Yes.

322 Q. And that is a cheque for £50,000 and who is it made payable to?

A. AIB.

323 Q. The AIB?

A. Limited.

324 Q. Yes. AIB Limited. And what is that cheque for?

A. I think that went in our own personal account in Allied Irish in Navan.

325 Q. Yes, but I am asking you what it is for? What service did Bovale Developments Limited obtain that required it to pay a cheque on its account to AIB?

A. I think that would have been put down as a "director loan" against the company.

326 Q. You think it was a "directors loan"?

A. Um hum.

327 Q. If it was a "directors loan" it would appear in the accounts for that year as a "loan to directors"; is that right?

A. It should, yes.

328 Q. I see. And do you know whether this particular cheque was attributed to an increase in the acquisition costs of the Murphy lands?

A. I don't know.

329 Q. You don't know that?

A. I don't know that.

330 Q. If that explanation was given by somebody to Mr. O'Toole, in particular if it was given by Tom Bailey to Mr. O'Toole, it would be incorrect to say that this cheque was for further acquisition costs of the Murphy lands; isn't that right?

A. I really don't know anything about --

331 Q. Well, you have told us what you know this cheque is for?

A. Yes, I imagine. I am pretty sure, yes, that that would be --

332 Q. That is a cheque which was, as we understand it, from an explanation recently given by you or by your solicitors on your behalf, it was a payment which was put into your account and that of your husband Tom?

A. Yes, that's what I think, yes.

333 Q. Well, if that is so, it can't have been for the acquisition of the Murphy lands, isn't that so, that follows?

A. Yes, that follows.

334 Q. Yes, fine. So do you know anything about why this cheque appears in the accounts for the year ending the 30th of June of 1991, as being attributed to Smith Foy Solicitors?

A. No, I don't know anything about that.

335 Q. You don't know why that is so?

A. No.

336 Q. Were there other payments of large sums like this £50,000 from the company to the personal account of yourself and your husband Tom?

A. There were. There was at that time, yes.

337 Q. Right. And why? Why? Were you acquiring a particular asset?

A. He was sheep farming.

338 Q. I see, and where was this sheep farming taking place?

A. In County Meath, at our home.

339 Q. I see. And was this £50,000, you say, went in a farm account?

A. Yes.

340 Q. Do you know what the account number of that particular account is?

A. No.

341 Q. It is, however, your account?

A. Tom and I, yeah.

342 Q. Yes. And what bank is it in?

A. AIB, Navan.

343 Q. Yes, you see investigations so far have not been able to establish that this particular cheque went in to a farm account. Do you know why that is?

A. No, I don't know why that is.

344 Q. And why do you say it went in to the farm account? I assume that before furnishing the information to your solicitors, you carried out some check to see which account this particular cheque went into?

A. It was the only account that would make sense, you know? When I look at it, I know it went into the farm account because that is all that makes sense for a huge amount like that.

345 Q. And what do you mean by "it is the only account which it would make sense to have paid it into"?

A. Our own accountants have checked into it and I think they are pretty sure it went into the farm account.

346 Q. And when was this check carried out by your own accountants?

A. In the last few weeks.

347 Q. Is this by Mr. O'Toole?

A. No, Joe Finnegan.

348 Q. Sorry?

A. Joe Finnegan.

349 Q. Joe Finnegan; and what firm is he with?

A. Noel Corcoran and Associates.

350 Q. And when did, are they your personal accountants as opposed to the Bovale Developments accountants?

A. Yes. Yes.

351 Q. And how long has this firm been preparing your accounts?

A. I would say eight years. Seven or eight years.

352 Q. So they would have your personal account details for seven or eight years. Assuming that they haven't disposed of them or they haven't been set on fire or flooded or anything like that?

A. I imagine they would have them.

353 Q. You imagine they would have them. Where are they located?

A. In Kinsealy.

354 Q. In Kinsealy. Do you know the name of the firm or is it just Joseph Finnegan?

A. Yes. Joseph Finnegan, yes, I think it is Joseph Finnegan.

355 Q. It would be convenient if you tell us what their address was?

A. Emsworth. E M S W O R T H. Kinsealy.

356 Q. Emsworth, Kinsealy.

Now, you say that this cheque went into your AIB Navan account by your account, I mean your husband and yourself's account, which is called the "farm account"; is that right?

A. Yes.

357 Q. And that you have been advised of that because that is the only account you think makes sense?

A. Yes.

358 Q. Right. Now, is there more than one farm account in your names in the Allied Irish Bank in Navan?

A. No, just one farm account.

359 Q. And if this particular cheque does not appear to have been lodged to that account, do you know of any other explanation as to where this £50,000 would have gone?

A. I do not, no.

360 Q. Have you made any inquiries, specifically of the bank, to try and trace how this cheque was presented in the bank?

A. Yes. We asked for the information and --

361 Q. Do you know, for instance, why it is that this cheque is made out to AIB Limited if it is a cheque to yourselves as a "directors loan", is there any reason why it wasn't made out to Michael Bailey, or to Tom Bailey, I should say?

A. I don't know. On the day I just made it out to AIB.

362 Q. But it wasn't in fact a payment to AIB at all. It required then to be negotiated, or in some way to form part of some transaction with the bank which would be unnecessary if it was a payment directly to Tom; isn't that so?

A. I don't think it is anyway odd that it is made out to AIB. You know, if I was paying, if I was lodging to my own account I would just write out "Bank of Ireland" or "Caroline Bailey", whatever, it makes no, you know? It is not --

363 Q. You don't think it unusual?

A. No, it is not unusual, no.

364 Q. It is, I suggest, somewhat unusual that a director of a company would write cheques, which in effect were going to end up in his own personal account; you would accept that?

A. Can you say that again?

365 Q. It is unusual for a director of a company to sign company cheques which are going to end up in his own personal account?

A. I would think it is, yes.

366 Q. Yes. Is that the reason why the cheque was made payable to AIB Limited rather than to Tom Bailey?

A. No, not at all. I mean it was just made to the AIB. It really isn't unusual.

367 Q. Well, you wrote this cheque?

A. Yes.

368 Q. You obviously wrote the cheque journal entry which corresponds with this cheque?

A. Yes, more than likely.

369 Q. From what your accountant has indicated, he says that this particular cheque of the 7th of September, 1990, was attributable to a payment to Smith Foy and that he extracted that from the cheque journal information which was provided to him?

A. What I would have written into the cheque journal was "Tom Bailey" and possibly then when he asked Tom for an explanation, he would have said about Smith Foy. I don't know what happened after I had dealt with that cheque.

370 Q. But you accept that you would be the person who should have made the corresponding entry in the cheque journal for it?

A. Myself or whoever was writing up the check journal at the time.

371 Q. Yes; and if it was a cheque payable to Tom Bailey, there would be no reason to write Smith Foy?

A. If it was obviously payable, no.

372 Q. And if it is a cheque payable for farming activities, there is no reason for it to be attributable to the Murphy land?

A. No.

373 Q. Though it appears to have been so accounted for?

A. I don't know anything about that.

374 Q. You don't know anything about that. I see. Was there another cheque then later that month; sorry, in the

following month. Well, cashed the following month, but written later that month, for another £50,000? And it is cheque 3439 (handed to witness). Can you confirm, firstly, that it is your handwriting there that writes "cash"?

A. No.

375 Q. It is not. I see. Well, we will start at the beginning.

The cheque seems to have been written on the 30th of September of 1990; is that so?

A. Yes.

376 Q. It is for £50,000 payable in cash?

A. Yes.

377 Q. And it is signed by Michael and Tom?

A. Yes.

378 Q. Yes. If you look to the reverse of that cheque then, you will see that it is - the quality of this, I am afraid, is poor because it came to us through microfiche. It is Allied Irish Banks PLC in Navan, County Meath; isn't that so?

A. Yes.

379 Q. Where you have your account?

A. Yes.

380 Q. Yes. Now, do you know why that cheque at the end of the month is written for cash firstly?

A. No, I don't, no.

381 Q. Do you know how it was that £50,000 came to be lodged in your accounts from Bovale for that month?

A. Again, I would imagine it had to do with the sheep farming.

382 Q. Whose writing is this, the word "cash" if it is not yours?

A. Tom Bailey's.

383 Q. I see. And do you know how that £50,000 is treated in the accounts of the company?

A. I don't, no.

384 Q. You would accept that if it was a loan to directors it should appear as a "directors loan"?

A. I would accept that, yes.

385 Q. Or if it was salary to director it would appear as "salary to a director"?

A. However the accountants decided to treat it, yes.

386 Q. Do you know whether there was any change in the accounts for that year between the loans outstanding to the directors at the commencement of the year and the end of the year?

A. No, I don't know anything like that.

387 Q. You don't. Presumably you kept farm accounts?

A. No.

388 Q. No? Well, here is £100,000 apparently coming in to your accounts in September of 1990?

A. Well, I didn't keep, you know, I didn't keep the farm accounts - Joe Finnegan --

Q. Mr. Finnegan would have kept them. I see. Would he have itemised where this would go, for the purpose of making your returns of farm income?

A. I imagine he would, but again I don't know exactly what he did.

389 Q. Um hum. Well, is it the case, Mrs. Bailey, that there was nothing, as far as you are concerned, unusual about the fact that company cheques could be made out either to cash or to parties other than Tom Bailey, yet find themselves in your accounts?

A. It was unusual, it is unusual.

390 Q. It is unusual?

A. Yes.

391 Q. Well, are you saying then that these two particular transactions which we have examined so far, were unusual

transactions?

A. Yes.

392 Q. Yes; and because they were unusual I would have thought you would remember exactly why it is that they took place?

A. When I saw them first I couldn't remember why they had taken place.

393 Q. Yes?

A. That is why the farm account makes sense to us because they were buying in sheep at the time. Sorting out all that.

394 Q. But at the time that the accounts were coming through the bank, it would have been evident to you, because you were the person getting the bank accounts, that there had been a lodgement, in this particular case, to the farm account of £50,000. That is something that surely you would ask "how did this come about", that you have a wind fall of £50,000. "We haven't sold sheep to the amount of £50,000", "we haven't borrowed as far as we know that £50,000 from the bank", "yet we have 50,000 in the account, and it has come in by way of cheque", would that not be something that would alert you to seeking an explanation as to what this was about?

A. I don't know, because Tom handled all the farm accounts. I don't even think we got monthly statements at that time.

395 Q. There were in fact regular bank statements prepared on this account, but you are saying you don't believe that they came monthly; is that right?

A. I don't know, I can't remember. You know what post came all that time ago.

396 Q. Right. Yes. Do you know of other cheques made payable to third parties which were lodged to the account of your brother-in-law, Michael?

A. No.

397 Q. I am going to put up a cheque now, payable to Mr. O'Neill.

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CHAIRMAN: We will take a break for, say ten minutes or a quarter of an hour.

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MR. O'NEILL: Very good. Thank you Mrs. Bailey, you may stand down.

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THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AGAIN AS FOLLOWS:

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398 Q. MR. O'NEILL: I'm afraid we are not in a position to display this cheque, Sir, because of a failure of computers it seems. (Document handed to witness)
I think we now have, on screen, a copy of this cheque, Mrs. Bailey. And if you look at that cheque please, if you would? It is a cheque dated the 16th of January of 1991. And it is payable to Joseph O'Neill, "£20,000". And it is signed "Michael Bailey and Tom Bailey". Can you identify the handwriting on that cheque?

A. My handwriting is the "£20,000" --

399 Q. Yes?

A. -- script, and then there is - and the date is mine.

400 Q. Right. So who wrote "Joseph O'Neill"?

A. I don't know.

401 Q. Well, can you recollect preparing this cheque without there being a payee on it and providing it to either Michael or to Tom in January of 1991 in this amount?

A. No, I can't recollect that.

402 Q. I see. Now, it would appear that this particular cheque was bank giroed through the Ulster Bank Limited on the 17th of January, 1991. That is the date after it was dated.

And that it was paid to the account of Michael Bailey at Bank of Ireland, Lower Baggot Street. The account number there being 4592 4258. Do you see that from the bank giro slip which is immediately above that cheque?

A. Yes.

403 Q. Yes. Now, I am going to show you the reverse of the cheque now. And there is a signature there "J. O'Neil" underneath which the words "account Michael Bailey" have been written. Do you see that?

A. Yes.

404 Q. Yes. Now, firstly do you know Joseph O'Neill?

A. No.

405 Q. Have you ever heard that name in connection with a payment by Bovale Limited of £20,000?

A. No.

406 Q. No. Do you identify the signature of, have you ever seen that signature before, the "J. O'Neil" signature at the back?

A. No.

407 Q. Or the account "Michael Bailey" writing which is on the back. Can you identify that?

A. No.

408 Q. Fine. It would appear, on the face of it, that this cheque was written to Mr. Joseph O'Neill, it was signed by Michael Bailey and Tom Bailey, on the 16th of January. It was then countersigned by the payee, Mr. O'Neill, and it was then lodged to the account of Michael Bailey?

A. Yes.

409 Q. That seems to be the history of events; isn't that right?

A. It seems to be.

410 Q. Yes. So that the effective payee of this cheque was Michael Bailey.

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MR. ALLEN: Sorry, Chairman, I am not anxious to interrupt My Friend unnecessarily, I would have thought that is a matter for you to conclude, as opposed to the witness to conclude.

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CHAIRMAN: The witness is perfectly entitled to look at the cheque and form that view. It is payable to Mr. O'Neill, it is credited to the account of Michael Bailey. I don't think it requires any special wisdom to form a view.

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MR. ALLEN: No, with great respect, Chairman, I agree and that really isn't the point that I was making to you. My understanding is that as we have been told, and I accept of course, that you are here for the purposes of gathering facts, factual material, you are the one who decides the facts. I wasn't aware that you were interested in the views or opinions or that you were here to canvass and solicit the views and opinions of particular witnesses. I am not suggesting for a moment that there isn't a logic in what Mr. O'Neill is saying.

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CHAIRMAN: This lady is a bookkeeper. This is a transaction common to people who deal in finance of very minor or very simple form. The essence of that document, as far as I see it, and I think the ordinary member of the public would see it, is that the money went from Mr. O'Neill to Mr. Michael Bailey. It may be an explanation, I don't know where it went after that or why it went there. That seems to me to be the situation. As I say, I don't require to give a judicial consideration as an ordinary

common or garden reaction to --

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MR. ALLEN: May I say this, following up on it, what has it got to do with the Terms of Reference of this Tribunal?

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CHAIRMAN: It has, it is relevant. Mr. O'Neill.

411 Q. MR. O'NEILL: The question I was asking you, Mrs. Bailey, was whether or not this cheque, effectively, was a payment to Michael Bailey of £20,000 made by the Bovale Developments Limited?

A. Yes, it appears that is what --

412 Q. Yes. Do you know how this particular payment was accounted for in the records which you were keeping the cheque journal for that particular year? Do you know whether this was attributed to being a payment to a subcontractor or a payment to a supplier or some other payment?

A. No, I don't know how it was treated.

413 Q. No. I see. Therefore, if this cheque came through the system, it would not surprise you, you would not have investigated or raised an inquiry about what this cheque was for with Michael Bailey, who it seems was the ultimate recipient of the fund?

A. The payee seems to have been left blank by me.

414 Q. Yes.

A. So someone else filled that in. So I wouldn't have, you know, I would have recorded it in my column as a cheque to Michael Bailey.

415 Q. Well, why would you have recorded it as a cheque to Michael Bailey if the cheque was in fact blank when it left your hands?

A. He would have taken it from me. I am only surmising what happened. I can't actually tell you what definitely

happened.

416 Q. Yes.

A. It is the first time I have seen that cheque.

417 Q. Yes. Well, what the Tribunal is interested in is how it is that a cheque like this could end up being paid to Michael Bailey though it is nominally to Joseph O'Neill, and inquiring as to what record you would have kept of it in the cheque journal which you were keeping. Obviously, if the cheque left your hands without a payee, you would have at a later stage to ask Michael Bailey or Tom Bailey, because both of them signed this particular cheque, what the cheque was for so that could you make the appropriate entry in the cheque journal; isn't that right?

A. That is partially right. I think the accountants would have asked them that because it wouldn't have affected my creditors or the payroll, I wouldn't have been concerned with it.

418 Q. Would you have not been concerned to establish whether there was a VAT element in this for instance, or whether it was a sub contractor or contractor, whether it is a payment which has been made after deduction of the tax which is required where the subcontractor is not registered, for example?

A. I really don't know what I did at that time. But I suppose I should have checked was it a subcontractor.

419 Q. Yes, sorry to cut across you. I think you were going to finish your answer?

A. No, it is okay.

420 Q. This is a cheque which merited some explanation being given to you or to the bookkeeping staff; isn't that right? And there should have been a record as to how this cheque came in to being; isn't that right?

- A. I think because it is, you know, a business run by two brothers you know, we don't, you know, don't cross-examine them. If they say a cheque is okay and it has nothing to do with the creditors we take them at their word and go on with the rest of our work.
- 421 Q. Well, whilst the cheque may be okay you still have to attribute it to a particular expenditure so that the books balance at the end of the year and you know what this amount was spent on; isn't that right?
- A. Yes, and that would be up to Michael and Tom to tell or advise the accountants what exactly that cheque was for, and then they could sort out any tax element.
- 422 Q. Again, if it was a payment to them that would be something they would have to tell you and say that is in fact a director's loan to us, or this is some other form of payment to us; and then it appears in that column of the accounts as being attributed to "remuneration of directors" or "loan to directors"; isn't that right?
- A. No, they would tell the accountant. They would deal like I dealt with the basic accounts, just the creditors and the payroll and anything different like that they would deal directly with the accountants with it at the end of the year.
- 423 Q. But your accounts would show that this was money paid to them?
- A. I would say my record would, just showed a blank, with possibly - if I had known Michael took the cheque I would have put it down against him.
- 424 Q. Um hum. The cheque payments book would have a number of columns I take it, it is a standard book, you would put in the date, the number of the cheque, the payee of the cheque, the amount of the cheque, and then the column goes

on to provide for the VAT element if appropriate and a description. Isn't that how a cheque journal is set out?

It has a number of columns, you must complete all of them?

A. Yeah, we don't have a description column, just a PAYEE or just the payee column.

425 Q. So how do you know what a cheque is for then?

A. Well, I would know if it was a creditor, you would just be familiar with all the different creditors and subcontractors or wages.

426 Q. Well then, obviously there are instances where you don't know a name, for instance, like Mr. O'Neill?

A. And I wouldn't carry it across, I would leave that for the accountants and Tom and Michael to deal with.

427 Q. So a year later somebody would have to rack their brains to see what the position was about this particular cheque; but surely that isn't an efficient system?

A. No, but we never said we were an efficient system. We are only amateurs, I am only an amateur bookkeeper, I have no training.

428 Q. I take it that would you accept that the company as a limited liability company and separate entity has an obligation to keep books of account which are in accordance with the Revenue requirements and the VAT requirement; isn't that right?

A. Yes. Yes.

429 Q. And they require all this information to be detailed; isn't that so?

A. Yes, and they get it on an annual basis.

430 Q. Yes, but if you are not putting in what the goods are for or what the cheque is for, that doesn't conform with the VAT requirements of indicating whether it was vatable or non vatable for a start; isn't that right?

A. Joe, the fact that the accounts were being audited once a year, I mean that was fulfilling our liability to the Revenue, he would have dealt with it.

431 Q. So at a year end we have to go around and look at all these cheques, where there was no description as to what the money was for, paid for, and try and establish from the directors what they paid a particular cheque for?

A. Yes.

432 Q. And then make a return on that basis?

A. Yes.

433 Q. Yes; and obviously whatever information was given to him about directors remuneration, he would put under a column of "directors remuneration", or "directors loan" if there were directors loans; and if these cheques such as this were not attributable to either of those headings, they would have to fall into the expenditure of the firm on other matters; isn't that right?

A. Yes, well however he dealt with them.

434 Q. Right.

A. I don't really know.

435 Q. Right. So that this cheque could well have gone in as a cheque to Joseph O'Neill for supplies and there would be no necessary reference to the fact that it had been countersigned by or endorsed by Mr. J O'Neill over in favour of Mr. Michael Bailey; isn't that so?

A. I don't know.

436 Q. Well, what do you know of the accounting system? Would the accounting system require that to be disclosed, the accounting system that you were operating?

A. I was just recording it in the cheque journal. I don't know what you are --

437 Q. I am asking you if this was a cheque which was payable to a

Joseph O'Neill?

A. Yes.

438 Q. And if it was in fact signed over by him to Michael Bailey, would it appear in the accounts that you were keeping as a payment to Michael Bailey or would it appear as a payment to Joseph O'Neill?

A. If I knew the payee, that the payee was Joseph O'Neill it would have appeared as Joseph O'Neill.

439 Q. Right. And there would be no corresponding or no note to that to say that it was endorsed over in favour of Michael Bailey?

A. No.

440 Q. No. I see. So it could well appear in the annual accounts as a sum of £20,000 paid to a supplier?

A. I don't know that.

441 Q. You don't know that. But it is possible?

A. Well, I don't know any Joseph O'Neill, supplier.

442 Q. Yes. Do you think you would remember somebody who was getting £20,000, even now, it is a sizable amount of money; isn't it?

A. Not in the building trade, our monthly cheques are mostly made up of round figures like that.

443 Q. But they are mostly to people, you tell us, who you would know about?

A. Who I would recognise, yes.

444 Q. You wouldn't recognise this individual?

A. No.

445 Q. You don't know anything about how £20,000 cheque came to be made payable to that individual?

A. No, I don't.

446 Q. Or how it came to be signed over or endorsed over; is that right?

A. (Witness nods).

447 Q. Were there frequently large cheques made out to cash which were not payable to either yourself, Michael or Tom?

A. No.

448 Q. No. I want to refer you to a number of cheques which were written in December of 1989. (Witness handed document) The first of those cheques is the 8th of December. The 8th of December of 1989. It is a cheque for £10,000, the cheque is signed by Tom Bailey; is that correct?

A. Yes.

449 Q. And I think that it is payable to cash, £10,000?

A. Yes.

450 Q. And I think you can confirm that that is your writing; isn't that right?

A. Yes.

451 Q. Now, what is that payable, what is that cheque payable for?

A. That cheque was used to pay Christmas bonuses. It is the 18th of December, I think is it?

452 Q. I see. Maybe. It is a poor microfiche, I think. The 18th of December. Yes, it is cashed on the 19th at Bank of Ireland, Phibsborough from the stamp on the front of it; is that right?

A. Yes.

453 Q. So did you present that in Bank of Ireland, Phibsborough, to get the money to pay the bonuses?

A. Yes.

454 Q. I see. Does the Bovale Developments Limited have an account at Bank of Ireland, Phibsborough?

A. No. I think we were working in Glasnevin at the time and it would be the most convenient branch.

455 Q. Well, what arrangement was made whereby this cheque would be paid out, obviously banks would be reluctant to pay out

cash to persons who weren't customers?

A. They work a system where you have an "advice".

456 Q. An advice?

A. You know, it is a common practice being an advice for --

457 Q. If you just tell us what the practice was in relation to this cheque. You are able to identify it firstly as a payment for bonuses at Christmas; is that right?

A. Yes.

458 Q. And you are confirming that it is paid out through the Bank of Ireland in Phibsborough where you didn't have an account?

A. Yes.

459 Q. And it was done on the basis of an advice as you describe it?

A. Yes.

460 Q. Were you the person who set up this advice or sought the advice from the bank?

A. No, I think the directors would get the advice and sign it. When we move from site to site we have to set up advices in the local branches.

461 Q. Yes.

A. You know, for the employees to get their wages cashed and all that.

462 Q. Yes. Well, this wasn't directly a payment to employees, it was a payment to the company presumably, to pay on to employees?

A. Yes. Yes, it was a debit from the company account to pay them.

463 Q. Right. And what is it attributed to in the accounts, do you know, what did you enter in the cheque journal for it?

A. I can't tell you because I haven't the cheque journal, but I would imagine I would put it down as wages or --

464 Q. Yes. If it was wages it would presumably have to be the subject of deduction of income tax, PRSI and other sums; isn't that right?

A. Yes.

465 Q. And presumably you had a wages account running?

A. The likes of this would have been handled by the accountants, again, at the end of the year.

466 Q. I appreciate that they would have handled it at the end of the year, but when this cheque was written it was outside the normal wages cheques which the employees would get; isn't that right?

A. Yes.

467 Q. In general, you paid your direct employees by a weekly cheque; is that right?

A. Yes.

468 Q. And that was a cheque which was net of all the deductions?

A. Yes.

469 Q. This bonus was separate and distinct from that?

A. Yes.

470 Q. Right. It would have been open to write cheques, inclusive of bonus to each of the staff; isn't that right?

A. Sorry, can you repeat that?

471 Q. It would have been open to you to put a bonus in to the regular paid cheque to each one of the staff in question?

A. Oh, yes, yes. It would have been, yes.

472 Q. But this cheque was written so that cash could be got from the bank for distribution between the staff; is that right?

A. Yes.

473 Q. Upon which there was no deduction?

A. No deduction at the time.

474 Q. I see. So obviously, or it would appear obvious perhaps to me and maybe I am wrong in this, you couldn't then enter

that in accounts of the company as wages because there would have to be a corresponding deduction for tax; isn't that right?

A. There would have to be, yes.

475 Q. But if they were being paid cash there wouldn't have been a deduction?

A. No.

476 Q. So obviously it couldn't be entered into the book then as wages. It would have to go in under some other heading; isn't that right?

A. That is what I would have put it down, as wages and then it was up to the accountants to deal with it or the directors to decide whether or not to pay tax on it.

477 Q. But if you were following the procedure which you had set up, there would be an automatic deduction of tax; isn't that right? It wouldn't require either explanation to the accountants or a direction from the directors?

A. Well, it was just this cheque, to explain that this was just cash taken out to pay Christmas bonuses; and I would have paid no tax on it. I wouldn't have entered it for tax.

478 Q. Yes; and who would this have gone to? Would it have gone to the directors for payment on to others or would you yourself have handed it out or what would the position be?

A. No, the directors would have had to payout.

479 Q. So who would have gone to the bank to collect £10,000 in cash on foot of this cheque?

A. I would imagine Tom went.

480 Q. Right. And as far as you are concerned he distributed that as he saw fit, as bonuses for workers?

A. Yes.

481 Q. The next cheque I would like you to look at is a cheque

which was cashed on the 31st of December for £30,000.

Again it is written in December of 1989. Although the exact date is somewhat unclear from the microfiche. It is the second document, Mrs. Bailey?

A. Yes, I have it.

482 Q. You have it? Yes, the reference is BOI, BOV 5 at 5, in the Tribunal's records, Sir. What can you tell us about that cheque, Mrs. Bailey?

A. I can't tell you anything about it. I can read it off, I don't know anything about it.

483 Q. Okay. Did you write "cash" there?

A. No.

484 Q. Did you write the amount "£30,000" there?

A. No.

485 Q. Do you identify the writing as either "MR" the other person who drew cheques at that time or either of the signatories, Michael or Tom Bailey?

A. It looks like Tom Bailey's writing.

486 Q. I see. Now, it appears that that cheque was presented on the 31st of December too. It is for £30,000.

A. Yes.

487 Q. And have you any idea of where that money went?

A. No.

488 Q. Well, it would have to be accounted for somewhere, wouldn't it?

A. I would imagine so. I don't know anything about it.

489 Q. You have told us the procedure would be that if a cheque appeared in the accounts; sorry the bank statement, as having gone through the account?

A. Yes.

490 Q. And if your cheque of the cheque journal did not reveal that particular cheque?

A. Yes.

491 Q. You would then ask the bank for a photocopy of the cheque which they would send you?

A. Yes.

492 Q. And you would then ask one of the signatories for an explanation as to where the money went, so that you could enter the cheque journal accordingly; isn't that right?

A. To prepare the bank reconciliation I just need amounts and dates, I don't need the payee. As I said before, if it didn't affect the creditors I wouldn't have worried about it. That was up to Tom and Michael Bailey to deal with, not me.

493 Q. Yes. There still would have to be an entry in the cheque journal corresponding to this cheque?

A. There would be an entry. All my entry would have shown was the date and the amount. Again at the end of the year it would be up to Tom and Michael to deal with it.

494 Q. The date, the amount, and I suggest the payee?

A. Possibly, well if I had known it, yes.

495 Q. Yes; and I think you have already indicated to us that if, if the payee was not known to you that you would inquire who the payee was, and why that payee was receiving that amount?

A. If I did inquire.

496 Q. Yes?

A. Yes.

497 Q. Well, I am suggesting to you that in order to complete the particular cheque journal you would have necessarily made inquiries about this cheque to establish who got £30,000 on the 30th or 31st of December, 1989?

A. I am only guessing that is what happened with that particular cheque. I don't know what happened with that

particular cheque.

498 Q. Well, what would appear to have happened is that firstly it was signed by your husband and by Michael Bailey?

A. Yes.

499 Q. It was presented in a bank on the 31st of December and, I suggest that £30,000 left the Bovale Developments account on foot of this cheque?

A. Yes.

500 Q. And that would appear in the bank statements?

A. Yes.

501 Q. And you would then have to reconcile that bank statement with your cheque journal?

A. Yes; and if the directors told me that cheque was okay, I would just take their word.

502 Q. Right. And what would "okay" mean? What would you understand okay to mean?

A. I would probably have said "there was a cheque for £30,000, is that okay, are you happy with that" that cheque was issued and if they said it was and they would deal, again as I said, at the end of the year with the accountant with it.

503 Q. So they could have divided this cheque between themselves. They could have put it on a horse, they could have done anything they wanted with it?

A. Absolutely.

504 Q. Yes. There was no concern of yours?

A. No.

505 Q. No.

A. Just because I was married to one of them, I had no right to interrogate them every time they wrote a cheque.

506 Q. Okay.

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CHAIRMAN: Mr. O'Neill, as we are coming up to the lunchtime break, do you want to break just now?

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MR. O'NEILL: It may be convenient. Some of my photocopies are somewhat illegible at this point, if I am to clarify it.

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CHAIRMAN: Mr. O'Neill, if it is convenient to you and others I suggest we sit at two.

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MR. O'NEILL: Yes, Sir.

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THE HEARING THEN ADJOURNED FOR LUNCH.

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THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

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CAROLINE BAILEY CONTINUED IN DIRECT EXAMINATION AS FOLLOWS
BY MR. O'NEILL:

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CHAIRMAN: When you are ready.

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507 Q. MR. O'NEILL: Mrs. Bailey, I am going to hand you another
cheque for £10,000 which is going to be put on the
screen.

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The copy handed to the witness, Sir, is clearer - (handed
to witness) - than the one available to us on the screen,
but it is, it still requires some deciphering.

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MR. ALLEN: Sorry. Sir, I wonder, I am not entirely
certain to which cheque My Friend is referring to.

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MR. O'NEILL: The copy is with Mr. Allen's solicitor at
present Sir, and --

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MR. ALLEN: Where do we find it? It is now.

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MR. O'NEILL: It was with Mr. Allen's solicitor since
prior to lunchtime.

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MR. ALLEN: Sir, this is a cheque, and it is the third
cheque I should say, which has been dealt with - I am not
being adversarial about it. You will be aware, Sir, that
the Tribunal has been in correspondence with my instructing
solicitor in relation to cheques, specific cheques which

were identified with the Tribunal in the course of its private investigative work, and queries were addressed in relation to those specific cheques. Those queries were following the taking of instructions responded to.

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Three of the cheques, including, subject to correction, this one, are cheques in respect of which no queries had been directed to us and in respect of which we have no notice.

.
Certainly I don't have any notice and the witness can't have any notice. I just make that - I am not attempting to be difficult, Sir, but that is the factual position. I believe that, I know the cheques that we were asked about and that we dealt with, this is again not one of them.
Subject to correction.

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CHAIRPERSON: I note what you say. Thank you. If we go on.

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508 Q. MR. O'NEILL: Now, Mrs. Bailey, you have that cheque before you. Can you assist us firstly as to who the payee is?

A. Concast.

509 Q. Colcast?

A. No Concast, C-O-N-C-A-S-T.

510 Q. Were they suppliers of yours, of Bovale at the time?

A. Yes.

511 Q. That was a cheque made payable to them, is that so?

A. Yes.

512 Q. We were discussing this morning certain accounts which were described as "the farm accounts", which your husband and

yourself had in AIB in Navan, and I think you indicated to me that you had one farm account only, isn't that so?

A. Yes, that I recall, yes.

513 Q. And well is there some - is there some dispute as to whether there might be more than one farm account?

A. No, I think there was just one account.

514 Q. Yes. It is so described in the bank's documentation as the farm current account, does that accord with your memory?

A. Yes.

515 Q. And the number of it is 0034 6539. I am just going to hand you a print-out from the bank, you might just confirm, if you would, that that is the number of that account?

(Document handed to witness).

A. Yes, that's the number, I think.

516 Q. From your evidence this morning, I understood you to say that the £50,000 which had been the subject of the cheque made payable to AIB Limited was lodged to that account?

A. I said I imagine that's what would have happened to it.

517 Q. That's what you imagine might have happened to --

A. Yes.

518 Q. Certainly the Tribunal's inquiry into this by looking at the bank account in question does not reveal any lodgement of £50,000 to that account in the month following the date of that cheque, would that surprise you?

A. Well, when our own accountant looked it up he was quite happy that it was lodged to our account in Navan, our farm account.

519 Q. To this account?

A. I don't know, is it this account? You would have to - I would have to be able to check it up or look it up myself.

520 Q. Well, can you confirm that there is only one farm account,

or is that something you now have to check up?

A. I don't know. I just don't know.

521 Q. I see. The Tribunal has sought information with regard to your husband and your own personal accounts, and there is an order to that effect, that you produce that documentation. Now, the first personal account of yourself and your husband that has been produced from the AIB is for a period commencing in March of 1990, I take it that you did in fact have bank accounts in the Allied Irish Bank in your name and your husband's name prior to March of 1990. Is that so?

A. I would think so, yes.

522 Q. And do you know --

A. I thought the Tribunal requested the information directly from the bank, did they?

523 Q. They did, and they were furnished with documentation starting in the month of March 1990, with the exception of the Bovale account which comes from another bank and they go back to 1988?

A. Because I wouldn't remember, I just don't remember what accounts we held, you know?

524 Q. But are you confirming that as far as you are concerned your husband's account and your account was with Allied Irish Bank in Navan prior to March 1990?

A. Yes.

525 Q. And when is that documentation going to be made available, do you know?

A. The Tribunal requested it, didn't they?

526 Q. Yes, but they haven't got it.

A. Well, I haven't got it.

527 Q. You haven't got it. But as far as you are concerned you are happy that the bank should do everything in its power

to produce the documentation which has been sought and which has not yet been produced; is that right?

A. Yes.

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MR. ALLEN: Chairman, just in ease of the witness. In relation to this matter there is an order in existence. It was agreed, there has been direct access to the bank. We haven't been notified of any difficulty. I know Mr. O'Neill isn't trying to be unfair, it does put the witness at a disadvantage; this line of questioning puts, in my respectful submission, the witness at a potential disadvantage, Sir, in that it is capable of inference being drawn that in some way there has been noncompliance with the orders.

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When you ask a witness when will this information be made available? The question might more directly be addressed to the bank. We have given the necessary authorities to the bank. That is the position. It isn't fair to ask of this witness, I say, and I am not suggesting that it is intentionally unfair, but it isn't actually fair to ask this witness when such information is going to become available when everything that we can do to procure its availability has been done.

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MR. O'NEILL: With respect, Sir, that is not quite correct, because there was an obligation on Mr. Tom Bailey to swear an affidavit setting out all the accounts which he had in the bank. It is apparent if what this witness says is correct, that this cheque was lodged to an account, it was not lodged to one of the accounts that has been provided by the Baileys to ourselves at this point in

time.

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Now, I am merely requesting the witness for an explanation for it. It is something that is within her, certainly her power of procurement to provide to furnish the details to us. It is not intended to be a trick or trap question, it is merely to get her consent to do it. I hope to have her back within the course of the week to complete the evidence in this aspect of the case.

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MR. ALLEN: The only point I would make, Sir, again I am not suggesting there is any trickery involved.

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CHAIRMAN: There is no trickery involved. I just want the documents as soon as possible, and if necessary I will issue a subpoena to the manager of the bank in question, but I would hope that is not necessary, but it will be done because it must be carried out.

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MR. ALLEN: Could I just make this point, Sir, in relation - the witness said she doesn't know about the cheque, she didn't say it went into a definite account.

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CHAIRMAN: Well now, these are matters which are capable of being illustrated by the documentation in the possession of the bank, and perhaps yourself and your solicitor will aid us in encouraging the bank to produce it by tomorrow morning.

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MR. ALLEN: Sir, the position, Sir, is that we have given to you every authority that you asked us to give to you, those authorities were addressed to the bank, we don't have

the powers that you have, and with the greatest of respect, it is somewhat unfair to be suggesting that we can do something between now and tomorrow morning to produce documentation.

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CHAIRMAN: I would have thought an account holder at all times is in a position to direct the bank to provide the documentation to whoever they direct and require it to be done with expedition.

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MR. ALLEN: One of the features that has arisen in this matter is in various sections is this matter, is that banks have sworn affidavits and written letters to the effect that documentation sought by this Tribunal would take upwards of six months to provide, so I'm afraid what you have just said does not reflect the totality of the position.

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But I do want to, most clearly, have it recorded that any requests we have received to direct our banks to do whatever, has been complied with and complied with forthwith.

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MR. O'NEILL: The Tribunal, Sir, received a letter on the 18th of November, which set out what the evidence of the witness would be in relation to certain cheques. That if I open that letter to you, it refers to our letter of the 10th of November, wherein you requested us to furnish you with information regarding the four cheques issue by Bovale Developments Limited and dated respectively the 7th of September, the 13th of September, 30th of September and the 3rd of October.

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Now, in relation to each of those cheques a schedule was attached which set out the date of cheque, signatory, the number, payee, the identity of the payee, the nature of the business, the purpose of the payment, the bank in which the cash, cheque was cashed, the payee, whether principal, servant, etc., and then it goes down through the cheques.

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Now, one of these cheques, that is the cheque of the 7th of September, 1990, indicates that the date is the 7th of September, the signatories are Tom Bailey and Michael Bailey, the number of the cheque is 3380, the payee is AIB Limited, the identity of the payee is Tom and Caroline Bailey, the nature of the business is the farming account. The purpose of the payment is the funding of the farming account. The bank in which they cash, the cheque was cashed was AIB Navan, and the relationship is of Director.

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Now, it is out of that I was asking the witness about the existence of the farming account and whether or not there was more than one farm account, because the records of the bank would appear to indicate that there is only one farm account, and in that farm account there would not appear to be a lodgement to that farming account of that particular cheque.

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So there is an account, insofar as the schedule is an explanation for the cheque, which seems to be at odds with the evidence of the witness, and I am merely asking the witness if she can elucidate whether there might be further farming accounts or what have you. There is this apparent

inconsistency between the account given by letter of the 18th and the evidence being given at present.

528 Q. MR. O'NEILL: Now, Mrs. Bailey, you heard me outline that situation, I just want to ask you whether or not you are satisfied that what was contained in this written document furnished to the Tribunal, is accurate? Namely that this cheque for £50,000 made payable to AIB was paid to the account of Tom and Caroline Bailey which is the farm account at Navan?

A. As far as I know, yes.

529 Q. Right. And if I was to put to you that that farm account does not appear to record a receipt of payment of £50,000 I take it, at this point in time, you don't have an explanation for that, is that so?

A. No.

530 Q. Fine. Now, in relation to the cheque which was made payable for £30,000 in cash - that is cheque number 3439, it is the cheque dated the 30th of September of 1990. I will refer you to what the schedule accompanying the letter said.

It said "Date of cheque: 30th of September.

Signatory: Tom Bailey and Michael Bailey.

Number: 3439.

Payee: Cash.

Identity of payee: Tom and Caroline Bailey.

Nature of business: Farming account.

Purpose of payment: Funding of farming account.

Bank in which cheque was cashed: AIB Navan.

Payee, principal, servant, etc.". The reference is to Director.

Now, do you understand again that that is a cheque which was lodged to the farming account, because that's what it would appear to say in writing?

A. Yes.

531 Q. Because the documentation now available to the Tribunal suggests that that money was placed on deposit, it was not lodged to the farm account, but was placed to a deposit account, the number of which is 00346612 on the 31st of October of 1990. I am now showing you a document which indicates that the deposit holders are Tom Bailey and Caroline Bailey. (Document handed to witness). Do you see that document?

A. Yes, I do.

532 Q. Would you accept that that is where that £50,000 cheque ended up?

A. I do, but I would suggest it was to do with farming, that it was maybe a lien over stocking loan or something like that, but you would need the bank's clarification as to what exactly, because when our accountant looked it up, they were for farming purposes. That's what I believe is true.

533 Q. But if your accountant saw what is on this document, that wouldn't appear to indicate that it was the farming account, it would indicate that it went on deposit?

A. It went on a deposit and it was withdrawn.

534 Q. Some months later I suggest?

A. Yeah.

535 Q. Yes. So it didn't go into what is known as "the farm account", it went into a deposit account which had an opening balance of £50,000?

A. Well I don't, I can't explain it because I don't recall it

and I don't remember it, and I suggest between the Allied Irish and our accountants they will sort it out.

536 Q. But, were you responsible in whole or in part for giving the explanation which your solicitor furnished to the Tribunal, namely that that was for the farm account, or farming account?

A. Yes.

537 Q. But could I suggest to you that that isn't so, it was for a deposit account. Had you looked at the account you would have seen that the money was lodged to a deposit account?

A. But it was possibly used for farming. We can argue this all day, but I feel that it was used for farming.

538 Q. But you don't distinguish between this account and the farm account which was specifically there for farming; isn't that right?

A. I don't, no. I don't remember what happened, but you know, based on, just what I think at this stage, I think it was used for farming. I am absolutely sure it was used for farming.

539 Q. And why do you think it was used for farming if it was put on deposit, and I suggest to you remained on deposit for some months?

A. I imagine if you talk directly with the manager at that time, that it was maybe used as a lien over a stocking account or something like that, you know? But you would need to clarify it with them. There is nothing, that £50,000 - there is no, you know, there is nothing dishonest about it, as far as I know it was used for farming. But I can't, you know, you will have to clarify that with the banks.

540 Q. Might it have been used to acquire land for instance?

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

541 Q. You don't think you acquired any land at that time; is that right?

A. I would have to look that up, I don't recall that.

542 Q. So, your evidence is that this payment could have been for anything?

A. My evidence is that it is most likely for farming purposes. And that's absolutely my evidence.

543 Q. Why do you say "it is most likely for farming purposes"?

A. Because what else would we do with £50,000?

544 Q. I am quite sure there are many uses to which £50,000 could be put other than farming.

A. We are just not that rich that we could have 50,000 just for ourselves.

545 Q. Well, your evidence is that the cheque of the 7th of September which is dated the, 23 days before this cheque, again for £50,000, that it went to farming?

A. Yes.

546 Q. And yet this cheque is also to have gone for farming, £100,000 in one month?

A. You must understand that Tom's farming business is very specialised, it is not just regular farming. It is a different type of farming and these are not uncommon amounts for his farming.

547 Q. And is it the case that cheques then from Bovale Developments Limited were finding themselves funding this specialised farming operation which was being carried on by your husband?

A. I don't know that. In those two instances it did, but again our own farm accounts would clarify that.

548 Q. I see.

A. Or the Allied Irish would clarify that.

549 Q. And are you prepared to make those farming accounts

available to the Tribunal and the accounting books of account of Mr. Corcoran's firm available?

A. Do you not have those?

550 Q. No, we don't. We did not learn you had your own accountants other than McGrath O'Toole until you gave evidence this morning.

A. That's okay, there is no problem.

551 Q. Fine. Thank you very much. In 1989 were you aware that your husband and his brother, Michael, were also dealing with the Allied, with the Anglo Irish Bank?

A. Yes.

552 Q. And did you know of a transaction which, whereby monies were raised for the acquisition of the Murphy lands?

A. No, I wouldn't have known about it.

553 Q. Did you know that in October a sum of £280,000 was agreed to be loaned by Anglo Irish Bank to your brother and - sorry, to your husband and his brother?

A. No.

554 Q. No. Were you aware that of that £280,000 that £50,000 of it was paid over by way of a cheque made out to cash or, sorry which was subsequently cashed on the day upon which it was written, and the cash was given to your husband and his brother?

A. No.

555 Q. You didn't know that?

A. No.

556 Q. In the normal course of events as the bookkeeper, you would be aware of the financial expenditure being incurred by the company on a weekly basis, for example that every Thursday there would be a preliminary accounting for expenditure; isn't that right?

A. No, I was just the bookkeeper dealing with the creditors on

the day-to-day books of the company. I wouldn't have dealt with Anglo Irish Bank.

557 Q. Well, you have told us that you would be dealing with the payments out which would be made by cheque, and that would be done on a Thursday, where there would be a discussion about what payments out were made and you would take the cheque books, you would take the information from them, you translate it or transmit it onto the cheque journal; isn't that right?

A. And was it a cheque for 50,000 that came out?

558 Q. It was a cheque which was cashed for 50,000, not a cheque drawn on the Bovale account, but a cheque which had been drawn on a loan taken out the same day by your husband and his brother?

A. No, I had no responsibility for involvement with Anglo Irish.

559 Q. Right. Did they tell you in November 1989 that the sum of £50,000 in cash had been paid to a man called James Gogarty?

A. No.

560 Q. No. I see. Were you made aware of any postdated cheques having been written on the Bovale Developments account which were postdated to March and September of 1990?

A. No.

561 Q. I take it that from time to time there would be postdated cheques; is that right?

A. There would, and my involvement with them would be when they would hit the bank account and I would need them for the bank reconciliation.

562 Q. I see. So if there was a cheque stub which indicated that there was a payment and it was marked "postdated", you wouldn't enter that into the cheque journal?

A. No, not until the month, and it came through the bank statement.

563 Q. Are you saying that it was only if a cheque actually appeared in the bank statement that you would enter it into the cheque journal?

A. If the stub was blank and it said "postdated" I would just make a note of the cheque number and watch for it coming.

564 Q. Okay. It would appear from Mr. O'Toole's evidence that he had no record of those two postdated cheques when he went through the accounts for that particular year?

A. That would be right.

565 Q. Yes. Would that indicate there was no entry in the cheque journal for those particular cheques?

A. That's right.

566 Q. And does it follow from that, that there would have been no cheque stub completed to indicate that those cheques were postdated?

A. Yes.

567 Q. If there had been such a cheque stub, you of course would be vigilant and watching for that cheque to come through around the time it had been postdated; is that right?

A. Yes.

568 Q. So of those two cheques, you were not aware of those cheques; is that right?

A. No.

569 Q. In any shape or form?

A. No.

570 Q. Do you remember either of those cheques or any cheque being presented to you by Michael Bailey for the purpose of being destroyed or torn up?

A. No.

571 Q. When did you become aware of the existence of a man called

James Gogarty?

A. I am not sure. I think just Tom might have mentioned it in the course of the year, that he was involved with Murphy's, but, Jim Gogarty.

572 Q. Right. And what do you understand the year that Mr. Gogarty was involved with the Murphys to be, was that --

A. I think 1989/'90.

573 Q. I see. Was this around the time of the sale of the lands which were purchased from the Murphys by your husband and his brother?

A. You see, you see I am not sure because my information about Mr. Gogarty is, you know, it has been all brought up recently, and that's my recollection, you know, I can't be absolutely sure when I heard of him first.

574 Q. I accept that that is so, Mrs. Bailey, I am asking you insofar as you can think of a point in time, I am sure it is something you have thought about long and hard, nobody wants to find themselves in the witness-box as you are. You have given some thought to the history of events as far as you can recall it, isn't that fair?

A. I didn't give much thought to Mr. Gogarty because he just has nothing to do with me or my day-to-day bookkeeping, he was to do with Mike and Tom, I had nothing to do with him, so in response I just didn't give much thought because the more thought I give to him the more confused I get.

575 Q. I see. Well, in 1989 did you become aware of the fact that Bovale Developments Limited was interested in purchasing the Murphy lands in North Dublin?

A. I imagine I would have been aware of that.

576 Q. Right. And were you kept advised as to how progress was going as regards negotiation to purchase?

A. No.

577 Q. No. Did you learn that in fact there had been a contract whereby the lands would be purchased?

A. No, I don't think so, no.

578 Q. Well, when did you learn that Bovale had entered into an agreement to spend 2.3 million pounds acquiring all this land?

A. I can't put a date or time on that.

579 Q. Not even a year?

A. I don't think so, no.

580 Q. Did you become aware for example, that that contract was not closed for some years because the property known as Poppintree House was burned down? Did you know that?

A. I would say I would have heard about Poppintree House burning down, but I wasn't involved with the contract with Murphys or Gogartys, so I had no interest. I suppose that sounds casual but I just wasn't interested.

581 Q. Um. If there had been any additional payments in relation to the acquisition of that land it is something that would have gone through the accounts of the company; isn't that right?

A. I imagine it would have, yes.

582 Q. And you would have learned of, for instance, the payment of the deposit?

A. I don't know. I don't know that. I can't say that.

583 Q. You would have known if there were any additional payments over the course of the year or so, maybe two years before it actually was completed?

A. No.

584 Q. No. Did you know anything about the receipt of the rents for the land or payment for the land or security for the land?

A. No.

585 Q. Anything of that nature?

A. No.

586 Q. You knew - were there any expenses incurred in relation to the lands as far as you were concerned that would have come through the books?

A. The only expense was in, you know the kitten book, they were the only times I heard Jim Gogarty's name, was when the £15,000 was paid to him and the other two payments.

587 Q. We will get to that in due course, Mrs. Bailey, but I want to know whether or not there were any payments being made as far as you were aware in respect of the lands at Poppintree and in North Dublin, was there any outgoings that would appear in the accounts?

A. Not that I recall.

588 Q. Right. You don't know of any additional payment of £50,000 which would have been made in the financial year which followed the acquisition of the lands?

A. No.

589 Q. Do you know why a sum of £50,000 was attributed to the lands in the year that ended the 30th of June of 1991 for instance?

A. No.

590 Q. That information, if there was such expenditure, must have come through the accounts; isn't that right?

A. I don't, I just don't know. I don't know anything about it.

591 Q. But you are the bookkeeper, insofar as there was somebody delegated to doing that, you are the most senior person in control of that, isn't that so?

A. My bookkeeping, as I have said several times, involved the creditors, you know? That's all I dealt with. Anything unusual, with land, whatever, was dealt with by the

Directors and the accountants.

592 Q. You have told us that it included bank reconciliations and included the cash book for sales of the lands?

A. Bank reconciliations were just the day-to-day cheques of the company, yes.

593 Q. So, whilst you can't remember a particular year in which Mr. Gogarty came to be mentioned, he was mentioned in the context of payments at some stage; is that right?

A. Yes.

594 Q. And is that by reference to what you call "the kitten book"?

A. Yes.

595 Q. I would ask you to identify that please. (Handed to witness).

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Now, you see the book before you?

A. Yes.

596 Q. Sorry - can you tell us whether or not that is one of the series of similar types of books?

A. No, it is not.

597 Q. It starts, if we look at the first page, on the 5th of April of 1990; isn't that right?

A. Um hum, yes.

598 Q. And that, from a PAYE point of view I suppose is the commencement of the financial year, is it, for employees?

A. It is, yes.

599 Q. Yes. And how did this book come into existence on the 5th of April of 1990?

A. It was just a book, it was just used as a memory aid for Tom for bonuses he would have paid the employees, it was just --

600 Q. Was this the first year in which you had prepared such a

book?

A. I would have kept records, you know, maybe in, maybe in similar type books, yeah, but not --

601 Q. I am not asking whether the books that you had before that were identical to that particular book, but is it the case that there has been for years before this and for years since, a record kept of what you describe as bonuses paid in cash?

A. There would be, yes.

602 Q. Right. Now, this is a book which records payments, and an analysis of it appears to indicate that some £94,000 passed through this account, leaving aside the three entries of 5, 10 and £15,000 which are attributed to Mr. Gogarty apparently, but was that an indication of the level of activity that was going through this particular book?

A. That's what went through this particular book, yes, but that wouldn't be, that was a particularly busy time.

603 Q. Yes. Now, when you opened this book on the 5th of April of 1990, is it correct to say that you opened with the balance?

A. Yes, it seems to be that, I would imagine that came forward from a previous little notebook.

604 Q. And that is a balance, is it, of £5,207.90?

A. Yes.

605 Q. How is that balance made up?

A. I don't know. It would have come forward from another book.

606 Q. But what sort of a balancing exercise were you keeping in the book? What was it to balance with?

A. It was to balance with cheques that Bovale, that would have been cashed, like that £10,000 one in Bank of Ireland (Phibsborough), and it was just to reconcile what exactly

happened to that money.

607 Q. I see. Well, would you explain what system it was that produced the cash that is recorded in these books of account?

A. The cheque would be written out, is that --

608 Q. I don't know. Is that how it happened? Are there cheques in other words for £90,000 which were made out and the cash was then used in this fashion?

A. Yes.

609 Q. And how were those cheques accounted for in the company's accounts?

A. They would be probably just recorded as cash payments.

610 Q. But surely you can't keep accounts which merely record payments as cash, they must be attributed to a particular expenditure by the company?

A. I wouldn't have attributed them to anything in my cheque journal, I would have referred to them as cash or I would have left the payee blank, and it was again up to the accountants and Directors to decide whether to pay tax on them.

611 Q. So you are saying that you would have furnished your accountant with books of account which recorded cash payments annually of 94,000 at a minimum, and that you would have left it to him to ascertain whether or not they should be sums on which tax would be deducted; is that right?

A. They would have been left to the Directors.

612 Q. Left to the Directors?

A. It is their company.

613 Q. Well, presumably if they indicated that these sums were sums paid by way of wage bonuses, there would have been a tax liability for them; isn't that right?

A. There would of course, yes.

614 Q. And have you established whether or not they ever declared this as being earnings on which tax was to be deducted?

A. I haven't established it, but I know that they are going back through all their accounts and working on the tax element.

615 Q. Well, could I suggest to you that in fact there is no record of these payments going through the books of account in the company as bonuses, wages or significant of anything of that nature?

A. I made no record of them.

616 Q. You made no record of them. And why is it you were keeping accounts which did not record these payments for what they were, namely wages to workers?

A. Because I was working as a bookkeeper on my instructions from the Directors.

617 Q. Well, you are aware, I take it, of the obligation that was imposed on the employers to account for this money, and in particular to make the appropriate deductions and to forward them; isn't that right?

A. Yes, that's their obligation.

618 Q. And could I suggest to you, that it was apparent that that wasn't happening, that was the whole purpose of having this book, isn't that so?

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MR. ALLEN: Chairman, I am sorry, but this is unquestionably an allegation, this is not an allegation of which we have any notice. Equally, unless I am greatly mistaken this is not a public Revenue audit. I have read your terms of --

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CHAIRMAN: There is relevant --

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MR. ALLEN: I would ask you, Sir, to do me the courtesy.

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CHAIRMAN: This questioning is relevant.

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MR. ALLEN: With respect, Sir, that may well be your conclusion when you have, I hope, agreed to hear me on the matter.

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The questioning of this witness on this particular aspect is reflective to a certain degree of the questions which took place before the luncheon interval. We spent some time considering whether or not the staff of Bovale, or the employees of Bovale Development Limited received cash bonuses for Christmas in the year, I think it was 1991.

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This witness who has been described by you, as a bookkeeper, is now being asked questions which have nothing whatever by any stretch of the imagination to do with the Terms of Reference of this Tribunal, and I have a very specific concern in relation to this, because this is a line of questioning which I have anticipated and of which I have had no notice.

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It has nothing whatever to do with the work of this Tribunal. If there are matters dealing with the Revenue, those are matters for the Directors of the company to deal with directly with the Revenue. It has nothing to do with the business of this Tribunal, Sir.

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MR. O'NEILL: In my respectful submission, Sir, it is relevant. It deals specifically with the history and

manner of payment made by this company. Amongst the allegations which have been made in this Tribunal are that James Gogarty was in receipt of a substantial sum of money, amounting to £162,000 and it was paid through this unusual means and recorded in this particular book, and it is with that in mind that I am endeavoring to establish precisely what the nature of this document is, what it records, how the payments were made and what other payments might have been made out of this particular book and out of these accounts, and the manner which they were paid?

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Naturally if this matter had been conducted by way of interview in private examination there may well have been explanations on which one could have narrowed the field of questioning, but at the moment as prima facie I say this matter is relevant and I wish to proceed.

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CHAIRMAN: In my opinion it is prima facie relevant.

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MR. ALLEN: Could I just make this point: The point at which I interrupted My Friend was the point at which he put questions to this witness relating to the duties of Directors and her knowledge or awareness of the duties of Directors in relation to the keeping of accounts. And My Friend is incorrect by the way, when he says that this book is evidence in relation to payments of Mr. Gogarty in anything other than the sum or has been tendered as evidence, insofar as it was put to Mr. Gogarty, for anything other than three payments of, as he has said himself, of 5, 10 and £15,000. The rest of the payments were monies which came from the company and which were used by the company for purposes which, for the purposes of

paying employees, etc..

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The only relevance of this book to the Terms of Reference relates to the three payments which it is said it reflects and records being a total, representing a total of £30,000 of the consideration which we say was paid to Mr. Gogarty,

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CHAIRMAN: I note what you say.

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619 Q. MR. O'NEILL: I should say this document was produced in its entirety to the Tribunal, it wasn't that only three extracts were produced. I am trying to establish what exactly the nature of this book is, Mrs. Bailey.

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Firstly, it opens with an opening balance and you indicate that that indicates that you have accounted for an overpayment or additional available funds of £5,207.90 at the date of opening this book; isn't that right?

A. Yes.

620 Q. And I think at the very end of it there is a balance carried forward, the next year? Well do you remember?

A. No, it doesn't --

621 Q. You can't remember. Okay. Do you see the first line of the book there? There are a series of digits up there. Is that one of the bank accounts which was being used at the time?

A. I am not sure, I don't know.

622 Q. Well, can you explain what it is? I mean you made the entry?

A. I am not sure what it is. It looks like a bank account number, but I am not one hundred percent.

623 Q. And where do you think such a bank account might have been

held?

A. I have no idea.

624 Q. But it was a cash account, obviously?

A. I don't recognise the account number.

625 Q. Well, I want to know where the £5,207.90 pounds was? Where was it physically? At the opening of this book it is explained as being a balance; isn't that right?

A. A balance forward, yes, that's the figure that was carried forward from the other book.

626 Q. Right.

A. I have no idea.

627 Q. So it is in cash in some form?

A. I imagine so, I don't remember.

628 Q. Yes. Well, is there any other explanation other than that represents a sum in cash which is carried forward from the previous book?

A. Yes, I think that's true.

629 Q. And where was this cash kept?

A. I think Tom would have had that cash.

630 Q. Well, you are the person who is keeping a detailed note of the expenditure here; isn't that right?

A. Yes.

631 Q. You make the various entries as we go down through the page here, and you are checking it off; isn't that right?

A. Yes.

632 Q. Are they your ticks with a line through them?

A. I think so, yes.

633 Q. Yes. And what was that to indicate?

A. Just, I suppose just to keep a record of it, to know exactly what was the balance in hand with that.

634 Q. Well, I take it you made the entry first, is that right?

Then you filled up the page and then when it came to doing

a tot or a balancing exercise you checked off the figures;

is that right?

A. Yes.

635 Q. So that you were keeping a running balance on that book; is that right?

A. Yes.

636 Q. Now, you indicate that this book was a sum which was, or a record of sums paid by Tom to workmen; is that right?

A. Yes.

637 Q. Were there any other payments made out of this book other than the payments to Mr. Gogarty which we will deal in a moment?

A. They are mostly to workers.

638 Q. If you go down the first page of it, do you see that there is a sum of £5,000?

A. Yes.

639 Q. And immediately before that there is a reference to MB?

A. Yes, I see that.

640 Q. Is that Tom Bailey or is it to Michael Bailey?

A. I would say it is to Michael Bailey, yes.

641 Q. £5,000?

A. Oh, yes, yes.

642 Q. And he wasn't a workman in any sense and not a person who was being paid bonuses. Can you account for this particular payment to him or why it is included in this book?

A. I have no idea. He obviously got £5,000 in cash and I just have a note of it.

643 Q. I see. On the line immediately beneath that for the date, the 13th of April of 1990, there is a sum of £8,000, do you see that?

A. Yes.

644 Q. And who is that payable to?

A. I can't actually decipher that, sorry.

645 Q. It is your writing?

A. It is.

646 Q. The entry immediately at the date, the 12th, is for 10 K.

Do you see that?

A. Yes.

647 Q. That 10,000 is added to the balance of 5,207; isn't that right?

A. Yes.

648 Q. You then have a new balance of 15,207?

A. Yes.

649 Q. Where did that, what does "CL" mean?

A. CR.

650 Q. CR, its credit, is it?

A. Yes.

651 Q. Now, this account then, is kept running as we can see, the balance is totalled every page as you move through the book; is that right?

A. Yes.

652 Q. Could you move to the first entry which deals with Mr. Gogarty, I think that's on page five, if you open the book out and use --

A. This way?

653 Q. Yeah. It is dated the 26th of June, 1991.

A. Not the 19th?

654 Q. Sorry, 21st of June 199 - is that right?

A. Oh, yes, sorry.

655 Q. Now, for some reason did you stop keeping a running balance at that point?

A. I would say it, you know with the balances up every two or three pages really, it would be balanced as it goes along.

656 Q. But there is no balance at this particular point; isn't that right?

A. No, I have no explanation for that.

657 Q. You don't. Right. But this is the point at which the first payment of, on the left-hand side of the page, is entered at 5K to JG via MB?

A. Yes.

658 Q. And beneath that "Two extensions, A Swords", I think, and "19th of the 6th '90". Is that right?

A. Yes.

659 Q. Now, can you explain what all that reference means?

A. What I think it means is 5,000 was given to Jim Gogarty by Michael Bailey, and the funds were from two extensions for houses that were built in Swords.

660 Q. Right. Now, what did any of that mean to you on the 19th or the 21st of June, of 1990, as the case may be?

A. That I would have been told that by Tom or Michael and I would just have recorded it.

661 Q. Right. Can you remember if it was Tom or Michael, and if so how they asked you to record it and why they asked you to record it?

A. No, I can't.

662 Q. If they had told you that it was a part payment for a larger sum which was secured by way of postdated cheques, would you have noted that here as well?

A. If they had told me all about it I would probably have kept a full and proper record, but they didn't tell me anything about it.

663 Q. Did you ask anybody what you were recording this for?

A. No.

664 Q. Up to that point in time and the various references to amounts which are there, they are all cash sums, isn't that

right, money had been translated into cash by way of
cheques you say, drawn on a bank account somewhere?

A. Yes.

665 Q. And the cash was then distributed?

A. Yes to the worker, yes.

666 Q. And you say that is something which was done by Tom?

A. Yes, mostly Tom.

667 Q. He physically handed out the money or did you physically
hand out --

A. No, he physically handed out the money.

668 Q. And would he come back then and tell you, for example, "I
paid £80 to X". "I paid £606 to Y". "I paid £40 to Z"?

A. Yes.

669 Q. And then you would record all this in the book?

A. Yes.

670 Q. And would he give you back the money that he hadn't spent?

A. No.

671 Q. Then how can you keep a running balance on the funds here
if you don't have the cash in hand yourself, or if it isn't
under your immediate control?

A. We would reconcile it together and make sure the cash
element was okay.

672 Q. But the physical cash balance is the cash that's left over;
isn't that right?

A. Yes.

673 Q. And how can you be sure that that is reconciled if you
don't have the cash?

A. We would reconcile it together and he would have the cash.

674 Q. Right.

A. It was important, you know, as between Mick and Tom that
that money was reconciled and accounted for.

675 Q. Um hum. And you reconciled this with your husband, is

that right, or with Mick?

A. With Tom generally, yes.

676 Q. And where did this reconciliation of these accounts take place?

A. I can't really recall but maybe anywhere, maybe at work or, anywhere.

677 Q. Well, are you saying that he would physically take out the money and say for, looking at the balance which is on the, I think the 2nd of June, the page immediately before this, £3,117 there, do you see the top of the page?

A. Yes.

678 Q. Are you saying that he would count out or you would count out the £3,117 so as to balance it against what had been available for that purpose before?

A. I can't recall exactly what happened that day, but he would have the cash and we would reconcile it together, yes.

679 Q. But this isn't something that was happening occasionally, it was a weekly affair, if we can see, if we can follow through this book here?

A. Yes.

680 Q. And in each of those occasions are you saying that a cash reconciliation was carried out whereby you checked what cash he physically had, you went through the expenditure which he itemised to you, you did your sums and you ticked it off?

A. Yes.

681 Q. The payments to James Gogarty which are recorded in this book, can be distinguished from other payments because they are all on the left side of the page; isn't that right?

A. Yes.

682 Q. Other than one?

A. Other than one, yes.

683 Q. Why is it that that particular procedure was followed in respect of payments to him as opposed to payments to anyone else?

A. The two payments on the left were cash that was got from clients for houses for extensions and that, so it wasn't part of my reconciliation.

684 Q. And would you then note which extensions these were, which particular individuals had paid these sums?

A. No, not really. I wouldn't know which exactly.

685 Q. You wouldn't know?

A. No, Tom would have told me that there were two extensions in Swords.

686 Q. Is there any reason why if monies were owed to an individual and this was a part payment why you wouldn't have been told that this is 5,000 off 150?

A. No, they wouldn't tell me.

687 Q. Or 10,000 off, or whatever it might be?

A. No, that was between Tom and Michael, they wouldn't tell me that.

688 Q. How do you know they wouldn't tell you?

A. Because they didn't tell me.

689 Q. Did you ever ask what these payments were being made for?

A. No, I don't think I did.

690 Q. Is there anything as far as you were concerned, unusual, distinctive or in anyway different about these payments from any other payment that was in this book?

A. They were just none of my business, I wasn't interested in them.

691 Q. I was asking whether you thought there was anything unusual or distinctive about these payments which are attributed as payments to Mr. Gogarty as opposed to any other payments?

A. I don't think so, no.

692 Q. Um. Did you note for instance, that the amounts concerned were considerably greater than the relatively small figures which were paid on a weekly basis to workmen for example?

A. That was Mick and Tom's business, I never queried them about it. As I said before, they dealt with all that and I didn't bother - I just recorded those three incidences when I was told to write them down.

693 Q. Were you told why you were to record these incidences?

A. No, I don't think so, no.

694 Q. They meant nothing to you?

A. No, nothing.

695 Q. No. But you were asked by somebody to record them for a purpose and you were not told what the purpose was?

A. That's right.

696 Q. Is that right? The next entry that is relevant is I think at page 8, it is the 26th of July of 1990 and it is on the left-hand page. It is the reference to "10 RD 3, 10 K" and "to Gogarty" underneath it. Do you see that?

A. Yes.

697 Q. What do you understand that to be?

A. That that was 10,000 from that house, "10 road three", that was given to Tom or Mick and they transferred it over and gave it over to Jim Gogarty.

698 Q. Right. There is no reference there to any extension; isn't that right?

A. No.

699 Q. So is it the case that the sale price for that house was reduced or appears at less than it should be by £10,000 and £10,000 in cash was obtained on the sale, is that how it happened?

A. I don't know that. I was just told it was 10 road three, 10,000 that had gone to Jim Gogarty.

700 Q. And again, it is not deducted or it is not referred back to the 5,000 earlier payment?

A. No.

701 Q. Do you see then on the next page, page nine, at the very top of that page, you see "10 K"?

A. Yes.

702 Q. That 10 K is then accounted for as one goes down through the page?

A. Yes.

703 Q. Isn't that right?

A. Yes.

704 Q. And some £9,390 is spent on that page?

A. Right, yes.

705 Q. Of which the first 4,000 is to Michael Bailey?

A. Yes.

706 Q. And is the reference underneath that "Galway"?

A. Yes.

707 Q. Right. Does that £10,000 refer back to the 10 K on the previous page?

A. No.

708 Q. Well, where does that 10 K come from that is spent on that page?

A. I would think there was a cheque cashed for 10,000 for that amount.

709 Q. It should appear then as a credit for 10,000; isn't that right?

A. Yes.

710 Q. But there isn't such a credit, is there?

A. I don't know, I think there is a credit.

711 Q. If you look at either page 8 or page 9 can you indicate to me where there is a credit for 10,000?

A. Which is page 8? The one --

712 Q. Sorry, if you go back to the page with the, that commences the 26th of July of 1990, do you see that page?

A. Yes.

713 Q. The Tribunal reference is BOV 117 at 3 I think. You don't have it, Mrs. Bailey, you needn't worry about that reference number, it is a guidance to others. Do you see the page that commences "26th of July of 1990"?

A. Yes.

714 Q. On the left-hand side of that page is where the reference on the first line is to "10 RD 3, 10 K"?

A. Yes, that's right, and that has nothing to do with the pages on the right-hand side.

715 Q. That has nothing to do with it?

A. No, because you can see at the 26th of July I was owed over 150, and there would have been a credit of 10,000 of which the 9,000 odd you said came out, came out.

716 Q. Well, I am suggesting to you if the 10 K had come from the 10 K cheque --

A. Right.

717 Q. -- at that time, it would have been recorded there as a credit of 10 K, "CR" as the earlier cheque payments had been marked in the book, but that it wasn't necessary to do it in this instance because the 10 K was 10 K in cash which had come from 10 RD 3 and is referred to on the previous page?

A. No, that's not true. Just because I had no pattern, it was only a memory aid for Tom, just because I had no pattern of writing in, I should have written in 10,000 credit, it was only a note for myself and Tom and Mick. It is not an example of proper bookkeeping.

718 Q. Well, what account do you say then we should find the cheque for £10,000 which was written and you say produced

the 10,000 which appears on this page? It should be in the Bovale Development Limited account at Montrose, is that right, for £10,000?

A. Yes.

719 Q. Right. The next reference then is on my page 18, unfortunately I don't think it is numbered, but it might be marked as the 11th of the 10th, 1990, in the book before you?

A. Yes.

720 Q. On that page there is a reference to "Gogarty - 15,000"; is that right?

A. Yes.

721 Q. And there is an entry immediately before that "E Early"; is that right?

A. Yes.

722 Q. Are those entries distinguishable in colour from the other entries on that page?

A. Yes. You mean black and blue? Yeah.

723 Q. What biro is the Gogarty and Early entry made?

A. Black.

724 Q. And everything else is in blue; is that right?

A. Yes.

725 Q. Does that indicate that on that particular date entries were made at different times?

A. Perhaps, yes, it doesn't mean anything really.

726 Q. Well, are there any other entries in black which appear?

A. I don't think, I will have to flick through the book.

727 Q. If you turn back a page to the 9th of the 10th?

A. Yes.

728 Q. Is there an opening balance on that page of 23,642?

A. Yes, that would have been a cheque from Bovale.

729 Q. That would have been a cheque written on the Bovale account

for that sum; is that right?

A. Yes.

730 Q. And therefore should appear in the Bovale accounts?

A. Yes.

731 Q. I see. And that entry is also written in black' is that right?

A. Yes.

732 Q. But everything else on the page is written in blue biro; is that right?

A. Yes.

733 Q. Would those cheques that you referred to all be made payable to cash or would they be made payable to individuals who might sign over the cheques in favour of Bailey/Bovale, who would in turn cash them somewhere?

A. Some would have been made out to cash. If I went down to cash the cheque they would be made out in my name.

734 Q. There might be a cheque made out in your name?

A. To my name, yes.

735 Q. You would then cash that in the bank; is that right?

A. Yes.

736 Q. Would that be in Phibsborough?

A. Yes, more than likely which ever branch I was advised in at the time.

737 Q. Which ever branch Montrose, it advised could accept cheques made payable to cash or made payable to yourself?

A. Yes.

738 Q. There would be one of these cheques every week, would there?

A. No, no, they don't appear every week.

739 Q. Whenever the balance fell below a figure that was sufficient to pay the amounts, obviously?

A. Yes.

740 Q. So it was a regular and frequent occurrence?

A. Every few weeks, every month or so, yes.

741 Q. Right. Is all of this in your handwriting?

A. Yes.

742 Q. The entry reference to Gogarty in this instance, £15,000, that's your writing; is that right?

A. Yes.

743 Q. And are you saying that that was entered on the 11th of the 10th, 1990?

A. Yes.

744 Q. From your bookkeeping perhaps you could confirm to me that if the 23,642 reference on the 9th of the 10th --

A. Yes.

745 Q. -- if that figure was not entered there, one couldn't have a running balance which involved expenditure of £15,000 on the following page; is that right?

A. I don't understand.

746 Q. I am suggesting to you that in order to account for expenditure amounting to £15,000 --

A. Yes.

747 Q. -- on the second page on the 11th there, one would have to start with a balance of greater than that amount on the page before it; isn't that right?

A. Yes, yes.

748 Q. And the balance on the page before is written in black biro?

A. Yes.

749 Q. Everything else then is written in blue?

A. Yes.

750 Q. Then we get to the next page where there are two entries in blue?

A. Yes.

751 Q. Sorry in black, I beg your pardon. And those two entries can be referred back to the balance of 23,000, and then one goes on with the rest of the figures to reach the balance, the ultimate balance?

A. I don't think so, I think it was just only picking up a biro at different times, you know, it makes - the colour of the biro indicates nothing.

752 Q. But is it not significant that the only entries that are in a different biro are entries which would explain how £15,000 was paid out of a running balance?

A. No, it indicates nothing.

753 Q. It indicates nothing?

A. No.

754 Q. And I take it, you say that this particular payment of £15,000 again was something which you were not particularly concerned with, you were merely asked to record this particular payment?

A. That's right.

755 Q. Do you remember any other payments that you were asked to record?

A. No, they are all here.

756 Q. They are all there?

A. Um.

757 Q. Does that mean that you were not asked to record payments before the first of these payments in June, nor were you asked to record any payments after October of the same year?

A. No, that's right, right.

758 Q. And is it correct to say that nobody ever mentioned any further payments under this heading to you or you would have recorded them?

A. If I was told to record them I would record them, yes.

759 Q. Okay. Well, do you remember any further payments being mentioned to you, irrespective of asking you to record them or not?

A. No.

760 Q. Would you have remembered them if you were being told that there are still on-going payments being made to James Gogarty, two, three and four years later?

A. I would have recorded them.

761 Q. You would have recorded them?

A. If I was told of them.

762 Q. Right. When did you discover this particular book?

A. When we were getting the stuff ready for the Tribunal.

763 Q. I see. And when was that?

A. About a year ago, is it?

764 Q. About a year ago, sometime in 1998?

A. Yes.

765 Q. And where had this book been?

A. It was just in a drawer in the office.

766 Q. In the normal course I suppose, it would have been with the other books of account; isn't that right?

A. How do you mean?

767 Q. The cheque journal, the payments book, all those books?

A. It would have been with them, yeah, it was just literally in a drawer in the office.

768 Q. And if that were so, in the normal course, you would expect that it would have suffered the same fate as the others in the fire, it would have been burned and unavailable?

A. No, it was just literally, as I said, in a drawer. It was obviously just left in there and that was it.

769 Q. But there had been many books since then, there had been, I suggest, at least another eight books up to 1998; isn't that right?

A. I don't know.

770 Q. Well, you have told us that there was a book before this, there was a book after this, and there was a system used for recording these payments?

A. I can't say there were eight books, I don't know how many books there were. It was no big deal, it was just in a drawer in the office, it just happened to be there, when the Tribunal requested all the, what? Disclosure, it was just put in with it.

771 Q. But I am wondering why it is that it wasn't with the other books that were destroyed in the fire in Finglas? Why was it separate from those books, if in the normal course we would expect at the years end you take out the books for that year, put them together, put them aside, as you say in a container, start a new series of books and the whole thing is repeated on an annual basis?

A. It probably wasn't with them, because it was never showed to our accountants.

772 Q. It was never shown to the accountants, none of this type of book were ever shown to the accountants; isn't that right?

A. No.

773 Q. But they were still dealt with in a particular way; isn't that right?

A. They were, by him, yes.

774 Q. But this is the only one of these books that you have been able to ascertain exists at this point in time?

A. Yes.

775 Q. And it happens to be the one with the only three entries to Mr. Gogarty, is it?

A. Yes.

776 Q. The accounts obviously, which are kept by the company could not be accurate if in fact these payments were being made

out of the accounts of the company and not recorded,

doesn't that follow?

A. That follows, yes.

777 Q. So the payments which are recorded here, could be applied by the Directors for whatever purpose they chose to use them; isn't that right?

A. That - can you --

778 Q. The payments, for instance there is a payment reference "Michael Bailey - Galway - £5,000"?

A. Yes, he could do --

779 Q. £4,000 I should say. That could be paid, used by him for any purpose, whatever he wanted?

A. Yes, absolutely yes.

780 Q. You were merely told what it was he said he was using --

A. Yes.

781 Q. Is that right?

A. Yes.

782 Q. And equally with all the other payments that are recorded there as well?

A. Yes.

783 Q. The computer information that you have available to you, Mrs. Bailey, is a computer which has been in existence since the inception of the computerised system in Bovale Developments Limited, isn't that right, if what I understand your evidence this morning to be? You acquired a computer with a particular software system in it, you used that computer all the way up until last year, but you still have that computer and you still have all the information on it; isn't that so?

A. Yes.

784 Q. And I take it that you would be prepared to print-out for the Tribunal all the information which is contained in that

so that it can consider that information?

A. Yes.

785 Q. And that will go back until, I think 1984 or thereabouts when the computerised system was first put in being; is that correct?

A. Yes.

786 Q. And I take it you are familiar with this computer, are you?

A. Yes.

787 Q. How long do you think it will take to set up the print-out procedure and how long would it take for it to be complete?

A. We would have to get the people out from Pascal, the software, to go back and get all that information out of it. We have it every year end, you have some of it, don't you?

788 Q. We don't have any computer print-outs.

A. Do you not?

789 Q. No.

A. For the VAT ledger, do you not have the VAT ledger?

790 Q. In some later years, I think it is 1996 but I will have to check that. Certainly we do not have the records that are back in 1989/90/91.

A. If the records can be taken from the computer, they are there, there is no problem.

791 Q. Yes. Okay. If you might just confirm to you, Mrs. Bailey, you never met with Mr. James Gogarty; isn't that correct?

A. No, I never met him.

792 Q. You never saw him being paid out monies in cash?

A. No.

793 Q. Is that correct?

A. Yes.

794 Q. Did he ever visit you? Did you ever see the man?

A. No.

795 Q. So in effect you know, knew nothing about the man before this Tribunal, save that you had been asked to record three particular transactions in this book; is that right?

A. That's right.

796 Q. Yes. Do you know why it is, even now, that you were asked to record these three payments and not other payments either before or after?

A. I don't know why, they just asked me to note those particular three, I have no idea.

797 Q. Right. Thank you very much, Mrs. Bailey.

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CHAIRMAN: What do you want to do now, Mr. O'Neill?

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MR. O'NEILL: There are certain matters we will now have to look into in the light of this information, and in particular we would require to see the accountant's records for Mr. and Mrs. Bailey's personal accounts which have never been referred to, to date. That's a, Mr. Corcoran is the custodian of those records.

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We would also like to see the computer records, so they might be analysed to see if any reference to any payments would be attributable to Mr., attributed rather to Mr. Gogarty appear from those records.

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We also would like to see the personal bank records of Mr. and Mrs. Bailey prior to March of 1990 which have not yet reached the Tribunal, and that should pursue our inquiries with the bank in that regard, but I would ask that Mr. and Mrs. Bailey would facilitate us by requiring the bank to disclose that information.

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Equally, we have to examine the accounts in which the £50,000 sums mentioned found their way, because initially it would not appear to be the account which has been referred to by the witness. That may take, I would think, three to four days, but hopefully one would be able to return to resume questioning of the witness within the course of this week.

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CHAIRMAN: Could I just --

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MR. COONEY: As far as I am concerned my only interest in this witness' evidence relates to the credibility of Mr. Gogarty. The questions which I want to ask Mrs. Bailey have no connection good, bad or indifferent with the other documentation referred to by Mr. O'Neill. In those circumstances I respectfully ask that I now be allowed to ask the few questions I want of Mrs. Bailey. There is simply no reason for postponing my cross-examination or delaying the Tribunal any further from this.

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MR. O'NEILL: I do not know, Sir, what further evidence is going to be elicited from the witness when the information is considered.

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MR. COONEY: If anything emerges which is of interest to me and my clients' interest I will raise it then,
Mr. Chairman.

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MR. O'NEILL: It is precisely to avoid the necessity of having constant re-examination of a witness by a number of persons that you formulated a procedure which you have

outlined this morning, Sir.

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CHAIRPERSON: I am going to stay with the procedure I have outlined.

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MR. COONEY: With respect, Mr. Chairman, this procedure is of no value insofar as my clients are concerned. I am anxious to get on and put my clients' case to the witness insofar as her evidence is relevant. In my respectful submission I should not be delayed. I don't think this procedure is necessary. It is a procedure adopted in response to the fact that this witness wouldn't furnish a narrative statement.

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MR. ALLEN: Chairman, I wonder if you hear me in relation to, it has nothing to do with what My Friend, Mr. Cooney, had to say, in relation to the various matters Mr. O'Neill indicated that he would wish to have sight of, on behalf of the Tribunal, Sir.

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I have an apprehension, Sir, which is shared by my colleagues, that the extent of the parameter of his requests strays very considerably into the area of privacy, etc., and I would ask that if he has, that such a permit as he has in relation to these matters be brought on foot of an application on notice to my client and it can be dealt within proper form in that way.

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It isn't, with respect, Sir, and again it is not intended as a criticism, a witness who has been in the box, who has been giving evidence all day, has a series of requests put to her, some of the consents which she has given she has no

authority to give, are because I understood her to be giving consent of a company of which she is not a Director.

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In relation to private accounts, those are matter which require to be considered. If these orders are necessary I would be asking you, Sir, to make an order, make a formal order on notice and on hearing whatever I have to say, now if I - I can certainly undertake to you that if on considering the, what is sought, the reason it is sought and the grounding of relevance and materiality to the Terms of Reference, I may well have no objection to make and will so inform your team, Sir, but I do require that this matter be dealt within that way which is the procedure adopted by the Tribunal thus far and I presume will continue to be adopted.

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MR. O'NEILL: The procedure has to be modified in the light of the stance which has been adopted in respect of this witness' evidence. She has given a consent to the documentation being provided, as I understand it, it is within her procurement and power to do so. In the event then that an issue is taken with that it will be, the intention of the Tribunal I believe, to serve a witness summons upon one of the Directors to produce the appropriate information here tomorrow. I hope that that will be unnecessary.

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I do not believe that it is necessary to go through a procedure of ascertaining the relevance of this information which has clearly been established as relevant, once the evidence of the accountant, Mr. O'Toole, was given before

you quite some time ago, Sir, so I am inviting My Friend to confirm that the computer print-out of the accounts will be made available, that the bank accounts will be made available, there is already an order extant in respect of that, and that the other matters which I have sought, namely that Mr. Corcoran's working papers will be made available to us.

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If that isn't so, it is merely a matter of the Tribunal having to go to the expense and trouble of serving witness summonses on persons to bring them in with that documentation to this Tribunal tomorrow.

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MR. ALLEN: With respect, Sir, I will take instructions in relation to the matter, but --

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CHAIRMAN: Sorry, is it better before you go further, would you like a short adjournment to enable you to take instructions?

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MR. ALLEN: One of the difficulties I have is that I have only one Director present, Sir. I would - certainly let us have a short adjournment and I will see if I can take full instructions.

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Can I make this point, Sir, to suggest, as Mr. O'Neill has done, that all that requires to be done is to serve a witness summons, on somebody to produce all of this information here tomorrow morning, is quite frankly bordering on the silly, and I don't say that in any offensive way.

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The witness has already told him, that for example in relation to the computer print-outs, that she would have to go back - we know from her evidence today, that a different software package is being used to what I think was the original Pascal system. We know that, she has told us and she wasn't challenged on it, that she would have to go back to the computer company and get them out and see what was to be done about the retrieval of that information. So, to suggest that that can be done by the flourish of a subpoena from this Tribunal by tomorrow morning is simply not realistic, Sir. And the idea if it is not done that my clients aren't cooperating is highly unsatisfactory.

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CHAIRPERSON: No such statement has as yet been made. I think what we should do is adjourn. It had been my intention, it is in fact my intention in the next succeeding days to sit much later than usual.

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It would appear to me if you would consider the matter over a period of time in the spirit of cooperation which you say you are manifestly and which certainly has to a large degree been present, I think we might solve a number of the problems.

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MR. ALLEN: I agree, Sir.

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CHAIRPERSON: But it also occurs to me, and this I will have to canvass in my own people, because I don't know enough about computers, it occurs to me that if the necessary disc or container using the non technical, is made available to the Tribunal it could be translated through an independent authority for the computer and that

might also get over that problem. However, that's something I can discuss with you at a later stage. But I would like to adjourn at the moment for a quarter of an hour to see how far we can get.

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MR. ALLEN: I am obliged to you, Sir.

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CHAIRPERSON: Thank you.

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THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AGAIN AS FOLLOWS:

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MR. ALLEN: Chairman, I have had the opportunity of taking instructions. I have also had the opportunity of speaking to Mr. O'Neill.

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There are two matters, subject to Mr. O'Neill's correction, on which we have reached an accommodation in relation to, in the sense that my clients have no difficulty at all with providing the Tribunal with whatever authorization they require to deal directly with Pascal, who are the only people who would be able to download the software, the computer print-outs going back I think to 1986, Mrs. Bailey doesn't wish to be tied to 1984, I can't be certain as to the date.

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Obviously if something of the, something such as you proposed yourself, can be done, presumably Pascal will be able to tell you and there isn't a difficulty in relation to that.

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Any additional authorization you require in relation to AIB

in Navan or any bank, sort of, are available. We don't believe that there are any additional available, but we have no difficulty with it, and the only outstanding matter, Sir, is the question of Mr. Corcoran, the, Mr. and Mrs. Thomas Bailey personal accountant. We haven't been able to make contact with him. We will and we will appraise you of the situation first thing in the morning, but I don't, as I have told Mr. O'Neill, anticipate a difficulty with that.

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In fact, if we have succeeded in dealing with Mr. Corcoran, if we succeed in getting Mr. Corcoran before close of business this evening, Mr. Smith will come back to you, will come back to your solicitor on that point, but we will certainly report to you on the resumption of business tomorrow morning, Sir, on that.

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Those are the three matters as I understand it that they were asked to deal with, and subject to, dealing with, having dealt with the first two I would ask that you defer having consideration of what, if anything, requires to be done in relation to Mr. Corcoran until tomorrow morning.

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MR. O'NEILL: That seems in order, Sir.

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CHAIRPERSON: Yes, that seems to me to be perfectly in order. The only thing, Mr. Allen, is this: I say this entirely by way of exploration. I find it unusual for a bank not to respond, as you have indicated. Could there be any confusion that Navan was operational from a particular date and another branch in the area?

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MR. ALLEN: No, I don't think there is any question of that, Sir.

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CHAIRMAN: I am just exploring that. I am not making any comment on it. If we could sort it out. It is desirable.

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MR. ALLEN: We do know, Sir, that they wrote to the Tribunal, as you will know yourself, referring a period commencing in 1988 and didn't enclose documentation going back as far as 1988, but what we also know is that they wrote to us following upon fairly detailed and sometimes heated exchanges saying that they had records going back only to 1991. That is obviously unsatisfactory, that may be where the difficulty arises as between, arises from the situation wherein the bank, but we have certainly asked them and written to them and told them, and supplied this Tribunal with authorisations which would be sufficient to unearth anything they have.

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CHAIRPERSON: Very good. Thank you, that's something I just wish to clear up.

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MR. O'NEILL: The position, Sir, is that a Mr. Pat Whelan who is a bank representative from Anglo Irish Bank, indicated to the Tribunal particular difficulty that he had about giving evidence at a later stage, and you have indicated, and it was circularised on the web site on Friday, that his evidence would be taken tomorrow at 10 o'clock as opposed to half past ten.

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CHAIRPERSON: That's correct. It was due to a, try to

facilitate him. He should be very short.

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MR. ALLEN: Sorry, I wasn't tuned into the web site on Friday evening, but there is no difficulty with that. I understand Mr. Thomas Bailey will then be called.

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CHAIRPERSON: Mr. Thomas Bailey, and within limits it is my intention to sit to certainly half past four if not five o'clock to endeavor to get witnesses cleared through wherever possible.

Now, that is always subject to circumstances as they arise.

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MR. ALLEN: We are in your hands in relation to that, Sir. That doesn't pose a difficulty.

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CHAIRMAN: There is nothing more we can do this afternoon, so 10 o'clock tomorrow morning.

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MR. ALLEN: Thank you, Sir.

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THE HEARING THEN ADJOURNED TO THE 23RD NOVEMBER, 1999, AT 10 AM.